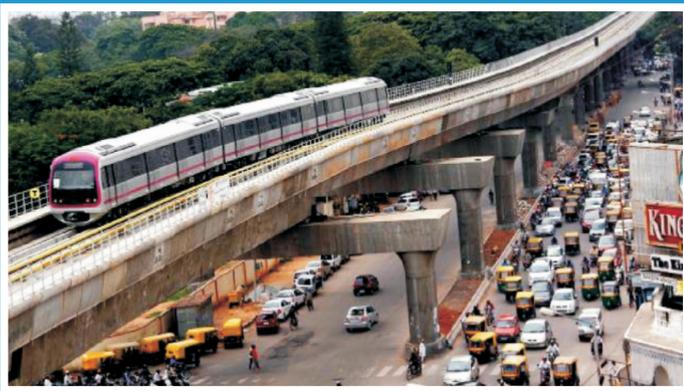




**Workers' Rights in ADB funded
Projects in India:
Non-implementation of Core
Labour Standards**



Edited by
**Dr. Avilash Roul
&
Manoranjan Pegu**



A Jt. GUFs/FNV PUBLICATION

**Workers' Rights in ADB Funded Projects in India:
Non Implementation of Core Labor Standards**

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Printed in Faridabad, Haryana

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I. CREDITS

This compiled book is a result of hard work done by many, at various phases of its preparation. First and foremost, we would like to express our sincere gratitude to all the researchers who worked very hard and conducted the studies. The studies were being done by:

- ◆ Souparna Lahiri: "IFI led policy led changes in the water sector in India" and "Study on the NTPC expansion Facility in Sipat, Chhattisgarh"
- ◆ Maciej Kwiatkowski (lead) and T D Satya Vani and Gunashekar Purushot (Assistant Researchers): 'ADB projects in Railway sector and its impact on workers'
- ◆ Shankar Gopalakrishnan: 'Study on the Agriculture and Food Security Policy of ADB'
- ◆ Madhu Sudan: 'Employment and Labour Conditions in ADB funded Projects: Case Study of Bengaluru Metro Rail Transit System'
- ◆ Anjali Bedekar: 'ADB rupee Lending and Banking Reforms in India'

Special thanks to Prof. Shyam K. Sunder, who played a very important role in shaping up this book. After the first drafts of the studies were being completed, he not only conducted a detailed analysis but also gave concrete recommendations to improve upon the studies. Many of his recommendations are included in this book.

Heartfelt gratitude to the Jt. GUFs/FNV project committee comprising of; Mr. Kannan Raman, Sub-Regional Secretary, South Asia (PSI); Mr. Sangam Tripathy, Assistant Secretary, Asia Pacific (ITF), Dr. Rajeev Sharma, Regional Policy Officer, Asia Pacific (BWI), Mr. Sudharshan Rao Sarde, Regional Secretary, South Asia (IndustriALL); Mr. Milind Nadkarni, President, UNI-Liaison, India; Ms. Anjali Bedekar, National Coordinator, (UNI-ILC); Mr. P. Chennaih, Secretary, National Coordination (APVVU) and Mr. Prabhu Rajendran, Consultant (FNV) for their help and guidance, during the preparation of this book.

Special mention to Ms. Lakshmi Vaidhiyanathan, Regional Secretary, Asia/Pacific Region (PSI) for writing the foreword for this publication.

This compilation is being published with the solidarity support of FNV Mondial, under the Jt. GUFs/FNV project on Adherence to Core Labor Standards in ADB funded Projects in India. We sincerely hope that it gives strength to the advocacy efforts of the Trade Unions and Organizations in engaging with the Asian Development Bank.

II. FOREWORD

The Asian Development Bank (ADB) Handbook on Core Labour Standards 2005, committed to comply with the internationally recognized core labour standards (CLS) and related labour laws in the design, formulation and operation of its loans to the developing countries. However the workers in the projects have identified union busting, harassment or physical violence against unions and discrimination and dismissals and other work-related anti-union/worker actions etc. in the projects and the compliance according to the CLS handbook is not strictly observed. .

The Global Unions have been strategically engaging with ADB since 2005 in order to implement the core labour standards issues and to provide a mechanism to voice the workers grievances. In order to technically prove the lapses in compliance and to point out to the ADB during their engagement, the Global Unions based in India, launched seven studies across multiple sectors in 2013. These studies were commissioned under the Jt. GUFs/FNV Project on Adherence to CLS in ADB funded projects in India. The excerpts and the major findings of the studies have been compiled in a book form for the benefit of the trade union leaders and members.

India started borrowing from ADB in 1986 and currently one of the largest borrowers. For instance, till the end of 2012 it had alone received loans amounting to 29, 285.67 Million US dollars through 196 projects.

These ADB projects employ thousands of workers in India and have major impacts on their livelihoods. The workers, as found in the studies are often forced to work for paltry wages and without adequate health and safety measures. To protect the interests of the workers and proceed towards a more sustainable process of development, it is imperative for the ADB and GUFs and national governments to strategically engage with each other and resolve the issues. Currently there are multiple unresolved issues but not seriously considered. We believe that ADB when presented with these issues, to take cognizance of the findings and collaborate with GUFs to amicably finding worker friendly solutions.



Lakshmi Vaidhiyanathan
Regional Secretary
Asia/Pacific Region
Public Services International
On Behalf of Global Union Federation

III. ABBREVIATIONS

ADB	Asian Development Bank
AfDB	African Development Bank
AIDIS	All Indian Debt & Investment Survey
AITUC	All India Trade Union Congress
APVVU	Andhra Pradesh Vyavasaya Vruthidarula Union
BMRCL	Bangalore Metro Rail Corporation Limited
BMRTS	Bangalore Metro Rapid Transport System
BMS	Bharatiya Mazdoor Sangh
BPSIP	Bihar Power System Improvement project
BUDP	Bihar Urban Development Project
BSEB	Bihar State Electricity Board
BWI	Building and Wood Workers' International
CBO	Community Based Organization
CLS	Core Labour Standards
CITU	Centre of Indian Trade Unions
CPA	Country Poverty Analysis
CSP	Country Strategy Programme
DMC	Developing Member Country
EIA	Environmental Impact Assessment
EMP	Environmental Management Plan
FFA	Framework Financing Agreement
GAP	Gender Action Plan
GFI	Global Financial Institutions
GOI	Government of India
GoK	Government of Karnataka
GUFs	Global Union Federations
HPW	High Power Committee
ILO	International Labour Organization
IIFCL	Indian Infrastructure Finance Company Ltd.
IPSA	Initial Poverty and Social Analysis
IR	Indian Railways
IRM	India Resident Mission
IMF	International Monetary Fund
INTUC	Indian National Trade Union Congress

ITF	International Transport Workers Federation
JNNURM	Jawaharlal Nehru National Urban Renewal Mission
KSCWCU	Karnataka State Construction Workers Central Union
MDBs	Multilateral Development Banks
MFF	Multi-Tranche Financing Facility
MoU	Memorandum of Understanding
MW	Mega Watt
NGOs	Non-Government Organizations
NMC	Nagpur Municipal Corporation
NTPC	National Thermal Power Corporation
ONGC	Oil and Natural Gas Corporation
OHS	Occupational Health and Safety
PCP	Public Communication Policy
PDS	Project Data Sheet
PMU	Project Management Unit
PPP	Public Private Partnership
PPTA	Project Preparatory Technical Assistance
PSI	Public Services International
RETA	Regional Technical Assistance
RP	Resettlement Plan
RRP	Report and Recommendation of the President to the Board
RVNL	Rail Vikas Nigam Limited
RSDD	Regional Sustainable development Department
RSIP	Railway Sector Investment Program
SAPE	Sectoral Assistance Programme for Energy Sector
SARD	South Asia Regional Department
SPS	Social Protection Strategy
SPRSS	Summary Poverty Reduction and Social Strategy
TA	Technical Assistance
TVET	Technical and Vocational Education and Training
UNI	Union Network International
WB	World Bank

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1. Introduction

Multilateral banks (MDBs) like the World Bank, IMF and the Asian Development Bank are the largest sources of 'development funds' for developing member countries. The ADB for instance, since 1986 has offered billions of dollars to India as development aid. The aid, which is often routed through various projects and are invested in sectors like infrastructure, transport, energy, water and agriculture etc. are targeted towards increasing the co-operation between various countries, facilitating trade between countries through investments, which they believe would help in significantly reducing the poverty in the region.

In the initial years of its operations, ADB and for that matter, most of the MDBs were by and large financing public sector operations through sovereign loans. But over the years, private sector participation has become a very important component in the disbursement of these loans, which has enabled the private sector also to access these loans.

The ADB believes that "By targeting the investments wisely, in partnership with our developing member countries and other stakeholders, it can alleviate poverty and help create a world in which everyone can share in the benefits of sustained and inclusive growth". While some of the countries have been able to develop, the distribution of its benefits have not managed to reduce poverty or raise living standards. This experience has led to a re-examination of development strategies and to a focus on institution building and social development as necessary complements to liberalization, privatization and macroeconomic stabilization².

"The role of global and regional MDBs like World Bank, IMF and Asian Development Bank and non-GFIs like the ILO has become significant in shaping not only the debate but also the policies and the governance structure in the post-globalization period. The "policy design" of the MDBs during the last two decades of the 20th century and even in the early of the 2000s has been informed by the neo-classical economic theoretical postulates which basically argue that market forces unhampered by social and political institutions promote economic growth which eventually ensures employment generation, reduction in poverty and so on. Economic growth is a panacea for all economic ills. Market forces led economic growth relies on dynamic economic institutions like private sector, market driven factor pricing and allocations, minimal government intervention, absence of coercive role of labour institutions (this is the revised view as opposed to the radical market view of no need of labour institutions in competitive market economy), and so on. This perspective ignores the local, economic and labour market peculiarities but has influenced much of the operations of the MDBs in many countries (the pan nation model)"³.

Structural Adjustment programs of the IMF and World Bank have led to a race to the bottom, where standards of living are continuously reduced. Labor, as one example of this, gets cheaper and cheaper which benefits the multinational companies, but not the workers themselves.

1 www.adb.org

2 Buiter, W.H. & Fries S, (2002) "What should multilateral development Banks do?"; Working paper No. 74; European Bank for Reconstruction and Development, One Exchange Square, London EC2A 2JN, UK

3 Sundar S, (2012) "An Assessment of Global Union Federations' Studies on ADB projects and Policies with Special Reference to Core Labour Standards of ILO", Jt. GUFs/FNV Project (unpublished article)

Institutional mechanisms like, consultations, identification of stakeholders, protection of the interests of these stakeholders, accountability mechanisms, continue to ignore the interest of the workers.

ADB and Rights of Workers :

Despite the general inclusion of CLS into official ADB documents and guides for ADB staff and contractors on how to respond to CLS, there is a huge gap between these documents and the respect for CLS on the ground in ADB-financed projects. While the ADB makes it clear in its documents that all procurement contracts must include CLS clauses and that it is the strong preference of the ADB to ensure CLS are met, ADB has very few accountability mechanisms which force companies and governments to respect the core labour standards⁴.

The ADB Accountability Mechanisms, according to ADB upholds its principle of accountability to the people is targeted towards addressing the grievances of people adversely affected by ADB-financed projects and ensures compliance with ADB operational policies and procedures which is fundamental to equitable and sustainable development. But the AM completely fails in addressing the needs of the workers. The workers, often employed under 'hire and fire' method, often cannot prove the violations, as no proof of them working in the ADB project sites are given to them. Moreover, ADB does not have an obligation to hold its contractors to account, who continue to exploit the workers for their own benefit. Thus, 'Accountability mechanisms' becomes nothing more than a lip service for the workers.

GUFs intervention and Launch of the ADB Project in India :

Over the past decade the Global Union Federations (GUFs) have sought to increase strategic engagement with the ADB and other International Financial Institutions (IFIs) with an objective of protecting the rights of the workers and ensuring that the development process is workers friendly. The GUFs have started a campaign to promote the role of the core labour standards within MDB projects to ensure that the very projects that have been designed to assist a country's development do not directly result in those workers and communities being subject to unsafe, unfair and unjust working conditions. Beginning with discussions and meetings, the GUFs have rapidly built the credibility of core labour standards, and recognition of the role that workers' organizations need to play within the MDBs. The process of engagement, though slow initially, has been steadily increasing over the years.

The Jt. GUFs/FNV Project :

Global Unions have been engaging with ADB since 2005, to secure implementation of ILO Core Labor Standards in all its' operations. Over the years, they have raised key issues like lobbying for public-public partnerships, joint research and studies, identifying trade unions as key stakeholders etc. As a part of its strategic engagement, the GUFs jointly collaborated and developed a program towards securing CLS implementation in ADB operations in India. The program is supported by FNV Mondiaal, Netherlands.

4.....(2011); Labour desk handbook, Building & Woodworkers International, Asia Pacific Office, Malaysia

The project sought to bring forth, “Improved research, organizing and collective strategies” among the participating GUFs and Trade unions to ensure adherence to Core International Labour Organization Standards in ADB operations. The programme has three core components: Capacity building of the trade union members, building a data base of knowledge on ADB through researches and other publications like newsletter and also developing campaigns by each participating GUF/union. In addition, the committee formed to implement the project also continues to liaison with the ADB and other organisations working on monitoring the ADB.

The Jt. GUF/FNV project has not only diminished the knowledge barrier on ADB among the trade unions but has also facilitated interactions among Trade Unions and the ADB officials. Trade unions now recognize the ADB projects as an opportunity for organizing and have started monitoring and gathering key information about projects in the grassroots level.

Launch of the studies

With an objective of understanding the status of CLS implementation in ADB projects in India and identifying further areas for strategic co-operation, the GUFs based in India launched seven studies to be conducted across sectors. The studies conducted by Building and Woodworkers International (BWI), Public Services International (PSI), International Transport workers Federation (ITF), IndustriALL, Union Network International (UNI) and APPVU (regional Union) highlighted certain key issues, which are being described in the coming chapters.

The following studies were being carried out:

S.No.	Global Union/Trade Union	Name of the Study
1.	Public Services International	IFI led policy led changes in the water sector in India
2.	Building and Woodworkers International	Study on the conditions of the working class in Bangalore Metro Rail Project
3.	IndustriALL Global Union	Study on the NTPC expansion Facility in Sipat, Chhattisgarh
4.	UNI Global Union	ADB rupee Lending and Banking Reforms in India
5.	International Transport Workers Federation	ADB projects in Railway sector and its impact on workers
6.	APPVU	Study on the Agriculture and Food Security Policy of ADB

The Road Ahead

The GUFs seek to continue their engagement with the Asian Development Bank and share the findings of the studies with the Bank. The Asian Development Bank, though over the years has taking cognizance of the important role played by the GUFs in articulating the interests of the workers, is yet to make formal alliance with the GUFs. Formal co-operation between the GUFs and ADB could be a win-win situation, as it would enable the ADB to have access to the knowledge of the local situation, its workers and the other government regulations, which would help them in enhancing the effectiveness of their projects.

The ADB, rather than distancing itself away from the trade unions, should work towards recognizing the trade unions as key stakeholders in their project operations and strategically work towards respecting Core Labour Standards in all its operations.

2. Core Labour Standards (CLS) and ADB: An Overview⁵

'Eradication of poverty' in Asia Pacific has been the corner stone goal of ADB as 'decent work' has been for the International Labour organization (ILO). The ADB-ILO cooperation compliments each other through their overarching goals. The ADB and ILO have been working together on ways to reach these goals through a memorandum of understanding that identifies areas in which the two entities can cooperate, collaborate, and coordinate activities at the regional, national, and enterprise levels. The Core Labor Standards (CLS) is an example of such cooperation and collaboration

One of the visions of the ADB is the provision of social protection to all citizens through the development of sustainable, statutory programs with universal coverage to effectively assist member country to reduce poverty, achieve growth by enhancing productivity, and create opportunities for individual self-reliance. In its Social Protection Strategy (2001), the Bank defines that social protection as 'the set of policies and programs designed to reduce poverty and vulnerability by promoting efficient labor markets, diminishing people's exposure to risks, and enhancing their capacity to protect themselves against hazards and interruption/loss of income.'

The World Bank definition of social protection is based on social risk management while the Inter-American Development Bank (IADB) emphasizes social protection as a means to address macroeconomic and catastrophic shocks. The ILO, which is the oldest agency dealing with social protection topics, maintains a structured view of social security based mostly on social insurance and labor standards.

Social Protection is one of the four strategic objectives of the Decent Work agenda that define the core work of the ILO. Since its creation in 1919, ILO has actively promoted policies and provided its Member States with tools and assistance aimed at improving and expanding the coverage of social protection to all groups in society and to improving working conditions and safety at work.

The ILO has set out three main objectives reflecting the three major dimensions of social protection:

- 1) Extending the coverage and effectiveness of social security schemes.
- 2) Promoting labour protection, which comprises decent conditions of work, including wages, working time and occupational safety and health, essential components of decent work.
- 3) Working through dedicated programmes and activities to protect such vulnerable groups as migrant workers and their families; and workers in the informal economy. Moreover, the world of work's full potential will be used to respond to the AIDS pandemic, focusing on enhancing tripartite constituents' capacity.

In October 1998, an interdepartmental working group was formed to explore options for ADB's future interventions in social protection. A framework for operations on social protection was developed in July 1999 and the Social Protection Strategy (SPS) was approved in 2001.

5. The CLS overview is being heavily drawn from ADB publications especially its institutional documents and Core Labour Standard Handbook. The essay also synthesises inputs from Souparna Lahiri's essay for this book.

ADB's Social Protection Strategy

ADB's SPS identifies common issues to be addressed in the region, but recognizes that individual countries have specific needs. The SPS has five basic components:

- ◆ labour market policies and programmes designed to generate employment, improve working conditions and promote the efficient operation of labour markets;
- ◆ social insurance programmes to cushion the risks associated with unemployment, ill health, disability, work-related injury and old age;
- ◆ social assistance and welfare service programmes for the most vulnerable groups with no other means of adequate support, including single mothers, the homeless, or physically or mentally challenged people;
- ◆ micro and area-based schemes to address vulnerability at the community level, including micro insurance, agricultural insurance, social funds and programmes to manage natural disasters;
- ◆ Child protection to ensure the healthy and productive development of children⁶.

The labour market improvements to enhance social protection according to ADB include the followings:

- i. Labor market assessments analyzing demographic trends, labor absorbing sectors, unemployment, migration flows, and the size and causes of the rise of informal sector can help identify a country's needs and development options.
- ii. Active labor market programs facilitate (a) direct employment generation (promoting small and medium enterprises, public works); (b) labor exchanges or employment services (job brokerage, counseling) linking supply with demand for labor; and (c) skills development programs (training and retraining of labor).
- iii. Passive labor market policies include (a) unemployment insurance, (b) income support, and © an appropriate legislative framework that strikes a balance between economic efficiency and labor protection.

Core labour standards in SPS

The Core Labor Standards (CLS) consist of:

- a) Freedom of association and the effective recognition of the right to collective bargaining,
- b) the abolition of all forms of forced or compulsory labor,
- c) the elimination of discrimination in respect of employment and occupation, and
- d) the elimination of child labor.

All Asian and Pacific member countries, by virtue of being member of the ILO, are held to respect, promote, and realize the fundamental Core Labor Standards. The existing ADB social impact assessments, mandated by Management and the Board since 1991 (Operations Manual OM 47: Incorporation of Social Dimensions into Bank Operations) continues to ensure that vulnerable groups are not negatively affected by an ADB intervention. Specific social protection issues include the following:

6 www.adb.org/Documents/Policies/Social_Protection/default.asp

- i. vulnerable groups that maybe negatively affected by an ADB intervention must be adequately compensated and mitigation measures put in place to avoid creating further poverty (e.g., in case of public or private sector restructuring, workers, particularly low-income workers, should not be unfairly disadvantaged, regardless of race, skills, gender, age, or religious and political beliefs) ; mitigation measures should always aim to adequately balance social objectives and economic sustainability;
- ii. (a) in the design and formulation of its loans, ADB will comply with the internationally recognized core labor standards; (b) take all necessary and appropriate steps to ensure that for ADB financed procurement of goods and services, contractors, subcontractors and consultants will comply with the country's labor legislation and Core Labor Standards;
- iii. As part of its regular loan reviews, ADB will monitor that (i) and (ii) are complied with.

ADB and ILO partnership on CLS

As an institutional arrangement, the labor trade unions should have an official interlocutor at ADB and the NGO Centre responsible for compliance with country specific labour legislations and the core labour standards. To facilitate such interventions strategic partnerships were formalized through MoUs between ADB and ILO.

Since 1999, interaction between ADB and the ILO has intensified in four main areas: strategic consultations in preparing ADB's Social Protection Strategy; regional technical assistance on improving the role of labor standards in selected developing member countries; training on emerging issues in social protection and social safety nets; and project technical assistance and lending activities. ADB's Board of Directors endorsed the development of the ADB-ILO MOU on 13 September 2001, date of the approval of the ADB Social Protection Strategy.

To further strengthen this cooperation a Memorandum of Understanding (MOU) was signed by Myoung-Ho Shin, ADB Vice-President (Operations 1) and Yasuyuki Nodera, Regional Director, ILO Asia-Pacific Region on the eve of ADB's 35th Annual Meeting of Board of Governors in Shanghai, China on May 09, 2002.

The ILO's commitment towards achieving decent work for all is consistent with and supports ADB's goal of poverty reduction in the region. Recognizing a common ground, ADB and the ILO have identified areas for cooperation, collaboration and coordination to improve their contribution to the achievement of these goals.

Core Labour Standards in ADB Operations

ADB's country strategy and program (CSP) provides the overall strategic framework to guide ADB's operations in a country over a 3-4 year period. The conduct of a country poverty analysis, thematic assessment—environment, gender, private sector, governance—and sector roadmaps constitute essential elements of CSP preparation, and they are important tools for assessing the importance of labor issues and CLS in country programming⁷.

CLS can be addressed through issues related to governance, foreign direct investment or in sectoral issues. Addressing CLS in CSP should depend on the strategic focus of CSP, and as part of country poverty and social analysis in the context of human development or labor market reform.

7 Core Labour Standards Handbook, Manila, 2006, ADB and ILO

The risk and vulnerability profile, done while preparing the Country Poverty Analysis (CPA) assist in understanding the dynamics of poverty. The profile should depict the major risks that affect poor people. The CPA analysis to be carried out by the regional departments, particularly the resident missions and social sector divisions assisted by the Poverty Reduction and Social Development division in the Regional and Sustainable Development Department (RSDD).

A labour market assessment includes among other things an analysis of ILS/CLS in the member country. Given that all ADB interventions need to be designed in accordance with CLS, the summary assessment should indicate the country's compliance/noncompliance with labor standards, including CLS. The enforcement related issues should also be studied during the assessment. Such interventions, either in labor markets, social insurance, social assistance (loans/TAs) should address priority areas like child protection, vulnerable population groups, women and the poor to effectively reduce their exposure to risks, sustainability and good governance and their prospects for human capital development.

Ideally, information collection should involve collaboration and consultation with relevant international, national, and local organizations and institutions, such as the ministry responsible for labor; national statistics office; national trade unions and employers' organizations; international trade unions and employers' organizations; labor research institutes, often in national universities; regional representation of the ILO; and other civil society organizations concerned with labor issues (women's organizations, child protection organizations, trade associations, etc.).⁸

Often a full labor market assessment might be too resource-intensive and, therefore in most countries, utilizing existing ILO country studies should be considered and explored, and only in exceptional cases where labor market issues are of particular importance, an ADB assessment may be considered. Even if it has not been possible to carry out a full labor market assessment, the analysis should at least signal the existence of any major labor problem, which should be addressed as a priority issue through ADB.⁹

To ensure that vulnerable groups are not negatively affected as a result of an ADB intervention, mitigation plans as mandated by the social impact assessments (OM 47) have to be developed to offset impact such as of labor retrenchments. Temporary safety nets e.g. tiered pricing of utilities. Exemption from user charges, allowances etc. have to be designed to promote good social protection practices. These responsibilities rest with the sector divisions, resident missions, Office of the General Counsel, operating services offices and the Poverty Reduction and Social development Division in RSDD.

As an institutional arrangement, the labor trade unions should have an official interlocutor at ADB and the NGO Centre responsible for compliance with country specific labour legislations and the core labour standards. To facilitate such interventions strategic partnerships were formalized through MoUs between ADB and ILO.

8 Ibid

9 See also the Economic and Research Department's publication on labor markets: Felipe, J., R. Hasan (eds.). 2006. Labor Markets in Asia: Issues and Perspectives. London: Palgrave Macmillan for the Asian Development Bank

The coordination, implementation and monitoring of SPS have to be carried out by the Poverty Reduction and Social Development Division of RSDD, including publication of manuals and guidelines.

The following table provides information on the generic processes and analyses required at the various stages of the ADB operational cycle for considering or integrating core labor standard concerns into ADB operations. The table gives further advice on different activities during project design and implementation with regard to CLS.

Safeguard Policy Statement and Labour

The 2009 Safeguard Policy Statement of ADB provides a ray of hope for the workers safety and working condition. The 10th principles of Environment Safeguard provide that 'workers with safe and healthy working conditions and prevent accidents, injuries, and disease and establish preventive and emergency preparedness and response measures'. Also, the Policy says 'apply pollution prevention and control technologies and practices consistent with international good practices as reflected in internationally recognized standards such as the World Bank Group's Environmental, Health and Safety Guidelines.

Core Labor Standards in ADB Operational Cycle

Operational Cycle	Issues related to Core labor Standards
Country Strategy and Program Country poverty analysis Country strategy and program	Risk and vulnerability profile A summary of labor market assessment
Pre-project Design (PPTAs) Concept papers PPTA fact finding missions Initial poverty and social assessment Technical assistance report	Identification of bonded labor, child labor, or gender and other inequalities in employment Identification of special consultants in the PPTA team (labor, gender, etc) Identification of the situation concerning freedom of association
Project Design Selection of consultants	Designing necessary interventions to adhere to CLS Participation of stakeholders concerning

<p>Inception report</p> <p>Mid-term report</p> <p>Final report</p> <p>Draft RRP with SPRSS</p> <p>Loan negotiations</p>	<p>the future implementation of CLS clauses</p> <p>Formulation of appropriate of assurances/covenants for inclusion in loan documents</p> <p>Scrutinizing draft bidding documents</p>
<p>Project Implementation</p> <p>Government, executing and implementing agencies, beneficiaries</p> <p>Contractors, suppliers, consultants</p> <p>Review missions, progress reports</p> <p>Mid-term review</p> <p>Project Completion Report</p> <p>Project Performance Evaluation Report</p>	<p>Identification of bonded labor, child labor,</p> <p>Consultations with implementing agencies on CLS</p> <p>Drafting model clauses for bidding documents</p> <p>Compliance with national legislation concerning CLS and ILS</p> <p>Monitoring and evaluating of CLS</p>

(Source: ADB. PPTA= Project Preparatory Technical Assistance, IPSA= Initial Poverty and Social Assessment, RRP= Report and Recommendation of the President, SPRSS- Summary Poverty Reduction and Social Strategy)

Implementation of CLS in ADB Operations: A Reality Check

According to the ILO-ADB MoU, at least once a year, the ILO and ADB were to hold a senior consultation meeting on issues of strategic importance, to permit a regular review of the implementation of the Memorandum of Understanding. In addition, the parties were to maintain regular consultations as necessary on activities of common interest, including through video conferencing where appropriate and feasible, for the purpose of furthering the effective achievement of common objectives, and the coordination of activities with a view to maximizing complementarily and mutual support.

But, the publication of CLS Handbook was the only joint initiative since the MoU was signed. No regular high-level consultations were held after April 2006 (while one was expected in the Fall of 2008) and very limited progress was made in implementing key agreements.

In 2005, ADB’s Procurement of Works Standard Bidding Document was amended to be consistent with the MDB Harmonized Edition 2005 which includes 22 labor-related clauses covering some CLS areas. Public Service International (PSI) which started its regular engagement with the ADB since 2005 on the CLS, states:

"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. A typical work is commonly characterized by its contingency, transitorizes (sic), 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."

Moreover, in many of our discussions with PSI affiliates and other workers organizations affected by ADB-supported activities, we have found very weak the Bank's implementation of ADB's CLS Handbook and Social Protection Strategy. Problems in the field include: absence of a labor participation strategy; non-consultation with and participation of workers organizations/unions; no timely disclosure of relevant information to workers organizations/unions; lack of adequate mitigation measures that are agreeable to affected workers; no grievance nor monitoring mechanism.

The PSI, in its submission during the Safeguard Review in 2008, had urged the Bank to "embark on a new and separate review and 'update' of its existing labor safeguards and social protection strategy that will provide for mandatory and clear-cut operational guidelines vis (sic) compliance to all four core labor standards and decent work agenda."

The ADB-SPU team responded saying, "On the scope of the SPU, as approved by ADB Management, the SPU covers environment, involuntary resettlement, and Indigenous Peoples. It is envisaged that labor issues will continue to be addressed through ADB's Social Protection Strategy and as part of the requirements indicated under OM Section C3 on Incorporation of Social Dimensions into ADB Operations. Comments related to core labor standards would be addressed in that context."

Building and Wood Workers' International (BWI) in its May 2011 publication "Labour Desk Handbook", points out that "...sadly, violations of the rights of workers and trade unions in ADB sites persist. Workers directly employed by ADB contractors and sub-contractors continue to work and live under poor conditions and have very little means to bring their plight to the ADB for appropriate action.

To date, the ADB does not have a specific department dedicated to deal with complaints and issues of violations of labour conditions in the projects it finances. The role of the ADB in holding contractors responsible for labour rights violations is likewise undefined and loose. Despite the general inclusion of CLS into official ADB documents and guides for ADB staff and contractors on how to respond to CLS, there is a huge gap between these documents and the respect for CLS on the ground in ADB-financed projects. Without the ADB itself being held

accountable for violations of CLS, the ADB effectively renders the inclusion of CLS in procurement documents as meaningless because of the absence of effective accountability measures for contractors. While ADB documents suggest complaints about violations of CLS be made directly to the companies and governments carrying out ADB-funded projects, the fact that companies and national governments often do not take the core labour standards seriously means that the chances of effecting change and reform in their actions are unlikely.

The Global Union Federations (GUFs) have been proposing a labour desk in the ADB for several years now but ADB has so far resisted these efforts. At the 2010 ADB Annual Governor's Meeting in Tashkent, Uzbekistan, GUF representatives from the BWI, Public Services International (PSI) and Union Network International (UNI) presented to ADB President Haruhiko Kuroda a model labour desk and pressed him to establish a functioning labour desk in order to protect workers' rights in ADB-funded project sites and areas of operation.

However, President Kuroda reiterated the ADB's refusal to consider developing a labour desk – arguing that current accountability mechanisms were sufficient to address the concerns and complaints of Civil Society Organizations, including the trade unions. In separate meetings in Manila in January, 2011, senior ADB staff reiterated this message and challenged the GUFs to find examples of labour desks in other regional development banks for the ADB to emulate.

3. Sipat Super-critical Thermal Project: Secrecy, Violation and Non-committal of ADB Private Sector Operation in India

To provide energy to all, Indian government has resorted to all sorts of energy, aggressively including thermal power generation. Despite its large contribution to green house gases (GHG) coal-based power generation is still a fundamental part of energy supply in India. While expanding the generation by adding 4480 MW and reducing the emission level, the ADB has extended its financial support to NTPC in Bihar and Chhattisgarh. Being hailed as the first private sector non sovereign loan to a state controlled public utility in India,¹⁰ the project is also instrumental to bring the supercritical boiler technology in India to address environmental concerns. However, the secrecy under which this project has been implemented, restructuring the employment within and over all violations are being witnessed on labour rights are critical in this project, even under ADB's claimed clean coal technology.

The 'NTPC Capacity Expansion Financing Facility' program was approved by ADB in 2006 as part of 10th Five Year Plan and completed in 2010. The loan aimed at expansion of NTPC was comprised of (i) a tranche of \$75 million was loaned directly to NTPC, and (ii) a tranche of \$225 million was provided by commercial banks under ADB's Complementary Finance Scheme. The loan financed a portion of NTPC's planned power generation capacity expansion, including a portion of the foreign exchange requirements of (i) the 2,980 MW Sipat Super Thermal Power Plant Project (stages I and II) located in Bilaspur, Chhattisgarh; and (ii) the 1500 MW Kahalgaon Thermal Power Plant Project (Stage II extension) in Bhagalpur, Bihar. The last unit under ADB project Unit 3 of Sipat Stage I (660 MW) was commissioned in April 2012.

With an agenda of reforming energy sector and facilitating private participation in low carbon power sources, the NTPC Sipat project was in line with ADB's overall country strategy in India. The objectives of the loan for NTPC capacity Expansion where 2 units of 500 MW each and 3 units of 660 MW each was to be erected adding a total power generation capacity of 2980 MW to NTPC's generation.

Constraints and limitations

Since the project is financed by Private Sector Operation arm of ADB, the only information available in the public domain are the Project Data Sheet (PDS), the abbreviated version of the Report and Recommendation of the President to the Board of Directors (RRP), the Summary Environmental Impact Assessment (EIA) Report and the Environmental Monitoring Reports from 2008 to 2010. Also, the environmental monitoring reports for 2007, 2011 and till June 2012 are not available. The important documents such as the loan agreement, the project agreement, draft design and monitoring framework and risk assessment and risk management plan and project administration manual are not available in the public domain. Another set of important

10 The NTPC is a Government of India majority-owned company which does not rely on government funds and is not subject to any government budgetary approvals. The Government now owns 89.5% of NTPC, while institutional, foreign, and individual investors own the remaining 10.5% of the publicly listed shares.

social and poverty analysis tools – Initial Poverty and Social Assessment (IPSA) and Summary Poverty Reduction and Social Strategy (SPRSS) were not available for this project.

Though country poverty analysis (CPA), country environment analysis (CEA) and gender analysis are included in the two country strategies prepared in 2003 and 2006, however, there is a complete absence of the inclusion of labour market assessment as mandated in the ADB-ILO publication, Handbook on Core Labour Standards. The conduct of a country poverty analysis, thematic assessment and sector roadmaps constitute essential elements of CSP preparation, and they are important tools for assessing the importance of labor issues and CLS in country programming.¹¹

Given that all ADB interventions need to be designed in accordance with CLS, the summary assessment should indicate the country's compliance/noncompliance with labor standards, including CLS. Ideally, information collection should involve collaboration and consultation with relevant international, national, and local organizations and institutions, such as the ministry responsible for labor; national statistics office; national trade unions and employers' organizations; international trade unions and employers' organizations; labor research institutes, often in national universities; regional representation of the ILO; and other civil society organizations concerned with labor issues (women's organizations, child protection organizations, trade associations, etc.).¹²

If, ADB is not able to conduct a labour market assessment on its own, it might use information available with the ILO. As it mentions "Often a full labor market assessment might be too resource-intensive and, therefore in most countries, utilizing existing ILO country studies should be considered and explored, and only in exceptional cases where labor market issues are of particular importance, an ADB assessment may be considered".¹³

Non-availability of mandated information

The abbreviated RRP does not include IPSA and SPRRS. Only a summarized EIA is publicly available. Periodic Project monitoring reports are not available. The full EIA of the project was sent by the NTPC dealing team after request for the same was sent to the disclosure unit of the ADB. According to the Handbook on Poverty and Social Analysis (ADB 2001), an IPSA is mandatory for all ADB projects, as early as possible in project preparation, to identify the key social development and poverty reduction issues for in-depth analysis during the design phase.¹⁴ Despite Bank's claim on transparency in its activities, the private sector operations are cautiously guarded by the Bank. Upon enquiry by author, the Disclosure Unit of the ADB responded as "We regret that we cannot share the loan agreement and project agreement that you requested. Footnote 16 of PCP 2011 says that "ADB shall not disclose legal agreements for non-sovereign projects entered

11 Core Labour Standards Handbook, Manila, 2006, ADB and ILO

12 Ibid

13 See also the Economic and Research Department's publication on labor markets: Felipe, J., R. Hasan (eds.). 2006. Labor Markets in Asia: Issues and Perspectives. London: Palgrave Macmillan for the Asian Development Bank.

14 The purpose of poverty and social analysis during loan preparation is to identify opportunities and constraints for poor groups to benefit from project activities, to establish a participatory process, and to prepare design measures for achieving poverty reduction and social development outcomes during implementation.

into by ADB, or amendments to such agreements. This also includes commercial financing agreements."

According to ADB on IPSA and SPRSS, "we would like to clarify that there were no IPSA and SPRSS forms prepared for this project because these forms were not mandatory in 2006 when it was being processed for approval. The project's poverty reduction and social aspects are summarized in the RRP. As is customary with projects of this nature, ADB is legally bound by confidentiality undertakings given by it to the borrower not to release information regarding the project to third parties."

Awareness, consultation and participation

Throughout this survey, it seems that the NTPC Sipat employees, workers representatives, and unions are not aware of the details of the loan project including employee representatives in the National Bipartite Committee (NBC). Similarly, there is absolutely no awareness on the said loan project and other relevant details amongst the local population including the village Panchayat members. There is supposed to be consultation during the pre-design and design phase of the project with the key stakeholders including the elected representatives of the local population, the NTPC employees' representatives and workers' representatives. Nor is there any documentation available of their participation and their inputs to the preparation and design of the project. Reports of limited public participation are documented in case of the public hearing for the environmental clearance of the project for Stage II (according to the EIA Notification 1994 of the Environment Protection Act, 1986) which took place in December 2003.

Supercritical boiler technology: a loan conditionality?

The original project as conceptualized by NTPC for Sipat included 4 x 500 MW units for stage I and 2 x 500 MW units for stage II using standard boiler technology. But, in 2004, the time when the loan negotiations with ADB seemed to have started, the scope of the project was changed and instead of 4 x 500 MW units for stage I, the loan project was conceived with 3 units of 660 MW each for stage I while stage II remained the same. The boiler technology for stage I was changed from standard to super critical in line with ADB's strategy of introducing new thermal power plant technology in India. Did the change in scope of project being discussed among stakeholders especially village people or their elected representatives? That is how the Korean company Dushan came in to the picture selling its super critical boiler technology to NTPC. That the buying of super critical technology from a Korean company was a significant decision taken by NTPC to garner loans for the project is bolstered by the fact that NTPC got a further loan of US\$ 354 million from the Korean Exim Bank for its super critical technology power plant at Sipat.¹⁵

Implementation of Core Labour Standards

With the non availability of SPRSS, the loan agreement, project agreement, the project administration manual and the project monitoring reports, it becomes difficult to understand whether CLS and decent work issues and implementation strategy was incorporated in the project design.

15 Economic Times, October 06, 2004

The loan agreement ideally includes a paragraph which ensures that “civil works contracts under the Project follow all applicable labor laws of the Borrower and the State and that these further include provisions to the effect that contractors; (i) carry out HIV/AIDS awareness programs for labor and disseminate information at worksites on risks of sexually transmitted diseases and HIV/AIDS as part of health and safety measures for those employed during construction; and (ii) follow and implement all statutory provisions on labor (including not employing or using children as labor, equal pay for equal work), health, safety, welfare, sanitation, and working conditions. Such contracts shall also include clauses for termination in case of any breach of the stated provisions by the contractors.”

Right to Freedom of Association and Collective Bargaining

As of September 30, 2012, the NTPC workmen are represented by five unions one of which claims to be an independent union. The other four are affiliated to INTUC, BMS, CITU and AITUC. None of these unions were officially recognized by the NTPC during the period when the study was being conducted.¹⁶ The process for awarding recognition and elections for the same is yet to take off. Consequently, the workmen are not able to exercise their right to freedom of association and collective bargaining. While, the unions have, from time to time, placed their demand and requests on various matters ranging from safety measures for contractors' workers, residential quarters in NTPC Colony to construction of toilets at specific places within the plant, the unions and the NTPC management, cannot engage in the act of collective bargaining (thus violating the right to freedom of association also). Rather, as the unions have alleged, the NTPC management have failed to resolve several of their demands regarding service condition and benefits at Plant level, saying that these are related to corporate policies and have to be decided by the corporate headquarters in Delhi. No, dispute could be raised, therefore, by the NTPC Sipat unions with the NTPC management.

On the other hand, decisions like incorporating a completely new W0 category of workmen in the Sipat Plant for the employment of the eligible people from the affected villages were taken unilaterally without any consultation with the unions. The unions are demanding the W0 should be abolished and the workmen should be employed in the regular category starting W1. The W0 category is discriminatory and does not provide some of the benefits enjoyed by the W1 category of workmen like advance payment or loan for buying motorcycles or cars and their promotional avenues are very limited. A W0 category workman can at best reach W3 in the course of his/her working life in the NTPC.

The other serious matter raised by the unions is regarding the seniority of those workmen who preferred to officially request posting at the Sipat plant. Their seniority was reduced by a year as a condition to join the Sipat Plant. The unions also raised the issue of non allotment of residential quarters or at least rest room facilities for local workmen employed by the NTPC, especially for those who have to return home after evening shift or night shift, since they are not provided with official vehicles for dropping them at home.

16 By the time this book was out for printing, it was informed that an Union, affiliated to BMS has been recognized by the NTPC Management.

Condition of workers engaged by the NTPC contractors

Though all the NTPC unions claimed that they have taken up the issues of workers engaged by the contractors, their grievances and complaints, non-payment of minimum wage and provident fund benefits, their membership does not include this category of workers. The only union which claimed to be working exclusively for the contract workers is a non NTPC union called Theka Mazdoor Ekta Union. This union is not recognized by the NTPC management. In the course of the site visit and while talking to around 50 workers including 10 women workers who have been engaged by several contractors and sub-contractors, the following issues came out: rampant violation of the Minimum Wages Act; skilled workers being paid less, non availability of provident fund (PF) benefits in large number of cases; non-payment of overtime wages; no medical facilities, unavailability of safety gears, discrimination on wages against women workers, and so on. The project included two sites for the establishment of labour colony. One of the sites was never used and the other has only one room tenements for the workers without any bathroom and toilet facilities.

Some of the defaulting contractors who were named by both the NTPC unions and the workers are Era Construction, Mahindra Construction, ThyssenKrupp India, BJCL, Elini Engineering Works, Suresh Ch. Gupta, Unique Engineering, Lalan Construction and R S Construction. The Utility Powertech Limited (UPL), often mentioned by the NTPC unions as one of the subsidiaries of NTPC which has contracted out a large number of civil and construction works including human resources of the NTPC hospital in SIPAT. A large number of defaulting contractors were actually engaged by the UPL which has no office or representative in Sipat. This arrangement came in to light when complaints and violations by contractors were reported to NTPC management as the principal employer, only to be told that the contracts were given out by UPL. Ironically, the UPL website mentions it as a joint venture between NTPC and Reliance Infrastructure while informing in another section of the website that "Utility Powertech Ltd. is a Company formed by the combined efforts of National Thermal Power Corporation Ltd. (NTPC), a Government of India Undertaking and Reliance Energy Ltd. (REL), a fully integrated power company in power sector."¹⁷

Complaints regarding basic amenities and entitlements

NTPC employees have complained about housing, medical and educational facilities provided in the NTPC colony. During the early construction phase, as there was no hospital facility available, patients had to be taken to Bilaspur. As of now they are not even happy with the facilities provided by the Apollo Clinic located in Bilaspur and have demanded to the NTPC management to tie up with other good hospitals having adequate medical facilities. The workmen have complained that the allotted A and B type quarters are inferior to that of the quarters constructed in other NTPC power plant colonies. The NTPC unions made it a point that basic amenities like housing, hospital facility and school for their children in the NTPC colony were provided quite late in to the construction phase. The residential quarters in the colony started coming up only in 2004, and both the hospital and the private school started in 2007. One of the office bearers of a union also mentioned that shoes provided to the NTPC workmen are of very low quality and cannot be used even for two months.

Employment opportunity for project affected locals

As per the agreement with the State government, NTPC was to absorb (permanent employment) 692 project affected people according to their qualification. This has been corroborated by all the NTPC unions and the Theka Mazdoor Ekta Union. But till date, 138 persons have been absorbed under the controversial W0 category and around 112 with some technical qualifications have been absorbed under W1 to W3 categories. The unions also reported that a few more of the affected were scheduled to have been absorbed after undergoing ITI (Industrial Training Institute) but those appointments are still pending. According to Ghasinbai of Theka Mazdoor Ekta Union, the Sipat management also agreed to facilitate employment of 1800 project affected with the big contractors. None of that has happened so far.

Since 2003-2004, on several occasions, construction work in the Sipat project came to a grinding halt due to problems arising out of the problems between the NTPC management and the local community and the villagers. While every year till September 2012 saw at least a couple of strikes and bandhs called by the local people, 2008 saw a three month bandhs (closure) of all construction work due to picketing by the villagers around project site. The problems arose out of non fulfillment of employment of the locals, lack of proper rehabilitation measures and compensation, building of ash off-take pipelines over crop lands and coal ash dumping. The contractors' workers also went in for flash strikes due to nonpayment of wages and statutory minimum wages. Such delays in construction where NTPC has borrowed externally and cost over runs can have serious repercussions on the financial health of the company which till March 2005 had a total debt of around Rs. 172 billion.

Environmental concerns and impact

The land acquisition process for the main site of Sipat Plant was completed in 1997-98 and the EIA was completed in 1997. The scope of the project changed when the stage I of 4 x 500 MW was changed to 3 x 660 MW. Though an EIA addendum was produced in May 2003, it is not clear from the available SEIA whether for stage I the EIA was substantially changed to include the change of scope of the project. Also for stage I there was no public hearing and public consultation process since the Government of India EIA Notification 1994 at that point of time did not need any public hearing or consultation. While the EIA Notification 1994 was generally weak till several amendments were made starting from 1999 including the need for full and comprehensive EIA, public hearing etc and the NTPC Expansion Facility project was conceptualized in 2005, the more stringent ADB's environmental assessment requirements and standards should have been applied before the project was approved.

The Sipat plant is located within 40 to 50 km of the coal mining area and 90 km from the Korba thermal power plant. This entire arc has rivers, quite a dense rural and agrarian population with cultivated land and forests in between. With the inception of the Sipat project, both the NTPC and the ADB should have gone for a cumulative EIA to assess combined environmental impact of coal mining and thermal power plants which was not done. The NTPC unions pointed out the leakages occurring in the water supply pipeline to the plant and the ash pond resulting in crop damage on the lands of the surrounding villages. This was corroborated by the representatives of the Theka Mazdoor Ekta Union and visits to Kauriya and Rank villages.

The crop lands of the villages of Kauriya, Rank, Darabhata, Nawagaon, Eramshahi have been inundated by the leaking water and continuous water logging has not only damaged the crops but rendered agricultural lands unsuitable for cultivation. The villagers of Kauriya have demanded that the NTPC treat these agricultural lands as acquired and provide them with proper compensation, while some compensation amounting to Rs.18,000 per acre was provided to the villagers of Sukhirapally last year.

While the Environmental Management Plan includes water cover over deposited ash ponds to avoid fugitive dust generation from wind, during site visit, it was found that about half of the ash pond was not covered by water at all resulting in dust generation. The villagers complained that their crop lands surrounding the ash pond is suffering from the impact of this dust and they are apprehensive of long term impacts of fly ash and the dust generated from the ash pond on their health.

External private borrowings and employees right to information

The Sipat Super Thermal Power Plant is a high risk loan. The repayment and other obligations under the current NTPC loan will not be borne by a special purpose vehicle, but instead, by NTPC, being a creditworthy borrower. The loan will not be secured against specific assets of NTPC. In the event of a default, ADB will have the right to accelerate the loan and seek repayment from NTPC's internal cash generation rather than enforcing security over specific assets.¹⁸ Within this scenario, it is important that the employees of the NTPC know the actual loan commitments, repayment installments and schedules, any conditionality and other details as per the loan agreement which has a direct bearing on the financial health of the company and employment conditions.

Corporatization and Reform

According to the RRP of the project, the NTPC is often cited as a model for State-Owned Enterprises (SOEs) reform. The RRP also mentions that based on a World Bank study on corporate governance reform in SOEs¹⁹, several reforms were included and have already been implemented by NTPC :

- ◆ subject the utility to company law and other laws that apply to private sector companies;
- ◆ appoint independent directors to the board which must constitute 50% of directors;
- ◆ require NTPC to borrow from commercial lenders without the benefit of a government guarantee;
- ◆ list a minority of the company's shares on public stock exchanges, to create market information on commercial performance and create performance monitoring by shareholders other than the Government; and
- ◆ Structure the audit committee so it consists of a minimum of three members, a majority of non-executive independent directors, and the committee chairperson cannot be the chairperson of the board.

18 Abbreviated RRP, NTPC Capacity Expansion Financing Facility, 2006, ADB, Manila

19 The World Bank Group. 2004. Some Options for Improving the Governance of State-Owned Electric Utilities. Washington, DC.

In support of its corporate governance reforms, NTPC passed a formal antifraud policy on 29 March 2006. NTPC has put in place various policies and procedures to guide its employees such as delegation of financial and administrative powers; project and contracts management systems; finance and human resources; code of conduct for directors and senior management; and conduct, discipline, and appeal rules for employees. In addition, a more explicit policy was formulated to formalize and consolidate these policies through a whistle blower policy, under which employees (confidentially, if so desired) can report to management unethical behavior, actual or suspected fraud, or violation of conduct or ethics policy. This policy will also apply to NTPC's suppliers, contractors, consultants, and service providers doing any type of business with NTPC.

The ADB needs to respond to the workers and labour rights to know besides the CLSs. The Private sector arm of the Bank must not hide in the pretext of leveraging private companies to contribute to eradicate poverty. Institutional policies and manuals of the Bank need to be more accountable and transparent for such private sector operations as in Sipat Super Thermal Power Plant.

4. IFI-led Policy/Structural Changes in Urban Water Sector in India

The World Bank and ADB interventions in urban development and water supply projects have initiated major structural changes at the state and municipal level facilitating amendments in municipal and urban local bodies' legislations and leading to formulation of state water supply policy and private sector participation (PSP) in urban development. The Jawaharlal Nehru National Urban Renewal Mission (JNNURM) of Government of India which was launched in December 2005 to fast-track the development of 65 cities across the country, with a focus on bringing efficiency to urban infrastructure, service delivery mechanisms, is also partly funded by both World Bank and ADB.

Water Supply Infrastructure Improvement in Haveri, Karnataka

The project dates back to 2000 when the Government of Karnataka (GoK) appointed the High Power Committee (HPC) to study and advise remedial measures to minimize regional imbalances within Karnataka. An estimation of investment plan of Rs11, 527 crores (\$2,652 million) for north Karnataka mooted, GoK has initially selected 25 ULBs for assistance from ADB. In 2006, ADB funded a \$ 240 million MFF North Karnataka Urban Sector Investment Program (NKUSIP). The NKUSIP consists of four tranche with numerous sub-projects which will be completed by 2016.

The Water Supply Infrastructure Improvement project in Haveri Municipal Council is a part of the ADB funded North Karnataka Urban Sector Investment Program (NKUSIP). The water supply improvement works included conversion of Heggere Kere Lake and pump the surplus water from river Varada for 240 days in a year and utilize the stored water after treatment through New Water Treatment Plant (WTP).

The Summary Poverty Reduction and Social Strategy (SPRSS) of the NKUSIP mentions that "Public participation has been a key feature of the Investment Program's design and will continue through detailed design, planning, implementation, and operation and maintenance...". According to SPRSS, an assessment of communities' absorptive capacity was undertaken prior to preparing the participation strategy. Local, town-, and district-level NGOs and an apex NGO will be involved in monitoring community participation. But, the municipal employees and the local public where pipeline laying took place are completely unaware of the ADB assistance to the project and the relevant project details. The SPRSC excluded relevant unions and/or employee representatives of Haveri Municipal Council and Karnataka Water and Drainage Board.

Under social safeguards and other social risks, the labour component is not flagged as it says that "The Investment Program will result in 450,000 person days of employment in construction and operations. Private sector participation will not result in a loss of employment of those currently employed by the Government of Karnataka." Neither Core Labour Standards (CLSs) nor issues of HIV/AIDS are mentioned in the SPRSC. However, as per ADB guidelines, the civil contractors for the project would follow the labour laws of the borrower and the State and further includes provisions for the contractors for carrying

our HIV/AIDS awareness programmes for all labour. But significantly, the ADB fails to mention the phrase 'core labour standards' in any of its loan documents.

An Incomplete Work

According to the KUIDFC the pipeline improvement work in the town to the tune of 20 kms and the 9 km laying of pipeline from the Tungabhadra reservoir have been completed by June 2012. However, according to an engineer in the Haveri Municipal Council, the project will not work since the capacity of the WTP with 9.08 Mega Litre per Day (MLD) and the bulk supply pipeline to the town designed for carrying of 6 MLD of water has not been augmented to fulfill the current water supply demand of 13.5 MLD for an average population of 85,000.

Wages, benefits, and safety at workplace for workers

A few workers of Sai Sudhir Infrastructure were all getting a consolidated wage of Rs.200 per day and no other benefits were provided to them. Also, they were mostly coming from Belgaum and other districts of Karnataka whereas the agreement provides for employing local people. The workers staying in make shift tents near the Haveri station were not provided with toilets, bathroom facilities and drinking water. Various worksites, visited during study, had no display board informing about the project. The workers were not wearing any safety gear including helmet, gum boots and no first-aid kit available at the sites. Environmental Monitoring Report of the Haveri Water Supply project (December 2011), prepared by Wilbur Smith Associates Private Limited, indicates that the license for labour registration was yet to be received from the concerned contractor and the same was intimated to them.

24 x7 Water Supply Project, Dharwar, Karnataka

The 24 x 7 water supply project in Dharwar Municipal Corporation (MC) is part of the World Bank funded Karnataka Urban Water Sector Improvement Project (KUWSIP) with an assistance of US\$ 39.50 million signed in 2005. The four demonstration projects which include the four demo zones of Dharwar are allocated US\$ 13.79 million.

The World Bank project has far reaching conditionalities including: a) private sector participation as a realistic option for water and sanitation provision; b) facilitating PPPs in the sector; c) demonstration of the feasibility of 24 x 7 water supply; d) changes in tariff regime to be introduced through a private operator and e) establishment of a State Urban Water Council as a policy/regulation body.

The 24 x7 supply is operated by a private O & M (operation and Management) contractor, Veolia (India) Ltd, also Operator Consultant during the project implementation. The KUIDFC is managing the contract, the Water and Drainage Board is providing the bulk water supply, the Dharwar MC is responsible for billing and collection. Both the NKUSIP and KUWSIP are implemented by the KUIDFC, a special purpose vehicle created by the Government of Karnataka for executing external aided urban development projects in Karnataka.

How far the outcomes were met?

The four 24x7 demo wards in Dharwar Municipal Corporation comprising slum areas, middle and high income groups are Hosailapur, Durga Colony, Manikanta Nagar, Ullagadi, Kuruba areas. The demo zone was isolated from the water supply mechanism existing in other wards and a single entry point for water from the bulk supply was created for 24 x 7. While the entire Dharwar MC Population received water supply one or two hours on an average in every two to five days, the project facilitated 24 x7 supply for only 4 of the 63 wards while the other wards had practically no improvement in water supply.

The Water and Drainage Board and Dharwar MC water supply employees have been withdrawn from the demo wards and are now responsible for the rest of the 59 wards. According to a Dharwar MC insider, the 24 x7 project has created a surplus pool of outsourced workers.

In the demo wards, each new connection was charged Rs.3,200. Those who had existing connection were charged Rs.1,600 and the urban poor, demarcated by those having 600 sq ft of living area were charged Rs.900 for installing new pipelines and meter. To avoid protests, not only from the slum household but also from the councilors, the consumers were charged at a flat rate for the first six months when the supply started in Dharwar on July 1, 2008. The urban poor were charged at a rate of Rs.30/month. A volumetric tariff plan was devised and the consumers were charged thereafter according to their consumption. While the first two years of the O & M period was full of protests, nonpayment of bills, and inflated bills with high arrears.

Nagpur Municipal Corporation 24 x 7 water supply project

The Rs 387.86 crore (Rs.3.87 billion) Nagpur Municipal Corporation (NMC) 24 x7 water supply project was under the JNNURM. The project target is to provide potable water round-the-clock to all citizens by replacing 520 km of old and leaking water network. Also, all households will have a water connection with replacement of non-functional meters by December 2013. The pilot project for the 24 x7 water supply was executed in Dharampeth Zone in 2009.

The project also invited controversy on its public private partnership (PPP) model and handling over of the entire water works of the city to a private operator Orange City Water Ltd (OCWL) for 25 years. The execution started with water supply to Nandanwan in South Nagpur. Project management consultant Dinesh Rathi said that 'the work has been started on command-area system. "Work of 24x7 project will not be executed in the entire city simultaneously'.²⁰

The Operation and Maintenance Operator

The Orange City Water Ltd (OCWL), a joint venture of Nagpur-based Vishvaraj Environment Private Ltd, a subsidiary of Vishvaraj Infrastructure Limited, and Veolia Water (India), a subsidiary of the world's largest water company Veolia of France selected as O & M private operator for the 24 x7 water supply project in Nagpur city. The OCWL had won the contract to provide operation and maintenance of water works for 25 years in Nagpur. The OCWL has to work in conjunction with the Nagpur Environmental Services Limited

20 Anjaya Anparthi, Times of India, August 17, 2012, Nagpur

(NESL), a special purpose vehicle created for the purpose. The NMC will pay OCWL Rs 6 crore (Rs.60 million) per month from December 1, 2011.

The proposed tariff structure and rationale

The General Body of NMC revised the old tariff for full cost recovery with minimum burden on urban poor on January 2008. The new tariff structure was decided on the following principles:

- ◆ Water Tariff for full cost recovery for sustainable water business;
- ◆ Subsidized Tariff to Urban poor and low domestic consumption of 55 Liters Per Capita Per Day (lpcd);
- ◆ Tariff at cost for domestic consumption up to 135 lpcd;
- ◆ Premium Tariff for domestic consumption beyond 135 lpcd and non domestic usage;
- ◆ Indexation with raw water and energy charges. It enables to pass additional cost (70% of operating expenses) directly to consumer as surcharge.

The new rate of water tariff for domestic connections in residential areas varied between Rs. 8 to Rs. 15 as per telescopic consumption with the following slabs:

- ◆ Consumption up to 8,000 litres;
- ◆ Consumption of more than 8,000 litres to 15,000 liters;
- ◆ Consumption of more than 15,000 to 80,000 litres; and
- ◆ Consumption of more than 80,000 liters

Consumers are also levied a minimum access charge. The minimum water charge levied earlier by the NMC was Rs.3 per 1,000 litres.

The pipe dream as it unfolds

Amidst controversies and delay of over three years, the NMC started execution of 24x7 water supply project from Nandanwan in South Nagpur in August 2012. In a setback to private water operator OCWL, the NMC decided not to consider three months of its working. Its meter started ticking only from March 2012 though it started functioning from November 2011. The Union Government also reduced the implementation time of 24X7 water supply project to two years from the approved period of five.

NMC took the decision since the operator failed to deploy the required team and maintain the water works from December 1, 2011 as per the contract. Under the 24X7 water supply project, OCWL had to replace 574.31km old and leaking water network in two years. The operator had to relay 1.2km every day to meet the target in time. But OCWL replaced just 27km network in nine months.²¹ "Since OCWL failed to meet the contractual obligations, the NMC decided to consider March 1, 2012 as the starting date of contract," said Sudhakar Kohre, the Chair of the Water Works Committee. "The three months will be added to the contract after the completion of 25 years", he added.

21 Anjaya Anparthi, Sep 27, 2012, TNN, Nagpur

Complaints from Dharampeth – Pilot Zone

The water bill is Rs 60,000! The residents of Dharampeth zone complained of inflated bills, high water charges, leaking internal pipes, faulty meters and stoppage of water supply for some time during the day instead of 24x7. A consumer in Ambedkar Nagar was received a bill of Rs.60, 000. And it was not a technical glitch.

The high bills are accounted for due to leakages in internal pipelines which have not been changed. Consumers have also complained that the new imported meters manufactured by the Actaris Company were installed without any testing. The Administrative Staff College of India, in a survey report, mentioned that 70% of the pipeline in the pilot zone was not replaced, around 50% of the 20,000 consumers are only getting 24x7 supplies and the water leakage in the system has been reduced to only 38% from 50% while the target was 15%.

As on March 2012, water bills of more than 2,700 consumers in Dharampeth zone was outstanding. The NMC requested the Dharampeth consumers to pay the charges for at least 50 units per month. Eventually, the NMC was also forced to lower the minimum charges to Rs.5.50 per 1,000 litres of water metered. The NMC used to supply 41 MLD water to the pilot project area before the execution of project. The water supply has not reduced but increased to 97 MLD indicating that water consumption has not come down as claimed.

Responses of the NMC Unions

Jammu Anand, the President of the NMC Employees Union has observed that the project is a big loss both for NMC and also the citizens. The OCWL is submitting daily reports claiming to supply 640 MLD in the city. However, NMC's data revealed that the water storage capacity available in the city is just of 110 MLD. "Even with water being stored twice a day, the amount of water stored comes up only to 220 MLD. Then how is OCWL claiming to supply 640 MLD when there is no storage capacity available in the city," he said. Mr. Anand mentioned that NMC pays OCWL at the rate of Rs 7.90 per unit for 250 MLD which amounts to Rs 72 crore per annum. "Why is OCWL accepting payment for just 250 MLD when it claims to be supplying 640 MLD," he questioned.

In fact, the NMC is actually spending a huge amount on raw water, electricity and treatment of water. But, the revenue from such spending is not coming to them which mean that NMC is incurring huge loss. The financial data available from NMC reveals that NMC's total expense on water supply is Rs 90 crore per year. That expense has increased to Rs 135 crore, ever since it handed over the water supply to the private operator. In 2011-2012, revenue from water was Rs.79 crore while the expenses were Rs.150 crore.²²

According to Shankar Maurya, the General Secretary of the NMC Parwana (licensed) Dharak Plumber Sangh, 300 plumbers have lost their livelihood ever since the pilot project started in 2009. Henceforth, the entire maintenance of the city network is handed over to OCWL while the NMC has not even thought of these 300 highly experienced plumbers. "There has been no response from the NMC or its Commissioner on the issue of the plumbers", said Shankar.

22 Times of India, December 4, 2012, Nagpur

As the project was handed over to OCWL in November 2011, 392 of 427 staffers working in the water works department of NMC refused to work for the private operator and also observed a 'black day'. The NMC had asked these employees to join NESL on its formation on October 28, 2009 but only 35 staffers showed willingness. The remaining 392 employees did not join NESL. The employees, on transfer to NESL, will in turn work for OCWL. Executive engineer of water works department Shashikant Hastak said it was compulsory for the employees to shift to NESL and give service to the private operator at least for one and a half years. "Without experienced staff, the water supply cannot be done," he said.²³

General Secretary of the Mahanagar Palika Employees Association, Surendra Tingne told that the administration was trying to force them to work for the private operator as it is difficult to handle water works without experienced staffers. "NMC cannot compel us to work with a private company. The case filed by the union in the labour court was disposed of in our favor. NMC should carry on water supply through the department itself," he said.

According to the NMC unions, the City Development Plan (CDP) was not discussed in the house. All powers were delegated to the Commissioner. The employees and unions were not consulted about the project and there was no formal public hearing for the pilot project in Dharampeth.

According to Thingne, the tariff has increased 5 times, there are complaints of inflated bills, and the system cost has increased by 100%. Thingne emphatically said that there is no need of a private operator, there is no demand for 24 x7, safe and quality drinking water supplied for 3 hours a day is enough for the city people. The NMC unions also pointed out that of the 640 MLD of water supplied to the city, there is no account of how much of it reaches the actual consumer, how much is the non revenue water and how much is the total leakage.

Wages and benefits of project workers

The water supply project construction work has several layers of contractors. The chlorination plants are outsourced. A chlorination plant works in three shifts and for each shift of 8 hours, a skilled worker is paid Rs.3,000 a month with no additional benefits and no holidays. A maintenance worker with a contractor is paid a maximum of Rs.5,800 and gets provident fund benefits. A highly skilled temporary pipeline welder on probation with OCWL is paid Rs.10,600 a month with additional benefits of provident fund and housing allowance, but his annual bonus of Rs.6,000 is paid to him by deducting Rs.500 per month from his salary! The maintenance workers have no fixed timings for work and are not paid any overtime wage.

In OCWL, a valve operator is paid Rs.2,000 a month, a meter reader gets Rs.3,500, where as in NMC the same employees receive Rs.12,000 and Rs.16,000 respectively. Though the JNNURM project is funded by the ADB and World Bank, there is no document to indicate that their respective policies on adherence to labour laws and core labour standards are operative in JNNURM projects.

While the IFIs have been able to exert a huge influence over the state governments using the constitutional provision that water is a state subject, and undertaken far reaching sectoral reforms

23 Anjaya Anparthi, TNN Nov 28, 2011, Nagpur

and promoting the private sector, they have failed to accordingly establish and promote proper regulatory bodies in the urban water supply sector. The IFIs have cleverly sidelined local elected representative's decisions and undertake implementation bypassing the decision making powers of the ULBs under 74th Amendment and other state agencies. The restructuring or reforming in urban water sector led by IFIs is neither transparent nor accountable.

5. Employment and Labour Conditions in ADB funded Projects: Case Study of Bangalore Metro Rail Transit System

The plight of workers in ADB funded projects across Asia has not been satisfactory. While infrastructure development is the priority sector under Strategy 2020 of ADB, the labour issues have been deliberately handed over to borrower countries whose responsibilities are abysmally low. Despite inclusion of labour related concerns in 2009 Safeguard Policy Statement, the Bank has been evading its responsibility on implementing safety measures in its projects. Among several such cases in India, the conditions of labour in Bangalore Metro Rail Transit System (BMRTS) Project are precarious. To remove the traffic clog in the city, ADB has sponsored a metro rail project but ignores the grim situation prevailing across the project. A recent affirmative High Court judgment on the labour conditions in the project has not even been able to awaken ADB on its mandate on labor.²⁴

The Bangalore Metro Rail Transit System (BMRTS) Project is funded by both public and private sector departments of ADB. The \$250 million project, implemented by Bangalore Metro Rail Corporation Limited (BMRCL), consists of development of 42.3 kilometers (km) of metro rail, 40 stations, 2 station depots, signaling, electro-mechanical system, and all ancillary facilities and rolling stock. The metro alignment for the city is two main transit corridors: (i) an east west corridor of 18.1 km starting at Byappanahalli and terminating at the Mysore Road terminal and (ii) a north south corridor of 24.2 km, starting at Nagasandra and terminating at Puttenahalli. Of the planned length 8.82 km near City Railway Station, Vidhana Soudha, Majestic, and City Market are underground sections. While the project was approved by state and Union governments respectively in 2005 and 2006, the ADB approved it in 2011.

Profile of the Workers

As a part of the study, a survey form was filled by the researchers, which revealed that most of the workers employed in the Bangalore Metro Project were migrant laborers. Most of the workers, often employed through a contractor or a relative already working the project were from states like Uttar Pradesh, Bihar, Jharkhand and Assam etc. Most of the workers did not speak the local language and were often made to live in cramped shelters, with inadequate facilities.

24 The Central Government recently suspended the license of four construction companies involved in Bangalore Metro Rail Project for violating labour laws. (for details: <http://www.newindianexpress.com/cities/bangalore/Licences-of-four-firms-cancelled/2013/09/21/article1795658.ece>)

Figure-1: Percentage of workers from States in India (in percentage)

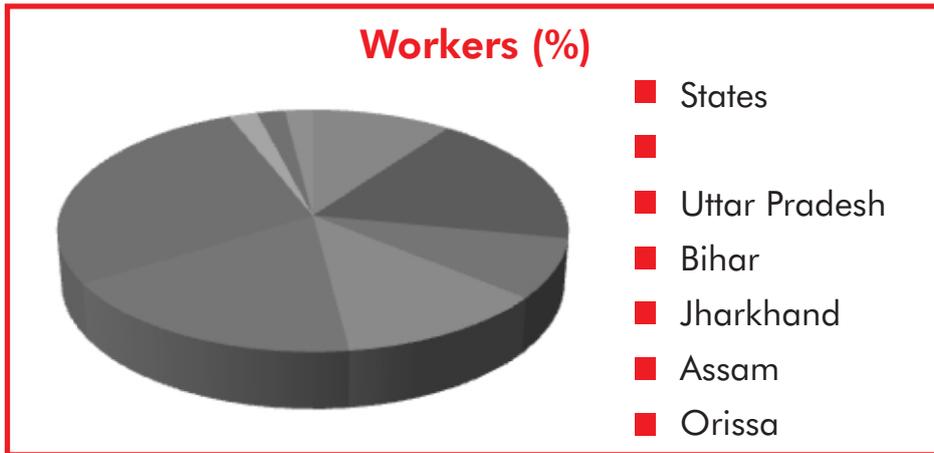


Figure 2: -Age Group of Workers engaged in the sites of Bengaluru Metro (in Percentage)

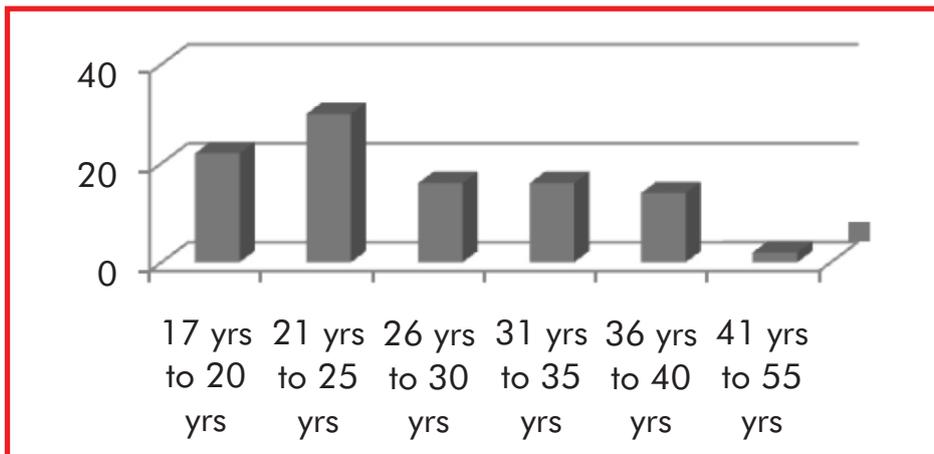
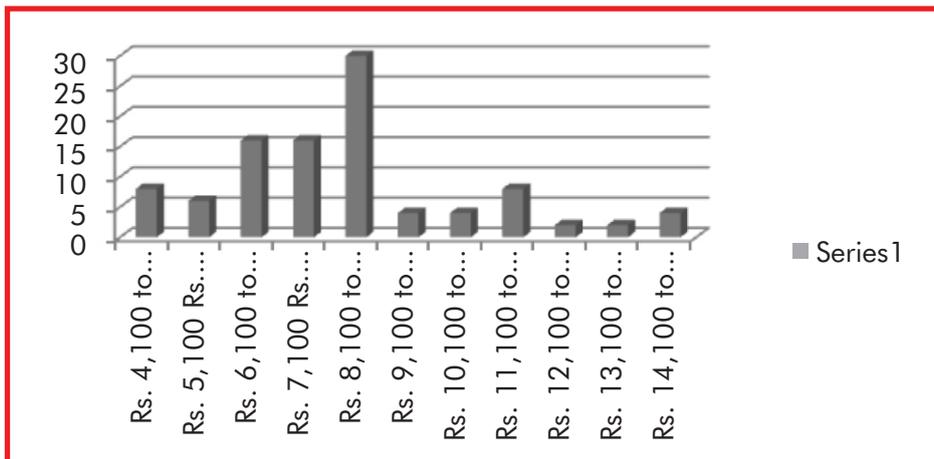


Figure 3- Payment of Wages to the Workers of Bengaluru Metro (in Percentage)



Metro Workers and Occupational Health and Safety

A 450 tonne concrete girder for Bengaluru Metro crashed on Tumkur Road at Yeshwanthapura creating panic around on 22 September 2010. After holding a meeting with BMRCL officials, Honorable Home Minister R Ashoka said, "The government has taken serious note about the recent metro mishaps and we have issued notices for L&T for Thursday's mishap. They must explain reasons for such mishaps. Apart from that, we have also issued instructions to maintain safety at work site to all the four companies who are implementing Namma Metro project works in the city."

The BMRCL authorities did not name the officials responsible for the negligence that caused the accident nor explain the mode of action being initiated. Lipo, a worker from Jharkhand, working at the site of Yeshwanthapura Industry Station, slipped and fell while soaking the peers in the 1st week of December 2012. According to the workers of Nayandanahalli Labour Camp, three workers from Punjab died at the worksite near Mysore Road between the period 2008 and 2010, but none was reported.

List of Major Accidents at the Sites of Bengaluru Metro

- ◆ 1 Aug 3, 2009: Two workers, Lakwendra Nayak and Beerhain, were injured during steel reinforcement work on CMH Road. The incidents caused minor injuries to workers and were treated as outpatients.
- ◆ 2. July 8, 2009: With the death of a 24-year-old worker on RV Road, this was the second death on the Namma Metro site.
- ◆ 3. May 23, 2009: A worker engaged in property demolition work for BMRCL was killed while on duty. Prakash, 24, of Kollegal taluk in Chamarajanagar district in Karnataka, died when a building wall crashed on him.
- ◆ 4. Jan 29, 2009: Four workers were injured when a building was being razed for Namma Metro near West of of Chord Road in Rajajinagar I Block.
- ◆ 5. Jan 11, 2009: A 20-year-old youth died after he came under the wheels of a JCB at the MG Road-Brigade Road junction.
- ◆ 6. Oct 10, 2009: Suchand Roy, aged 22 yrs, was working on a metro site in Vijayanagar when he was accidentally hit by a 550 kg pile cage. He was rushed to a private hospital,
- ◆ 7. June 20, 2010: Uttam Khandu, aged 35 yrs from West Bengal, critically injured after he skid and fell while working at the metro site near Ulsoor. He was operated twice for rib fracture at Manipal Hospital, Bengaluru. Next Day, he died in the ICU
- ◆ Nov 30, 2010: a Namma Metro barricade fell on two bikers on West of Chord Road. One of them was put on a ventilator and died after one day. The site was managed by Simplex Infrastructure

- ◆ 10. March 20, 2012, Puli Singh, 25 yrs, from Chhattisgarh, injured his shoulder at the underground construction site of the south ramp on KR Road.
- ◆ 11. May 30, 2012: Amarjeet Singh from Kapurthala in Punjab aged 24 yrs, crushed to death under a crane boom, at a metro site near Peenya. Peenya police have filed against safety engineers for the mishap
- ◆ 12. June 27, 2013, Rupesh Singh, aged 39 yrs from Begusarai in Bihar while working at Srirampuram Metro station, slipped while fixing the electrical fittings and fell from the scaffolding and was injured. He died next day in the Victoria hospital. The Site was managed by Punj Lloyd company.
- ◆ 13. June 27, 2013: Srinivas Murthy, a vegetable vendor sustained injuries after a nut(metal) fell on his head from the Metro site near Dasarahalli The Site is managed by JMC Ltd.
- ◆ 14. July 29, 2013: Govindaraju, a welder, was crushed to death after a iron beam fell on him at the construction site of Peenya Metro Station.

The workers engaged in the worksites of BMRCL are vulnerable to accidents as they are pressurized by the contractors to complete the work targets, specified by BMRCL. Only 14 major accidents were reported during the period between 2007 and 2013, while many have actually occurred. BMRCL authorities who claimed that an inquiry was conducted after each accident, has however not made any reports public. They have only stated that safety norms are in place but have not been followed by on-site engineers, who oversee work on site. In the case of Rupesh Singh (died in accident at Srirampura metro station site in June 2013) was merely registered as case of unnatural death by the Subramanya Nagar police station.

According to Section 39 of the 1996 Act and Rule 230 (Reporting of Accidents) of the Karnataka Rules under 1996 Act, the BMRCL should send a notice of any accident on its construction site through a telegram, telephone, fax or through a special messenger within four hours in case of fatal accidents or seventy two hours in case of other accidents to Workmen Compensation Commissioner, Building and other Construction Workers Welfare Board (BCWWB), Chief Inspector of Inspection of Building and Construction and relatives of the worker.

On 1st July, 2013, BMRCL spokesperson Shri. Yeshawanth Chavan revealed the findings of the joint probe by police and BMRCL with the media. The findings of the probe blamed the workers engaged in the metro sites for the injuries and deaths. The following are main highlights of the findings:-

- ◆ The workers are inadequately trained especially when it comes to handling equipments;
- ◆ Lack of proper supervision or negligence on the part of workers to follow safety protocols; and
- ◆ Non implementation of safety measures by the workers at the work sites.

The tragic death of Govindaraju aged 45 years, from Tamil Nadu at the construction site of Peenya Metro Station, throws more light on the enforcement of safety standards by BMRCL through their contracting companies. The welder was crushed to death after a crane moving iron beams weighing nine tonnes collapsed on him. The co-workers had claimed that there were neither safety engineers nor site engineers at the site. The Peenya Police charge sheeted the crane operator and the sub contractor M/s Venkateshwara engineering Ltd., under section IPC 304-A and other offences related to negligence. The police did not include BMRCL (principal employer) in the charge sheet has raised many eyebrows.

Enforcement of safety measures

There are only six labour officers to monitor the safety standards in Bengaluru city. These officers are not technically qualified to testify for the safety of any construction site or determine the reasons for failure of safety equipment when an accident occurs. What is shocking is lack of manpower to inspect the safety standards at the construction sites as stipulated in the 1996 Act. However, the senior officials have categorically stated that all the construction sites of BMRCL do not come under their jurisdiction.²⁵ The Project being implemented by BMRCL is a joint project of Central Government and State Government. The Central Labour Office at Peenya is only agency which can enforce labour laws and safety standards within the BMRCL sites. However, the State Labour Department is empowered to collect CESS and register the workers engaged by BMRCL in its sites.

Violations of Safety Rules by BMRCL

The blame game carried out by BMRCL cannot absolve itself from its responsibility of maintaining safety through constant supervision at its worksites. The Section 44 of the 1996 Act states that employer shall be responsible for providing constant and adequate supervision of any building or other construction work in his establishment as to ensure compliance with the provisions of this Act relating to safety and for taking all practical steps necessary to prevent accidents. The BMRCL claimed that safety manual was distributed to the contracting companies for implementing safety rules at its worksites. The workers and some of the sub-contractors (northern and southern corridor) are not aware of the application of the safety manual at the worksites. There were no safety committees and safety officers at the worksites and site engineers provided only helmets, jackets, boots and safety chains to the workers.

Safety issues occupied centre stage following a tussle between Navayuga Engineering, another Metro contractor and BMRCL. The Navayuga also one of the main contractors working on the 'Reach 1' of the Metro construction filed a PIL in the High Court of Karnataka in the year 2009, claiming that it was not possible to ensure safety of structures and there was inability of moving heavy equipment on CMH Road. The Navayuga Engineering Ltd had approached BMRCL with complaints about unsafe working conditions which were not appreciated by BMRCL. In July 2009, the Karnataka High Court had dismissed the PIL filed by M/s Navayuga Engineering Ltd,

25 On 5 August 2013, Shri. Palani Kumar, General Secretary, KSCWCU and Shri. Madhu Sudhan, Research & Documentation unit of KSCWCU held discussion with Shri. Jinkalappa, Additional Labour Commissioner, Government of Karnataka and Shri. Ramachandra, Director, Dept of Factories and Boilers, Govt. of Karnataka to understand the enforcement of safety systems by Government of Karnataka

with an observation to BMRCL and other authorities that they should take adequate safety measures during the construction of the Metro Rail.

Occupational Health

The construction workers in the BMRCL sites have been continuously exposed to wide variety of health hazards at work. The application of modern construction equipment such as mechanized drill guns involved in road building projects causes adverse effect on the worker's nervous system. The Chemical hazards such as dusts, fume, mists, vapors or gases have contributed to respiratory illness and terminal illness such as lung cancer. The biggest risk faced by the construction workforce is Silicosis and Asbestos. The Metro constructions are blamed for a 55 percent rise in respiratory problems among the workers since 2009. Every month the Victoria Hospital, at K.R. Market, registers a minimum of 30 to 45 cases of migrant metro workers complaining of respiratory problems as reported by one of the doctors in the hospital. According to him, this is mainly due to their constant exposure to polluted metro construction sites. Another cardiologist reported that the metro workers are continuously exposed to three of the most dangerous air component—carbon monoxide, nitrogen dioxide and sulfur dioxide that leads to respiratory irritation, bronchitis and infections. Shri. B.L.Y.Chavan, Chief Public Relations Officer, BMRCL, has said that Metro officials do not provide pollution safety guards to the metro workers. It is the Labour Department who should provide these safety guards to workers.

Canteen facility

There was no canteen facility for the workers in any of the worksites of the BMRCL. In many worksites, especially the worksites of K.R. Market and Vidhana Soudha stations, hundreds of workers throng into the roadside eateries/small hotels on the main roads. Only in Yeshwanthapura Industry Station site, the workers packed food for afternoon prepared at the Labour Camp at Goreguntapalya (closely located to the site). The 1996 Act requires the employer to 'provide and maintain in every place wherein not less than two hundred and fifty workers are ordinarily employed, a canteen for the use of workers'.

Workers engaged in the Geo Technical Investigation for Bengaluru Metro

The Secon Company is involved in Geo Technical Investigations contracted by BMRCL under the Phase 2 of the Bengaluru Metro at various locations on Whitefield Road in Bengaluru. The Geo Technical Investigations or soil testing is crucial in the decision to raise Peers and Viaducts on the routes of Phase 2 of Metro project. The Geo technical Investigation was expected to be completed by November 2013.

There were 200 workers segregated into 10 groups and given task to complete soil testing on 42 locations on Whitefield road. Each group of 7 workers were asked to build shelters on footpaths. The workers have no choice but reside in a single tin shelters. These make shift shelters can accommodate only 3 workers, but 10 workers are forced to reside.

There are no urinals and toilets, no drinking water available at the site, no other facilities. The workers were operating two machines from 8.30 AM to 7.30 PM on daily basis. Injuries are quite common, but there are no 'First Aid Boxes' at worksite. These workers were not enrolled as members with 'Karnataka State

Building and Other Construction Workers Welfare Board'. However, the officials of Secon claimed that the workers involved in Geo-Technical- Investigation are not categorized as construction workers and hence does not come under the purview of the Building and Other Construction Workers Act 1996.

Labour Camps for Workers

The Nayandanahalli Labour Camp which are nothing but rows of dusty tin-sheet shelters where hundreds of workers are forced live like animals. Behind the shelters are storm drains which emanates stench making impossible for any human to live in these camps. Two camps in Nayandanahalli, one each in Byappanahalli, Hebbal Peenya II Stage, Goreguntapalya, Kengeri and Kanakapura Road. Of all the camps, the Nayandanahalli camps are worst maintained camps.

The Survey team visited two camps at Nayandanahalli and one camps in Goreguntapalya (near Yeshwanthapura). The Minimum food requirements should be calculated on the basis of daily intake of 2700 calories per adult of moderate activity, as recommended by Dr. Aykroyd, an Indian nutrition expert. The present diet given to them amounts to 2,000 calories a day when they actually need up to 3,500 calories to sustain the physical work they do on a daily-basis.

Table 1- Basic Amenities at the Labour Camp for workers engaged by Bengaluru Metro

S.No.	Type of Facilities	Rated by Workers	Comments by workers
1.	Food	Not satisfactory	Not sufficient food
2.	Drinking Water	Not provided	Packaged drinking water at worker's cost
3.	Water for Cleaning & bathing	Overcrowding at peak hours	Less bathroom available
4.	Toilet	Overcrowding at peak hours	Few toilets/latrines available
5.	Transport facility to worksite	Good	good
6.	Environment	Bad	Polluted Environment due to storm drains
7.	Living in Labour camps	Not habitable	Attacks by Rodents and Pests

Violations of other Labour Laws

1. Denial of minimum wages for some categories of workers,

The Minimum Wages Act, 1948 generally specifies minimum wage rates on a per day basis, and extends to the entire country. The Central and State Government has the power to fix the minimum wages in all schedules of employment.

Minimum Wages Fixed by the Karnataka Government for the year 2012-13

Construction or Maintenance or Building Operations: - Skilled Work – Rs. 176.60 per day

Unskilled Work - Rs. 172.58 per day

Therefore Minimum wage per month for a skilled worker is Rs. 5,298.00

Minimum wage per month for a unskilled worker is Rs.5, 177.40

In the construction sites of BMRCL, 8 to 10 percent of the workers are receiving wages less than the Minimum wages fixed by the Karnataka Government for the year 2012-13

76 percent of the workers received wages less than Rs. 9000 per month.

Social Security of the Workers

The Government of India has enacted a comprehensive legislation for construction in the country. The KSCWCU played a pivotal role in launching the national campaign for a 'Central Legislation' for the construction workers in the country. It facilitated in the formation of 'National Campaign Committee for Central Legislation on Construction labour (NCC-CL) which was headed by Justice V.R. Krishna Iyer, former Judge of Supreme Court of India. The Building & Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 and the Building & Other Construction Workers' Welfare Cess Act, 1996 which came into effect on 20 August 1996, initially brought in as ordinances on November 1995. The Karnataka Government Framed Rules for the above Act and established 'Karnataka Building and Other Construction Workers Welfare Board.

Benefits not disbursed to the metro workers by the Board

The BMRCL has been empowered to register their workers as beneficiaries of the Board to facilitate speedy registration. This decision was taken in the Tri-partite board meetings of the Karnataka State Building and Other Construction Workers Welfare Board. According to Shri. Vasantha Kumar Hittanagi, Former CEO of Karnataka State Building and Other Construction Workers Welfare Board, the Managing Director of BMRCL proposed to the Welfare Board that the BMRCL will disburse the required benefits to the claimant beneficiaries and later claim the reimbursement from the Board. BMRCL did not take steps to demonstrate its interests by showing action on the ground.

On 28th May 2012, Shri. N.P.Samy, President, led the KSCWCU team to pressurize the BMRCL to enroll the workers with the Welfare Board. A Meeting was held with Shri. Sivasailam, Managing Director, BMRCL who agreed to open up the metro sites for leaders of KSCWCU to enroll the metro workers with the Board. The members of KSCWCU visited the construction sites of Bengaluru Metro and explained the importance of enrolling the members with the Board. Some companies agreed to disburse the identity cards to the workers after KSCWCU exerted pressure on them. But till date they have not given the cards to the worker. A reply for the RTI filed by Madhu Sudhan, Research and Documentation Unit, KSCWCU has proved that the BMRCL and its Companies were hand in glove to ensure that workers are deprived of the benefits given by the Board. The Bengaluru Metro project is a test case for ADB on CLSs. If the Bank is formally acknowledging the Unions as one of the core stakeholder in its massive infrastructure projects across Asia-Pacific, time has come for ADB to formulate formal policies on CLSs to address the concerns of laborers. While the State apex court has clearly found the lapses on violations of labour laws in Bengaluru metro, the ADB must look into the violations seriously to transform its guidance on CLSs to mandatory policies.

6. ADB projects in the Transport Sector and its impact on Workers

There is already considerable evidence indicating that the execution of ADB funded projects in India does not comply with the Core Labour Standards (CLS). Out of nearly \$ 30 billion lending to India since 1986, the transport sector has received second largest lending amounting \$10 billion from ADB. Under its South Asia Sub-Economic Cooperation (SACEP) program, the Bank priorities transport sector of India to connect South East Asia. Interestingly, Indian Railways which absorbs large scale human resource as workers, despite Bank's involvement, the adherence to international workers rights are still being alien.

State of Indian Railways

As the country integrated with the global economy in 1991, the seeds of financial fall outs managed to put the Indian Railways (IR) on edge of bankruptcy. Consequently as prices of transport services fell internationally, the IR which had been naturally protected domestically was exposed to the international shocks. At the same time it faced increasing levels of competition from other sources of transport due to the deregulation of the trucking industry, the development of expressways and six lane highways, exploration of pipelines for petroleum products and the deregulation of the port sector.

The difficulties were caused by inability to maintained finances at reasonable rates and the loss of market share in the lucrative freight segment, as well as countless investments and high cost of internally sourced products and services. In 2001, the rate of growth in the costs of the railways was 15% per year, happened to be much faster than the rate of growth of revenues as 13% per year. While the IR urgently needed investments in infrastructure which the cost-revenue structure made it impossible. The core reasons behind poor conditions of IR at the end of 20th century can be termed as follows: loss of market share in the profitable freight business, lack of flexibility in pricing, high cost of internally sourced products and services, rising employee costs, poor productivity and declining budgetary support. In 2001, Railways faced an operating deficit of Rs. 3700 crore.

Restructuring

All the key issues faced by the IR were summed up in Rakesh Mohan Committee set up to make improvements in IR Railways by Indian government in 1998 under Chairmanship of Rakesh Mohan, former Deputy Governor of Reserve Bank of India. The committee was meant to find ways of making private investment in the cash-strapped Railways more lucrative and profitable.²⁶

One of the biggest ideas of the Committee was that the IR should be reorganized based on the principle of a corporation – the Indian Railways Corporation. It stated that the railways would become an “independent,

26 Following points describe the areas of change recommended by the Mohan Report: a) Introduction of Pricing Strategy for freight and passenger services and for different classes within passenger services, b) Restructuring the entire approach taken so far for investing the railways resources, (c) The various options open to the Railways to finance its investment and maintenance activities, (d) The utilization of Information Technology for restructuring the railway's operations., (e) Reinventing the entire organizational structure of the railways.(f) Outsourcing of non-core activities (g) iring stop and voluntary pension schemes.

corporatized, customer focused and financially viable railway, run along commercial principles and subject to generally accepted corporate accounting principles and reporting. It will be managed by the Indian Railway Executive Board which will be responsible for the complete restructuring process". The central idea embedded in the purpose and strategy statement was that railways had to become fundamentally a commercial entity that needed to achieve independent self sustaining financial viability.

Labour effects of re-structuring

Once struggling with bankruptcy, in 2007 Indian Railways became the second largest profit making Public Sector Undertaking after ONGC. However, the improved financial situation came at the cost of labor conditions. One of the side effects of the re-structuring was increasing levels of precariousness for the railway workers. The decentralization and "outsourcing of non-core business" combined with no further intake in jobs earlier meant for unionized railway workers have tremendously affected formal labour unions.

Subsequently, the railway sector has witnessed an increasing proportion of workers from the informal sector, many without basic work right and social security. This is true for both public and private funded projects within the railways. At the same time it is not an entirely new phenomenon and workers from the informal sector has always worked within the Indian Railways as construction workers, porters and cleaners. However, with the onslaught of privatization and foreign investment the proportion of workers from the informal sector has been increasing.

Indian Railway Vision 2020

In a decade, Indian Railways has dropped to third place from its second position as the largest railway network under a single management in the world in terms of route length, after the Russian Railways. In 2009, Ministry of Railways produced a long-term strategy known as Vision 2020 to fulfill strategic national goals: inclusive development, both geographically and socially; strengthening national integration; Large-scale generation of productive employment; and environmental sustainability.²⁷ The Vision proposes to add 25,000 kms of New Lines by 2020, supported by government funding and a major increase in Public Private Partnerships (PPPs). The Vision aims at a major augmentation of capacity through doubling and quadrupling of lines, complete segregation of passenger and freight lines on High Density Network (HDN) routes, substantial segregation on other routes, and electrification on busy trunk routes. As per the Ministry of Railways, the Vision is not to privatize but to enhance the effectiveness and accountability of the Railway organization through necessary reforms at all levels of Indian Railways within the Government framework.

ADB and Economic Restructuring

In India, many formerly public administrations were transformed into independent corporations, albeit under government control under restructuring drive. Despite ADB being the largest donor in restructuring development, the relationship between ADB and re-structuring can be said to go

27 http://www.indianrailways.gov.in/railwayboard/uploads/directorate/infra/downloads/VISION_2020_Eng_SUBMITTED_TO_PARLIAMENT.pdf

both ways. The Bank has played a crucial role in pushing for liberalization, deregulation and privatization and often these processes are set up as criteria's for loan agreements. On the other hand, these processes have also facilitated for the working of global capital and international investments with new and extended possibilities for profitable investments.

Railway Sector Investment Programme (RSIP)

The Indian government has prepared a long-term the Railway Sector Investment Program (RSIP) to increase the capacity of the railways to meet an ever rising demand for transport which is supposed to end in 2018. With total cost of US\$ 1,144.6 million of RSIP, the ADB has agreed to finance US\$ 500 million under multitranche financing facility (MFF) loan modality in four tranches. The Project was approved for funding by ADB in 2010 and put into implementation in 2012. It includes civil works, electrification, supply of rails and switches, and other related services and works.

More specifically the project involves the doubling of 840 km of Railway tracks in Chhattisgarh, Orissa, Maharashtra, Karnataka and Andhra Pradesh, including the critical Golden Quadrilateral corridor that connects Chennai, Kolkata, Mumbai and New Delhi. The project also includes the electrification of 641 km railway.²⁸ The program will (i) reduce fuel consumption and enhance energy efficiency, (ii) reduce pollution, (iii) enhance railway safety, (iv) increase the line capacity, benefiting consumers and producers of goods and services, (v) improve staff productivity, and (vi) incorporate innovating financing modalities by pursuing carbon credits under UNFCCC. The Indian Railways Vision 2020 highlights the need to remove infrastructure bottlenecks, design and deliver market-driven services, provide safe and reliable operations, and build capacity.²⁹

The Rail Vikas Nigam Ltd. (RVNL) - a Special Purpose Vehicle under the Ministry of Railways incorporated in 2003 under the Indian Companies Act to offer railway infrastructure development services is the executing agency of this program.

Social and Environmental Safeguards

ADB claims that the participation of both men and women has been ensured during project planning and also has to be ensured during implementation. According to ADB policy contractors have to carry out HIV/AIDS awareness for their laborers at work sites and this will be monitored by the general consultant during project implementation. In addition, with the State AIDS Control Society, NACO, and other public health agencies, the nongovernment organizations responsible for implementing the resettlement plan will carry out HIV/AIDS information campaigns in communities in areas influenced by the program.

ADB claims there are no environmentally sensitive features in the areas affected by the proposed investment, and the program has been categorized as B in accordance with ADB's Safeguard Policy Statement (2009). The investment program is categorized as 'A' (high) on displacement, as 3,945 persons will be affected by the projects. On impact of indigenous people, the investment program is classified as category B. If any

28 The Daund-Gulbarga section (224 km); the Sambalpur-Titlagarh section (182 km); the Raipur- Titlagarh section (203 km); the Hospet-Taniaghat section (201 km).

29 PIB (2012), "ADB Extends \$ 150 million loan to Develop India's Railway System", Press Release, 10 July 2012, <http://pib.nic.in/newsite/erelease.aspx?relid=85260> (Accessed on September 2012)

significant impacts on indigenous peoples are identified, an indigenous peoples plan will be prepared and submitted to ADB for approval.

Core Labour Standards

Subproject construction is expected to generate employment opportunities for local communities. The bidding documents include provisions for contractors to ensure that all civil works will comply with all applicable labor laws, and will: (i) not employ child labor for construction and maintenance activities; (ii) encourage employment of the poor, particularly women; and (iii) not offer different wages to men and women, particularly for work of equal value. Ministry of Railway and RVNL shall ensure that civil works contracts under the projects follow all applicable labor laws of India and the relevant States (including not employing or using children as labor, equal pay for equal work), health, safety, welfare, sanitation, and working conditions.'

Bangalore Metro Rail Transit System Project

The project is the development and operation of an urban metro rail transit system in Bangalore city (also known as Bengaluru) comprising two intersecting corridors (north south and east west). The project is being implemented by BMRC, the special-purpose company established by the national and state governments for the project in 1994. Total proposed ADB loan is US\$250 million provided equally from the two departments and the lending modality is entirely from ADB's non-sovereign public sector lending modality, which provides loans to government owned entities without recourse to the sovereign government. Unlike the Delhi metro that is fully funded by government equity and sovereign guaranteed debt, the national and state governments decided to create a new financing model for the project which would only partly rely on government funds through a mix of government equity, government subordinated debt, and on lending from the national government of the Japan International Cooperation Agency (JICA) official development assistance (ODA) loan.

According to the IPSA, the Project design would include measures so that women's groups can be actively engaged in developing the Project to ensure that their needs are addressed. Contractors will be required to ensure equal payment for equal work. The IPSA further claims that women and men will equally benefit from the Project through employment opportunities during construction and operation as well as lower costs of transport. According to the IPSA The issues of HIV/AIDS will be explored during PPTA stage. Not explored in IPSA. The project has been classified as category B for environment, C for indigenous peoples, and C for involuntary re-settlement. A social due diligence audit has been carried out to assess whether land acquisition and resettlement processes and their implementation complied with ADB's Safeguard Policy Statement and government guidelines.

Core Labour Standards

According to the IPSA, the project will not result in any job losses. It will result in direct and indirect employment by encouraging hiring of local labor during construction and operation phase. However, Child labour issue, employment opportunities for women, provisions on labour (including equal pay for equal work) will be explored during PPTA stage. The project claims to adhere to CLS.

Implementing agencies

In Hotgi and Mohal, the implementing agency was RVNL. The work in Hotgi to Gulbarga section was executed by APR Constructions (contractor), with help of VNR Infrastructures Limited (subcontractor). The work in Bhigwan to Mohal section was implemented by IL&FS Engineering and Construction Company Limited. The subcontractor was still not decided during our visit. The work in Bangalore metro construction was implementing by Bangalore Metro Rail Corporation Ltd which contracts to Soma Enterprises Ltd. and CEC International Corporation (India) Pvt. Ltd (CICI), Larsen & Toubro Limited (L&T), Assithambi, Simplex Infrastructures Limited.

Present Scenario

Both the ADB funded projects have differences in terms of model of execution, amount of financial help, different executing bodies and different work structure. These differences had implication on the working conditions of the laborers employed under both projects.

The doubling line between Daund and Gulbarga is a small venture with few employees hired, remote area and with little official pressure from national bodies and international attention. Altogether this made it easier to access work-site and monitor labour conditions. Contrary to the Daund-Gulbarga project, the national and international pressure on Bangalore Metro construction is intense and the BMRCL (the executing agency for whole Bangalore metro project) has taken care to keep worksites closed from scrutiny. This made it harder to access site and speak to workers.

Specific of the migrant workers

Laborers employed in both projects were migrants' workers from rural areas from states of West Bengal, Orissa, Jharkhand, Uttar Pradesh, Andhra Pradesh, Karnataka, Tamil Nadu and Maharashtra. The significant part of the interviewed laborers were illiterate and with basic or no education. Most of them were not aware of their work rights. Many of them were also not aware of the conditions of their contract and many had signed their contracts collectively without receiving an individual copy. Their working and living expectations were not high and the majority if not all of the workers came from the informal sector with no experience of descent jobs and wages.

Migrant workers we interviewed in Bangalore were more aware of their working conditions than those in Andhra Pradesh. The workers in Bengaluru might have come from smaller cities rather than villages or the big city environment might have helped raise their awareness of labour rights. The Metro workers also expressed opinions about their salary and the salary of others and they were aware of regulations about working time and minimum wages. The migrant workers interviewed in Hotgi had very little knowledge about their contract, salaries etc. They were forced to work in miserable conditions and were paid very little.

Core labour standards violation

The most common violation of core labour standards concerns ILO Convention C100, C111 – “The elimination of discrimination in respect of employment and occupation”. Almost in every visited worksite we saw and interviewed people who were discriminated in terms of conditions of employment.³⁰ The employer was using their lack of education, knowledge, lack of awareness and information related to their working conditions, poor financial situation, and lack of support from third parties / legal assistance, caste position, region of origin, lack of ability to speak local language.

Another common CLS violations concerns ILO Convention C87, C98 – “Freedom of association and the effective recognition of the right to collective bargaining”. In every visited worksite the laborers told us that the employer did not allow trade union organizers to approach the workers. Workers were explicitly told that trade union association was not allowed.

However, most of the workers we spoke to also personally didn't want to cooperate with trade unions because they were afraid of losing their job. Many workers did not see the need to for trade unions as they had found their conditions satisfying to their needs and were afraid that unions might spoil that. At the same time, the majority of workers had no knowledge about how unions work.

In the majority of workplaces this created a situation in which unions are not only unlawfully forbidden to approach the workers but also workers don't feel the need to approach trade unions. By prohibiting trade unions activism amongst workers, and free exchange of the information, employer is maintaining this status quo from which he profits.

The same mechanism works against collective bargaining. Workers are not aware of their rights and can't fully judge their conditions. With lack of knowledge and unstable job, they don't want to risk losing what they have. Most of the problematic issues between them are usually resolved to the favor of the employer. In this reality there is no space for commencing and collective activism.

As for the other two core labour standards, the violation of ILO Convention C29 and C105 - “The elimination of forced or compulsory labour” is another exmple. The violation was spotted during the visit in Hotgi, Maharashtra. The interviewed laborers in Hotgi were given the salary for 10 months in advance and because this obligation, they were forced to agree to unlawful conditions of their work and accommodation.

The violation of ILO Convention C138, C182 – “The abolition of child labour”, was witnessed in one of the worksites of Bangalore metro construction in station “South End Circle”. We spotted a working child but we did not have the means to verify his age. It can be assumed with high probability that many child workers are present on Bangalore metro construction. The labour law do not allow employers to hire persons below the age of 18, but contractors are hiring the teenagers in the age from 15-18 as well, as the they are already strong enough to work as adults, and also their age can be easily hidden using the fake ID. Their external

30 During the research nine worksites were visited : 1)Hotgi, Maharashtra – doubling project; 2)Mohal, Maharashtra- doubling project; 3)Bangalore, City Railway Station – Bangalore metro project; 4) South End Circle– Bangalore metro project; 5) Lalbagh– Bangalore metro project; 6) Magadi Road– Bangalore metro project; 7) Sampige Road– Bangalore metro project; 8) Yeshwanthpur site 1– Bangalore metro project and 9) Yeshwanthpur site 2– Bangalore metro project.

appearance can also easily mislead the proper judgment.

The CLSs and national labour laws violations are present in ADB founded projects. On both projects laborers rights are violated. Workers suffer from mistreatment, lack of statutory working and living facilities, discrimination related to their education and place of origin. Lack of accountability and transparency in the contracting chain makes local and migrant workers vulnerable to exploitation. The Bank needs to enforce CLSs and national laws. Their adherence to core labour standards and national labour laws need to be strictly monitored and in the case of non-compliance companies as well as governments must be held accountable for their violations. If Asian Development Bank wants to realize their promise to CLSs it must increase the level of control and monitoring over the execution of projects. Workers and unions need to be included as stakeholders and decision makers within all ADB projects which can translate into “inclusive growth” approach.

7. ADB and Food Security in India

In 2012 Annual Governor's Meeting of Asian Development Bank in Manila, Philippines, the then Governor from India, Pranab Mukherjee (currently the President of India) in his speech suggested that ADB must consolidate its efforts through linking of farms to markets, promotion of private sector participation in agribusiness value chains for raising productivity in agriculture which is crucial for food security. Does ADB promote food security? Whether the policies being promoted and supported by the Bank will in fact address the food security issues currently plaguing India? This essay seeks to scan the ADB approach to food security in India. The ADB's approach to food security is characterized by an incomplete and apparently distorted appreciation of the actual issues that have resulted in the denial of adequate and stable food to large numbers of Indians.

The Food Security Situation in India

India today is very far from achieving food security for the majority of the population. A mere 30% of households only are accessing adequate nutrition which is clearly an indication of a severe crisis of food security in India.³¹ Food security is the result of the interaction of three processes: (i) Production and/or supply of adequate food to meet the needs of the population; (ii) Distribution of this food in a manner that is both accessible and affordable for all segments of the population, and (iii) Sufficient security of livelihood and/or purchasing power to enable all people to access adequate food.

Food Production

Many analysts implicate that crisis of food security is primarily a result of a physical shortage of food. However, Dreze and Sen (1991) in *Hunger and Public Action* argue that distribution and security of livelihood are as important in ensuring food security. In India, in fact, production is adequate to meet the needs of the population. Rather, the manner and socioeconomic character of food production in India contributes to the food security crisis. A large section of the rural population, particularly marginal and small peasants, food production is subsistence and only the surplus is sold.

Land Tenure and Land Rights

According to the Agricultural Census of 2005-2006, 64.77% of landowning families had less than 2.5 acres of land each. Together, there were 8.3 crore such families, but their total ownership added up to only 20.23% of agricultural land. Meanwhile the top 5.77% of land owners - only 74 lakh families - own 35% of the land. In 2004, according to National Sample Survey Organization (NSSO), 31.9% of rural households had no operational cultivated land at all. A large share of the 65% of landowning families that hold small holdings are likely to be producing predominantly for self-consumption. For this large group, food security cannot revolve only around market access, cheaper food prices and better infrastructure; it must also encompass secure access to productive land itself.

31 According to the Working Group on Nutrition for the Twelfth Five Year Plan (MoWCD 2012): The protein and calorie adequacy status varied from 54.6 per cent in 1975 to 36.6 per cent in 2002. The 2006 NNMB [National Nutrition Monitoring Board] report shows that about 30% of the households consumed adequate amounts of both protein and calories. The report shows a marginal decline in the average daily intake of cereals and millets, and protein consumption. The protein and calorie adequacy status was stable till 1981 and there afterwards it ... gradually declined.

The overall lack of secure land rights, as well as increasing landlessness, severely threatens the food security of those who depend on self-consumption. The collapse of land reforms and the failure to secure land rights for many cultivating families has itself contributed to the food security crisis. Lack of secure land tenure and displacement from land (whether 'voluntary' or not) also leads to less food production for the market.

Credit and Prices

The cultivators in India have suffered from a collapse of access to credit and to remunerative stable prices. According to the All India Debt and Investment Survey (AIDIS) by the National Sample Survey Organization (2002 - 2003), 48.6% of all cultivators in India are in debt. The root of this credit crisis has been widely attributed to the collapse of institutional credit in rural areas as a result of policy changes following the 1991 reforms. The AIDIS indicates that between 1991 and 2003, the share of credit provided by banks fell from 66% to 61%, while the share of credit provided by moneylenders rose from 17% to 26% (in Andhra Pradesh, the figure reached 53%). The Eleventh Five Year Plan notes that farmers are now subject to greater risk because variability of world prices is much higher than what Indian farmers have been used to in the past. Further, the lack of market access and monopoly conditions in many villages, combined with cartels in state *mandis*, results in high levels of price manipulation - which compounds and exacerbates volatility caused by international prices.

Environmental Issues and Irrigation

As per a 2010 report by the Indian Council for Agricultural Research and the National Academy of Agricultural Sciences, 70% of the country's cultivated land is being rendered unfit for farming as a result by the steady loss of nutrients. Approximately 25% of the country's land area is undergoing desertification (Rajshekhar 2011). While there has been no comprehensive attempt to tackle this growing environmental crisis, irrigation has received some additional support. Although large investments have been made in major and medium irrigation, including through AIBP, irrigated area served by canals has not increased significantly in the past decade." Bad planning, failure to take into account actual water levels, disorganized decision making by State governments, and the "inadequate or complete absence of involvement of water users are being put forward as reasons of present irrigation status.

Food Pricing and Distribution

Distribution of food to consumers in India is broadly through two channels - the Public Distribution System (PDS) and the open market. Since the advent of "targeting" in the late 1990s, the share of the population under PDS has fallen considerably. This has left the system of private agricultural procurement, trade and retail to supply the vast majority of the people in the country. This system, meanwhile, is currently in the midst of another crisis - the recent sharp rise in food prices. Goswami (2012) notes that, despite the price rise starting almost five years ago (in 2007), it has not yet abated. Yet, production of food remains adequate. At the global level, Ghosh and Chandrasekhar (2012) presents that short term price movements have little relationship with overall supply. The sharp rise after 2005 cannot be attributed to any sudden supply problem.

Food Security and ADB

Food security is a relatively recent focus area for the ADB - the transition from a focus on "agriculture" to a focus on "food security" began only in 2009. In its Food Security Plan (ADB 2009), the ADB states that "the goal of sustainable food security [is] the improved availability of, and access to, adequate and safe food for Asia's poor and vulnerable people in a sustainable manner." While similar to the FAO definition quoted above, the ADB's definition includes two important changes in emphasis: from access at all times for all people to sufficient food for an "active and healthy life", to ensuring "improved availability of ... adequate and safe food" for the "poor and vulnerable... in a sustainable manner." The reduction of the target group from the universal to the "poor" alone, and the restriction of the goal from an absolute benchmark to relative "improvements" provided in a "sustainable" fashion, already indicate that the ADB does not approach food security as a central goal of economic planning in itself.

Food security is not one of the ADB's "five core operational areas"³², but one of the three "other operational areas" in which the Bank aims to have "a presence on a limited scale" in Asia (ADB 2009). In India, "agriculture and natural resource management" is a "priority sector", as per the ADB's country partnership strategy for 2009 - 2012 (ADB 2009b), but the total quantum of lending in this sector is significantly lower than in other sectors (ADB 2011).

Since it incorporated food security as an operational area, the ADB has developed a three pronged focus in order to address the issue of "productivity, connectivity and resilience." The problems in productivity, as per ADB, are: declining yields in agricultural crops; food price hikes caused by heightened demand for cereals for consumption and livestock production, and climate change, which threatens agricultural production. It is not clear how "food price hikes" are considered a cause of productivity problems - indeed, the ADB otherwise implies that such hikes are the result of a shortfall in supply (i.e. a consequence of productivity problems rather than their cause).

Firstly, Problem of "productivity" revolves around increasing total aggregate production - generally, measured in terms of monetary value. Secondly, that increasing total production in turn means introducing certain practices and technologies, irrigation infrastructure and finance. Thirdly, that such change will in turn impact all "farmers" in roughly a similar manner. Finally, that such change certainly will not have negative consequences for anyone. The Bank is aware that issues such as land rights and class differences do exist, but it does not regard them as affecting its strategy. On the other hand, Bank recognizes that inadequate farming skills and knowledge, inefficient agricultural advisory (extension) services, and skewed land distribution are significant challenges to achieving sustainable food security. However, the Plan states, "these areas are not within ADB's comparative strengths, and [the Plan] suggests that stronger collaboration with specialized agencies be sought." Hence, all such "interventions in agricultural and rural development (ARD)" will be "selective" and only engaged in where other agencies are not doing so.

Despite heavily supporting agriculture and natural resources research (ANRR), the Bank does not specify what kind of research it will support, and for what goals. While India CPS (ADB 2009b) specifies private sector involvement as categorically pointed partnership with CGAIR in Plan, these indicators show a nexus between such ADB-private sponsored research similar to prevalent allegations against CGIAR (see Sharma 2004 for one example of such a critique).

32 See <http://www.adb.org/about/core-operational-areas>

Technical research in agriculture, while potentially useful, cannot address the wider challenges to either food security or agricultural productivity of food in general.

The majority of the ADB's agriculture-related projects in India are ongoing government initiatives of irrigation and water resource management which is traditional focus of ADB as well. While river basin and coastal erosion control projects may be (depending on their structure) useful from the point of view of agricultural development, they cannot be considered central to a food security strategy as the Bank prescribes. In this context, the fact that 35 out of the 45 agriculture-related projects listed on the ADB's website for India³³ concern these areas does not indicate that the ADB has in fact made a transition from agriculture in general to a focus on food security.

Connectivity

Despite the concept connectivity being vaguely defined the Bank lists broad set of objectives ranging from rural infrastructure, "trade facilitation" and food safety standards to even "small and medium enterprise development." The Bank defines connectivity as 'enhancing connectivity means the integration of the agriculture sector with domestic and international consumer markets, as well as nonfarm sectors so that small farmers, women, and other vulnerable groups will have their fair share of the benefits'. The Plan focuses on the question of "value chains" in agriculture, and describes them as "a pathway to transforming Asia's rural and agriculture sector, thereby achieving sustainable food security."

Unlike in the case of its "productivity", in this area the Bank openly acknowledges social differences, in the form of repeated references to "small farmers." The Operational Plan emphasizes that there is a need for "particular attention to small farmers and other vulnerable groups".

On the other hand, though it is welcome step that the ADB does not treat all farmers as similar, but it can't define the term "small farmer". The confusion starts as their inclusion in "high value chains", such as fresh fruits and vegetables, which are also referred to in the Operational Plan. In its CPS, the first key sector outcome is "more marketing of high- value products, with the expansion and consolidation of agricultural value chains led by dynamic private investments and integration of small farmers." In fact, it appears from its documents that the ADB's conception of revised value chains applies only to the supply chains of high value cash crops and not to those of "low value" crops such as grains.

A second key point is the ADB's continual focus on the private sector as the key facilitator of such supply chains, as referred to in its "key sector outcomes" for agriculture in India. The Bank's vision of connectivity as part of food security is that enabling a class of "small farmers" to grow high value crops and sell them to private sector food processors, traders and (presumably) retailers.

The implications of this approach for food security occur at multiple levels. First, it is unlikely to affect the majority of cultivators in India, since they will not be able to bear the transition to high value crops (for which the market is in any case not as large as it is for other crops) nor the risks of contract farming. Secondly, and

33 See <http://www.adb.org/projects/search/513%2C21268?page=1&ref=countries%2FIndia%2Fprojects>

more importantly, the promotion of private sector procurement and marketing inflicts greater risks on cultivators, and also, as discussed in the first section, on consumers. The key reason for the price rise in the last several years is the increasing control of speculators and financial firms, through large private traders, in international and domestic food markets. The ADB's strategy for "connectivity" will not only not address this problem - it will exacerbate it.

Resilience

The ADB's conceptual understanding of resilience against climate change and price volatility does not seem to be as developed as it is in its other two focus areas. However, the problematic nature of its approach is glaringly visible in the very fact that climate change and price volatility are juxtaposed as if they are similar phenomena. By declaring that it will focus on making cultivators "resilient" to price volatility, rather than promote actions to reduce price volatility itself, the Bank makes it clear that it is not intending to address the problem of food security in any direct manner.

Climate change vulnerability is of course a major issue for a country like India, but at present the only ongoing project concerning climate change appears to be an extension / adaptation of earlier projects on river basins and water bodies. As such, unlike work purportedly aimed at the focus areas of "productivity" and "connectivity", "resilience" does not appear to have entered ADB work in India in a major way as yet.

ADB Projects in India - Case Studies on Two Projects

The ADB's agricultural projects in India broadly fall into the following categories:

- ◆ Irrigation, water management and flood protection
- ◆ Erosion protection
- ◆ Agribusiness and marketing

Of these, it is the last area that is most central to the ADB's approach to food security.

There are two main projects:

- ◆ "Improving Small Farmers' Access to Market in Bihar and Maharashtra" (approved in 2010)³⁴
- ◆ "Agribusiness Infrastructure Development Investment Program" (approved in 2010)³⁵

Neither project appears to have begun active work in the field as yet. The second project is focused on the Muzaffarpur and Patna-Nalanda areas of Bihar and the Aurangabad and Nasik areas of Maharashtra. News reports indicate that project work was formally only begun in May and July 2012 in Maharashtra and Bihar respectively (Dayal 2012 and Deshmukh 2012).

34 Project Data Sheet available at: <http://www.adb.org/printpdf/projects/43105-012/main>

35 List of sub-projects and Project Data Sheets available at:
<http://www.adb.org/projects/search/513%2C21268&ref=countries/india/projects?keyword=37091>

Both projects claim to have been designed after "extensive consultations". Neither project's available documentation provides any details on which or how many communities and "farmers" were consulted, where and in what manner these consultations took place, or the basis on which those who were consulted were selected.

The focus in both projects is on the creation of "integrated value chains" (IVCs) in these areas. Four such IVCs have identified in each State. The former project clarifies that its main focus is on "fresh fruit and vegetables." In the latter, according to a note put out by the ADB and the Finance Ministry (ADB 2011), the focus is on IVCs for "high value crops." In total, the IVCs will encompass more than 50 market sites. The IVCs are to be created through public private partnerships in which private companies "will be selected in a transparent and competitive way for designing, building, financing, operating, and maintaining the IVCs." Meanwhile, the program will organize "groups of small producers into farmer companies and provide them with training...". The State governments are "enabling" this private sector participation (ADB 2011).

The Bank is implementing its "connectivity" approach almost precisely. The focus is on high value crops and the method of "transforming" supply chains is through farmer groups and privately controlled infrastructure. How relevant is such a model in these districts? The Census of 2001 does indicate a high level of landlessness, particularly in the districts in Bihar.

District	Cultivators	Agricultural Laborers
Patna	314106	468888
Nalanda	320883	380460
Muzaffarpur	292359	519070
Nasik	823669	540102
Aurangabad	441125	289765

For the landless, the ADB holds out the possibility of "employment generation" as a result of these supply chains. However, these are not entirely new supply chains, but an effort to "upgrade" those that already exist through a PPP model. Thus, in order to generate employment, the 'new' supply chain has to generate sufficient new jobs to employ those who were originally working in the supply chain (as well as additional new people). However, in 2005, 99.4% of the units and 86.8% of the jobs in food processing were classified as falling in the unorganised sector (Dev and Rao 2005). In such a context, introduction of large private players with capital intensive strategies into this sector may well result in displacement rather than generation of employment.

The ADB appears to be promoting a model of "transformation" of supply chains whose key immediate beneficiaries will be some private investors and companies and, possibly, a narrow class of cultivators. In the longer run, both producers and consumers would then be subject to the risks introduced by such a supply chain. These include the problems associated with contract farming and direct procurement mentioned in the previous section. While improvement in infrastructure is always welcome, the question is

open as to why such improvement should be done in such a manner. In particular, it appears highly doubtful that such projects will contribute to addressing the food security situation in the country in any meaningful manner. Rather, they may in fact increase the risk of further food security crises.

The Bank is not, in any direct sense, putting "conditionalities" to government into these projects. Clearly there is a broader shared understanding at work here between the government and Bank, as well as other forces. The current food security crisis was neither inevitable nor related to some kind of massive supply shortage created by rising incomes and populations. Rather, the factors at work are much more short term and much more directly influenced by economic policy. The Bank's activities will likely have no impact on food security in India and may in fact worsen the situation.

In order to address the food security issue in India, then, the following areas of action - whether by the ADB or otherwise - can be considered:

♦ **Strengthening the Public Distribution System:**

As the only public, accountable supply network in the country with a crucial effect on prices, the PDS continues to play a critical role in food security - a decade of targeting notwithstanding. Reforms to improve the PDS can be far more effective in tackling the than the interventions currently underway by the ADB. ADB support for such projects will require a fraction of the investment currently being put into "integrated value chains" and will deliver the ostensibly intended goals with far more effectiveness.

♦ **Investing in support for low-impact, input agriculture low-:**

In addition to true cooperatives, small farmers and marginal peasants can gain considerably from propagation of methods of agriculture that reduce environmental impacts, water consumption, and dependence on chemical inputs. Such techniques are already well known and require better extension services as well as more sustained public support.

♦ **Strengthening and expanding cooperatives:**

The ADB's own stated approach of organising farmers into "producer companies" and what are essentially marketing cooperatives can be extended to the wholesale and, eventually, to the retail level. It would require a more long term, sustained intervention, however.

♦ **Halt support for privatization of supply chains:**

Advocating and promoting direct corporate procurement from farmers and contract farming will, in the long run (despite apparent short term benefits), threaten the livelihood security of farmers, increase price volatility for consumers and further encourage speculative activities in the supply chain. ADB promotion of such activities should be stopped.

♦ **Strengthen support for land reform and land rights:**

As access to land remains a critical constraint for the food security of many small and marginal cultivators as well as for landless workers, the ADB should at the least state that it is in favour of implementation of India's land reform laws, distribution of ceiling-surplus land and security of landholdings for forest dwellers and those cultivating without title.

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8. ADB Rupee Lending and Banking Reforms in India

Since 1991, Government of India took steps for major reforms in the banking sector as part of the liberalization process. Subsequently, the Ministry of Finance established various high power committees to accelerate banking reform process. The Multilateral Development Banks (MDBs) especially the Manila based Asian Development Bank (ADB) has led the process by assisting India in the reform process. While the second phase of reforms in Banking sector led to privatization, the All India Bank Employees Association (AIBEA) expressing strong opposition to such moves by both ADB and government. In India public money should be under the control of Public Sector Banks for all round development of national economy and common people. With many drawbacks in Bank's seriousness of acknowledging the role of trade unions, ADB continues to evade its responsibility.

Infrastructure Development in India

India is the fourth largest shareholder as well as the largest borrower of ADB. The projects and programs are stretched across 22 states in energy, transport, urban, finance and public sector management, agriculture and water resources. With India's growing requirement of funds, the ADB has facilitated loans and Technical Assurances (TAs) to leverage private sector funding. In order to mobilize more than a third of the targeted funding requirement of \$515 billion from the private sector over the 11th Plan period (2007–2012), the government set up India Infrastructure Finance Company LTD (IIFCL) as a special purpose vehicle (SPV) in 2006. Immediately, ADB responded with loans (\$ 1.2 b) and TA (\$ 5m) support in transforming IIFCL from a consortium lender to a provider of innovative project financing solutions including take-out financing, re-financing, subordinated debt, and guarantees.

With ADB assistance through the IIPF Facility, IIFCL is providing funds at commercial terms with over 20-year maturity for commercially viable infrastructure projects developed through PPP mode. The IIFCL finances projects covering a wide range of sectors such as roads and bridges, railways, seaports, airports, and other transportation projects; power; water supply, sewage, solid waste management and other urban infrastructure projects; gas pipeline projects in special economic zones (SEZs); and tourism infrastructure projects. With successful innovative financing, the IIFCL has signed a memorandum of understanding (MOU) for deal flows and related financial services with various public sector banks, private organizations and institutions, and private banks. Looking at IIFCL growing clout, GOI has designated it as the debt manager for a \$3 billion debt fund which will form a part of the \$5 billion India Infrastructure Financing Initiative.

ADB is also assisting IIFCL to set up a pilot partial credit guarantee (PCG) facility to enhance the rating of domestic bond issuances by SPVs.³⁶ Based on the experience gained through the pilot PCG transactions with ADB support, the Government may consider mainstreaming a PCG scheme within IIFCL. The proposed PCG facility is designed to enable bond issuance by infrastructure project SPVs for investment by local institutional investors which can replace the existing bank loans once the project has reached the operations phase. Through this modality, the proposed pilot PCG facility will help to develop the project bond market in India by expanding the range of investment instruments and investable resources in accordance with the Government's debt market development strategy.

36 The pilot PCG facility will define the (i) extent of guarantee cover, (ii) structure of guarantee (front-ended, back-ended, rolling, principal only, interest only, principal and interest, etc.), and (iii) guarantee fee modalities.

ADB and Infrastructure Bond Market

During 12th Five Year Plan (2012-2017) period the targeted investment in infrastructure is US\$ 1 trillion including private sector debt of US\$350 billion. ADB has approved a US\$ 128 million (Rs.7168 billion) facility, developed with IIFCL and domestic finance by Indian companies that may kick-start Indian Infrastructure Bond Market. The partial guarantee that ADB will provide along with IIFCL and other financial institutions will boost the credit rating of a typical infrastructure project which will attract pension funds and insurers who can only invest in assets rated AA and above.

Need For Local Currency Lending

Over the years, services such as education, public health, housing and urban development and infrastructure have been provided by State and Local Governments with help from the Central Government. As the fiscal deficit is getting larger, the Central Government financing is constrained to support the basic services and infrastructure facilities. For alternative financial resource, the state and local governments resort to commercial banks or the infrastructure financing companies for long term loans for their projects in local currency.

Past two decades have seen several upheavals in the exchange rates and has resulted in currency mismatches. The local governments are wary of borrowing in foreign currencies due to fluctuation in currency whereby they may end up taking on a higher level of debt than planned. The Indian Public Sector enterprises are also looking for local currency funding on large scale. The local banks have the branch network and expertise but they also have capital constraints. Local currency financing is considered crucial to the success of both financial and infrastructure sectors, especially for projects with revenues denominated in local currency. The local currency lending by MDBs can be in the form of currency swap or bond issue. In currency swap, the MDB will absorb the foreign exchange fluctuation risk and the local commercial bank funding the project will cover the commercial risk. In India, ADB has approved direct financing in Indian rupees for healthcare, power transmission, and housing mortgage projects to be funded through a local bond issue. The bond issue in India is the first step in ADB's strategy to tap domestic bond markets.

ADB Local Currency Lending In India

In order to widen the funding of resources for infrastructure projects, ADB has been seeking government approval for raising resources through the local currency loan (LCL) route. In 2004, ADB made their first representation for LCL by raising Rupee Bonds as prescribed by RBI. The government approved issuance of Rupee Bonds for an amount of Rs. 5 billion with a maturity of at least 10 years subject to stipulated conditions. In 2005, again government approved raising of Rupee Bonds for an amount not exceeding Rs. 15 billion for a minimum maturity of five years for lending. . In 2007, government has accorded approval for Rupee financing of Rs.29.75 billion to ADB to fund domestic infrastructure through the currency swap route for a maturity of more than 10 years subject to some conditions. RBI has also allowed 25% of the funds raised to be used for lending through select intermediary FIs involved in financing infrastructure projects.

The ADB and KfW (the German Development Bank) have signed financing agreements to fund expansion of the LNG receiving terminal owned and operated by Petronet LNG Limited, India. ADB will provide Petronet with an Indian rupee denominated loan of Rs6.75 billion (\$169 million). ADB is extending a rupee-denominated loan of \$113 million equivalent to a wholly-owned Indian subsidiary of CLP Holdings

of Hong Kong to fund development of two wind energy facilities in the Indian states of Gujarat and Karnataka. ADB is providing an Indian rupee denominated loan of up to Rs3.52 billion, or the equivalent of about \$79.3 million, to Tata Power without a government guarantee to set up and operate wind energy facilities at two locations in the state of Maharashtra. ADB's proposed assistance to SREI Infrastructure Finance Ltd. in the form of a secured loan of up to \$50 million to fund small and medium-sized private sector infrastructure projects, particularly focusing on roads, power (in the range of 25-100 MW), ports and urban infrastructure. The assistance will be in the form of an unsecured subordinated non-convertible loan of up to \$20 million equivalent to serve as Tier II capital for Yes Bank Limited (YBL). The proposed loan will be in local currency (Indian Rupee) and will have a tenor of up to 9 years with a bullet repayment at maturity date.

India: Local Currency Lending								
As of 30 June 2012								
Approvals								
Year of Approval	Type	Amount (in INR billion)	Amount utilized (in INR billion)	Year of Utilization	Type	Borrower	Amount (in INR billion)	Remaining Approval (in billion INR)
2004	Bond	5.00	5.00	2004	Bond	Tala-Delhi Transmission Dewan Housing Finance Corp. Tata Power Wind Energy Financing Facility	2.90 1.00 1.10	
2005	Bond CC Swaps	15.00 5.00	Nil 0.90 4.10	2007 2008	CC Swap CC Swap	Tata Power Wind Energy Financing Facility Petronet LNG Limited	- 0.90 4.10	15 bn cancelled
2007	Bond/CCS	29.75	2.64	2009	CC Swap	Petronet LNG Limited	2.64	27.11
Mode of Local Currency								
Cross Currency								
Project	Bond Billion INR	Swap Billion INR	Total Local Currency Financing			Billion INR		
Tala-Delhi Transmission	2.90		2.90			2.90		
Dewan Housing Finance Corp.	1.00		1.00			1.00		
Tata Power Wind Energy Financing Facility	1.10	0.90	2.00			2.00		
Petronet LNG Limited		6.74	6.74			6.74		
			-			-		
Total	5.00	7.74	12.64			12.64		

(Source: Ministry of Finance, GoI)

Banking Reforms in India

The financial sector development in borrowing countries is one of the five focal areas of ADB's operations under Strategy 2020. ADB will support the development and reform of the banking sector through policy advice and technical assistance (TA). In India, as the liberalization process begun, the government

established several high power committees to advance the banking sector reform: Narshimham Committee I and II, Tarapore Committee, Raghuram Rajan Committee and so on. While the Narshimham Committee I (1991) recommending organizational reforms, in its second avatar as Narshimham Committee II (1997) reviewed the progress of banking sector reforms. Subsequently, the Tarapore Committee reduced government capital share from 51 percent to 33 percent in public sector bank which paved the way for more private bank entry, more foreign investment and privatize priority sectors as suggested by Raghuram Rajan Committee in 2008.

The Banking Law (Amendment) Bill 2011 was first introduced in 2005 but could not progress due to the dissolution of the 14th Lok Sabha. The Bill seeks to amend the Banking Regulation Act 1949, the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 and the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980. With its re-introduction in 2011 in the Parliament, the Bill was passed in 2012 after dropping the controversial clause to allow banks to trade in commodity futures market. The Bill will allow, among others, foreign banks to convert Indian operations into local subsidiaries or transfer shareholding to a holding company of the bank without paying stamp duty. Other major features of the Banking Law (Amendment) Bill 2012 are: powers to RBI; new Banking Licenses; enables Banking Companies to issue preference shares; FDI in banking sector; setting up new private banks etc.

Why the Banking Industry Unions oppose the Bill?

Mr. Vishwas Utagi, Secretary, All India Bank Employees Association (AIBEA) expressing strong opposition to the Bill said that with this bill the second phase of reforms has started, facilitating privatization in the Public Sector Banks. Mr. Utagi further said that AIBEA has opposed this bill and called for a strike against the bill on 20th December 2012. It had also given a successful nationwide strike call on 22nd and 23rd August 2012 against the Bill. AIBEA feels that in a developing economy like India public money should be under the control of Public Sector Banks for all round development of National Economy and Common People.

After Bank nationalization in 1969, the public sector banking was developed as social banking promoting socio-economic objectives. This character of social banking will be diluted. The Bill will facilitate corporate

entry into public sector banks. With increased voting rights and increased share-holding, corporate houses can control public sector banks. Mr. K.K.Nair, Treasurer, INTUC and General Secretary Bank of Baroda Officers Association observed that the funds may be utilized for benefit of a few industrialists and not for public benefit. Now with the fresh amendment, we may be undoing the benefits of nationalization so far. The increase in voting rights of the share-holders may reduce the powers of government. The public money should not be allowed to be misused or abused for Private Profiteering or Corporate loot.

However, according to Mr. A.V. Rajwade, member of Tarapore Committee, the new banks which will open as a result of the recent banking reforms will go in for profit making and may not have the priority to cater to larger masses. Instead of creating larger banks, more specialized banks should be created as per Mr. Rajwade. One important observation Mr. Rajwade made was that the time has come for us to decide whether the public sector banks are to be treated as utilities or commercial institutions. According to Mr. Rajwade, in the changing scenario trade unions should play a complementary role and not go in for confrontations.

Dr. Rupa Rege Nitsure, Chief Economist at Bank of Baroda, while welcoming the recent Banking Reforms, is confident that Public Sector banks can face the challenges. She pointed out that since 1991, Public Sector Banks have migrated to technology platform and strived for better customer service. While praising the role of PSBs, she lamented that there is no level playing field for the public sector banks.

Conclusion

While the trade unions are opposing the banking reforms and want the “public sector” character of banking to be preserved while the financial experts welcome the reforms as it will lead to growth, arrest the downslide and are hopeful that it will pave the way for financial inclusion. While the government is committed to the reforms, the ensuing changes in the banking industry will be creating new challenges for the trade unions in the banking industry. The Banking Industry trade unions have been successful in delaying the reforms and not allowing government a `complete sell-out` of public sector banks. The tools used so far by the trade unions may have lost their efficacy. Hence the trade unions will have to rethink their strategies, organise their membership effectively, get their points of view across to reach the citizenry to gain the public sympathy. A much larger alliance to protect the labour rights and to protest the profiteering is needed.

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9. Recommendations to Asian Development Bank

From the above case studies, it has been clearly proved that the concerns of workers have not been addressed let alone looked at in all projects funded by ADB in India. From sector wise intervention to specific projects, the Core Labour Standards (CLS) remain only in CLS Handbook developed by both ILO and ADB. In particular, the safety of workers which made into the provisions of Safeguard Policy Statement (SPS) of 2009 has not been taken seriously in such projects. Despite of nuance responses from ADB that Accountability Mechanism of ADB shall address the workers concerns has explicitly exposed Bank's understanding of worker's issues in Asia-Pacific.

What is shocking is that 'labour standards' do not find explicit mention among the 'themes' on which the Bank works, though labour related issues have been included in the 'sector' of 'social protection' which of course forms a part of the areas of focus under the 'theme' of 'social development' (others include poverty reduction, health, education and gender). Despite having a 'social protection strategy' and compelled with ILO's recommendation, the Bank funded projects are still to address the concerns of workers.

Recently, the African Development Bank (AfDB) has agreed to adopt a new 'Integrated Safeguards System' that includes requirements that the bank's borrowers must comply with ILO-defined CLS, provide written information to workers about their working conditions and rights, comply with basic occupational health and safety standards, and take responsibility for the conditions of 'third-party' (subcontracted) workers.

Has ADB been following this development? If harmonisation is the key word for development governance agreed by all MDBs, will the CLSs be considered as a priority for ADB to include in its Safeguard Policy Statement ongoing review, at least? The Unions are eagerly looking forward to ADB to take more concrete steps in addressing the violations of workers/ labourers in its assisted and administered projects rather acknowledging in all AGM venues as routine statements so far.³⁷

1. Information and Consultation

Despite existing CLS Handbook for the guidance, all ADB funded projects have bereft of CLS integration in Project Cycle. Being not a policy, the CLS have been evaded by project proponent, executing agencies and its auxiliary agencies. In all investigated projects, labourers/workers have no information about the projects and CLS. On the other hand, in almost all projects the consultations have been without major stakeholder-the workers/labourers. Whose responsibility is to consult or communicate at least provisions of CLS Handbook to workers before the work begins?

In many projects in India, there is no communication strategy for the information disclosure. While the 2012 Public Communication Policy (PCP) has yet to evolve a mandatory communication strategy for each project, a communication labour strategy is a feasible step towards achieving inclusive growth for ADB. The basic documents and reports which are directly linked to the labour/workers such as the project agreement, draft design and monitoring framework and risk assessment and risk management plan and project administration must be available at disposal of labours involved in such projects. The restrictions under PCP to disclose information or provisions of exceptional clause should be reduced in favour of workers as a right to information of workers.

37 The demands raised by GUFs during ADB AGM in 2013 in Noida, India are being included in the conclusion.

2. Decent Work Conditions

Despite difficult to locate if CLS and decent work strategy are explicitly integrated into project design of projects, all the site visits of case studies have concluded that the work conditions are precarious, hazardous, unsafe and inhuman. There is lack of basic amenities and healthcare facilities, safety gears, and housing requirements across all sites visited in these projects. On questioning, the ADB tends to pass on the responsibility of ensuring occupational health and safety to the implementing agency. The ADB before entering into contracts with implementing agencies will have to ensure that the implementing agencies respect CLS standards and ensure safe working conditions for labourers.

There were rampant violations of national and state minimum wages acts and discrepancies and discriminations in wages, employment and occupation are found across projects among skilled and unskilled workers. The ADB projects no doubt create jobs but the workers are forced into work in hazardous conditions without even minimum wages. Almost all the ADB projects employ contractual workers and any form of social security provisions still remains a far cry for the workers. The GUFs call upon the ADB to put decent and sustainable work in their agenda and respect their pledge, reiterated in the joint statement with ILO in 2012, wherein they committed to promote creation of decent work in Asia and Pacific.

3. Public-Public rather than Public Private Partnerships

It has been found in India that the ADB include conditionalities like restructuring of state utilities to increasingly demand for participation of private sector, which paves the way for privatization of essential public services. ADB often argues that private participation would ensure efficiency and quality services to the people. But, it has been found that private participation not only undermines the security of tenure of public servants and their unions but also deteriorates the quality of basic services to the people, thereby making the services unaffordable. The GUFs strongly convey to the ADB to stop propagating for privatization and enter into public-public partnerships rather than public-private partnerships.

4. Project Cycle and Unions as stakeholder

It has been found that the Trade unions were not consulted at any stage of the project. Labours/workers must be recognised and accepted as a major stakeholder in ADB funded projects which involved interests of workers throughout project cycle. Beginning with Country Partnership Strategy (CPS) formulations, the Country Strategy must involve and integrate in labour market analysis. While the formulation of IPSA for program or projects, the Unions must be an integral part the analysis. While the Strategy 2020 is under mid-term review, the implications of the projects approved after 2008 on workers/labourers should be taken into count. The representatives of labour/unions must be included during project preparation and appraisal stages of ADB funded projects. ADB should strategically engage with GUFs and enter into formal partnerships to ensure accountability in all its actions.

5. Grievance Mechanism

The 2009 SPS has provided establishment of local grievance mechanism for affected people to convey their grievances related to project. Similarly, the 2012 Accountability Mechanism provides an avenue for affected

people to file complain related to ADB funded projects and noncompliance of ADB policies. The discriminations on employment and occupation of workers can't be considered in such grievance mechanism as well as AM. While safety of workers comes under provision in SPS of 2009, so far workers/labours are not aware of such provisions. At best, the CLS is not a policy of Bank which can't be treated in violation of ADB policies.

6. Labor Desk at ADB Headquarter

While the ADB has a NGO and Civil Society Center to engage with CSOs, it is yet to have any structure when it comes to trade unions and labourers. The GUFs believe that Setting up a labour desk is a necessary first step to ensure that internationally-accepted core labour standards are complied with in ADB's operations in the Asia-Pacific region. The Labor Desk should have an effective mandate to mainstream workers' participation and consultative structures for trade unions within the ADB.

The adherence to CLS by ADB in India has been a mere statement. The ADB must walk the talk and ensure implementation of CLS in all its projects. There are potential avenues for ADB to integrate CLS into policies, projects and programs. As the Strategy 2020 Mid-term Review in progress, Review of SPS 2009 is on the card and AfDB's acknowledgment on inclusion of labour standards into its integrated safeguard system, the Bank must lead in Asia-Pacific by including CLS into its core policies and projects.

The Jt. GUFs/FNV project on ADB is primarily a research and campaign based project to ensure that ILO core Labor Standards are being respected in the ADB supported projects in India. The primary strategy is to engage ADB, based on developed relationship at regional level and to improve on current dismal observance of Core ILO Standards in ADB projects in India. The programme coalition bring together diverse partners' and other stakeholders to join forces, and campaign for improving adherence to Core ILO Standards in ADB operations and projects in India.

Global Union Federations comprising of Public Services International (PSI), Building and Wood Workers International (BWI), UNI Global Union (UNI), International Transport Workers Federation (ITF) and IndustriALL Global Union are international federations of national and regional trade unions organizing in specific industry sectors and occupational groups. The above mentioned GUFs represent about 150 Million workers across the globe in the public sector, building and construction, services, transport and industrial sectors respectively.

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