

# ADB Safeguard Policy Review Update – Phase 2 Regional Consultation Summary: Labor and Working Conditions (LWC) Consultations

29 November and 1 December 2021

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## I. BACKGROUND

1. The Asian Development Bank (ADB) is undertaking a comprehensive review and update of its 2009 Safeguard Policy Statement (SPS).<sup>1</sup> The update process has been initiated by ADB Management following a Corporate Evaluation of the SPS by ADB's Independent Evaluation Department (IED), completed in May 2020 (IED Report).<sup>2</sup> The update will build off the findings and recommendations of the IED report, which ADB Management endorsed. Overall, the policy update seeks to strengthen safeguard implementation effectiveness and efficiency, in ways that will enhance beneficial safeguards outcomes for the environment and affected people.

2. The revised safeguard policy is expected to be ready for ADB Board consideration in 2024, following a process of further reviews, policy development and meaningful stakeholder engagement. As part of this process, ADB is undertaking a series of brief analytical studies, which will benchmark ADB's current SPS against the policies of selected multilateral financial institutions (MFIs) and also briefly consider implementation experience.<sup>3</sup> The studies will inform the development of the new safeguard policy and will be provided for stakeholder review and consultations.<sup>4</sup> Stakeholder engagement and consultation will have three main phases: Phase I - preliminary information and outreach on the overall approach for the policy update and stakeholder engagement plan (SEP); Phase II - consultation on the analytical studies; and Phase III - consultation on the draft policy paper. The objective of Phase II consultations, currently being conducted, is to obtain a better understanding of the views of stakeholders on safeguards implementation challenges and good practices, as well as recommended policy directions. This document provides a summary of the consultations for the analytical study on Labor and Working Conditions (LWC).

## II. PROCEEDINGS

3. The online regional consultations for Labor and Working Conditions were conducted on 29 November & 1 December 2021. Three sessions were organized in various time zones to allow participation of ADB's developing member countries (DMCs), other ADB regional and non-regional members, as well as civil society organizations (CSOs) and non-governmental stakeholders.<sup>5</sup> A total of 78 stakeholders participated in the three sessions, where each session ran for more than two hours, providing ample time for discussion. The main language used in all sessions is English and simultaneous interpretations were provided.<sup>6</sup> Consultation materials were provided to the participants in advance, and these were translated into various languages.<sup>7</sup>

4. The agenda for the three sessions followed a similar format, starting with a welcome message from Bruce Dunn, Director of the Safeguards Division (SDSS) of the Sustainable Development and Climate Change Department (SDCC). It was proceeded by a presentation from Haidy Ear-Dupuy, Senior Social Development Specialist (Labor), SDSS, on the introduction and background on labor and working conditions. Jay Wagner, ADB Labor Consultant, presented the scope of the study, key study findings, and recommendations. A moderated discussion followed where participants were provided space to ask questions and

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<sup>1</sup> ADB. 2009. [Safeguards Policy Statement](#). Manila.

<sup>2</sup> ADB. 2020. [Evaluation Document: Effectiveness of the 2009 Safeguard Policy Statement](#). Manila.

<sup>3</sup> The studies are intended to complement the evaluation completed by IED in May 2020 and will not duplicate IED's work on the overall effectiveness of the SPS.

<sup>4</sup> The update process is guided by a [Stakeholder Engagement Plan](#).

<sup>5</sup> The three sessions were for: (i) DMCs and CSOs in South, Central and West Asia; (ii) DMCs and CSOs in East and Southeast Asia and the Pacific; and (iii) CSOs in North America and Europe.

<sup>6</sup> Languages available for simultaneous interpretations were Hindi, Urdu, Russian, Bahasa Indonesia, Chinese, Khmer, Lao, and Vietnamese

<sup>7</sup> The analytical study and presentations are available in English, Hindi, Russian, Chinese, and Bahasa Indonesia.

give their input for the policy update. The session ended with a brief event evaluation and a synthesis by Bruce Dunn.

5. In his welcome message, Bruce Dunn narrated the history and purpose of the SPS and how it is related to ADB's other policies, strategies, and procedures. He reported on the detailed review of the SPS effectiveness conducted by the IED and presented the key findings and recommendations. He gave an overview of the ongoing SPS Review and Update Process, presented the timeline and the topics for various analytical studies, and presented the approach for a strong, intuitive, and inclusive stakeholder consultation that underpin the entire review process. Finally, he discussed the context for the sessions on LWC, including the current policies and practice of having requirements for the implementation of the core labor standards (CLS) within its social protection strategy, which are further developed within ADB's Core Labor Standards Handbook. He shared that ADB is considering whether LWC should be more fully integrated with the other safeguards, an approach that is now being taken by other MFIs and an identified gap in the IED report.

6. Haidy Ear-Dupuy discussed how ADB commissioned a review of ADB's policy requirements on LWC, which included benchmarking them against those of peer MFIs. She said that this process is meant to review and identify components that will be included into the safeguards, as well as components that will be retained in ADB's social protection work to ensure that all aspects are covered.

7. Jay Wagner presented a summary of the review undertaken, which included the study methodology and the difference in ADB's approach to LWC as compared with other MFIs. On the key study findings, he mentioned that ADB's LWC provisions lack clarity and accessibility, are aspirational rather than practical, use policy principles instead of performance standards, and have key gaps and omissions on cross-cutting and emerging issues, such as vulnerability, grievance mechanism, labor influx or migrant workers, supply chain, gender and gender-based violence, among others. Finally, the study cited the following recommendations to ADB: (i) adopt a stand-alone labor and working conditions performance standard; (ii) implement safeguards oversight and quality assurance; (iii) use definitive language for the LWC performance standards; (iv) prepare operationally-focused LWC guidelines, guidance notes, and tools for borrowers; (v) build capacity internally and strengthen the skill sets of its staff and consultants in LWC; and (vi) review implementation status of CLS.

### **III. KEY TAKEAWAYS AND DISCUSSION**

8. In the moderated discussion, participants were encouraged to share perspectives or recommendations for improving ADB safeguard policy and implementation. A set of questions were posed to guide participants in formulating their views or questions, including: (i) What works and doesn't work with the current approach of ADB on LWC?; (ii) What are the main obstacles to achieving the SPS/CLS objectives? What is missing?; (iii) What are some of the challenges to implementing the CLS?; (iv) What should be the key implementing requirements for the LWC (particularly CLS)?; (v) What other aspects of working conditions in addition to CLS should be considered?; and (vi) What are some of the recommendations you may have to help us address implementation challenges?

9. The discussion elicited important topics from participants like: (i) benchmarking standards with other MFIs; (ii) gaps in current SPS and recommendations; (iii) coverage of LWC safeguards; (iv) grievance redress mechanism (GRM) for workers; (v) increased involvement of trade unions; (vi) banning asbestos; (vii) capacity on labor standards; (viii) linkage between community and occupational health and safety (COSH) and LWC; (ix) upholding international labor standards; (x) labor management procedure; and (xi) other issues covering gender, persons with disabilities, informal sector, and privatization.

10. Participants encouraged ADB to go beyond the standards of other MFIs and aspire to set best practices in LWC. Some suggestions include considering the practice of the European Bank for Reconstruction and Development (EBRD), which separates occupational health and safety from core labor standards, and the World Bank's Environmental and Social Standards (ESS) where guidance notes were prepared aside from the actual standard. Moreover, participants recommended that ADB uphold the International Labour Organization (ILO) convention in its LWC standards regardless of country context. Provisions that were emphasized are on freedom of association and collective bargaining.

11. There was a discussion on establishing and effectively implementing a project-level GRM, specifically, a mechanism customized to the needs of workers. The participants emphasized the importance of this mechanism especially for non-unionized or unorganized workers and ensuring that there will be protection against retaliation and reprisal.

12. The crucial role of workers and trade unions were discussed. The participants highlighted the importance of conducting multi-level consultations with relevant trade unions throughout the project cycle, formation of a labor advisory group that can work with ADB in the drafting and implementation of LWC safeguards, and participation of unions in ADB's accountability mechanism. There was also a suggestion to promote social dialogue between government and labor representatives at every level and stage of the project.

13. In terms of gaps in the current SPS, the following issues were raised: (i) conduct of employment impact assessments, both in the planning and evaluation of projects; (ii) conduct of integrated assessments to determine whether there are alternates for better labor, social, and environmental outcomes prior to project approval; and (iii) robust monitoring of implementation of labor laws to include all workers in the supply chain. The participants also noted the limited capacity and staffing to implement requirements on labor and occupational health and safety at the national level.

14. LWC and its linkage with COSH was discussed. Issues identified pertain to disclosure of data related to labor and occupational safety and the importance of putting provisions in the LWC standards that address work-related risks. Moreover, participants cautioned on lumping LWC and COSH as thematic categories since the risks, concerns, and regulations are different for both. The ADB was urged to clearly delineate LWC and COSH and align them with existing and relevant standards.

15. In response, ADB acknowledged the recommendations of stakeholders. On benchmarking with other MFIs, the exercise was done to increase ADB's understanding of the current status of other MFIs and the goal is for upwards harmonization despite the implementation challenges and evolving issues. Moreover, ADB agreed that there is a need to not only consider the wider remit of international standards in the policy update, but also, consider the implementation capacity of DMCs as well as what are in the existing national legal frameworks. ADB also noted the need to enhance staff capacity and skills internally on LWC, as well as with DMCs and clients.

16. On GRM, ADB has a requirement for the establishment of project-level GRM. However, ADB recognized that there is a need for GRM that is more closely targeted toward different needs and different affected people, including a grievance process for workers to address workplace level-issues. ADB ensures that all pertinent labor laws are implemented in full and where there are gaps, the core labor standards are to be applied.

17. ADB acknowledged the important role of workers and trade unions and cited that there has been active knowledge sharing with trade organizations in the past 2 years. Further, ADB encouraged the involvement of governments and the private sector to facilitate tripartite discussions and social dialogues in the country context.

18. ADB recognized the strong linkages between LWC and COSH issues but mentioned that there is also a need to establish boundaries so that interventions that are proposed will be very practical, pragmatic, and tangible on the ground. The link between LWC and COSH is established to identify what groups or clusters are disproportionately impacted by project works. ADB also mentioned that a dedicated consultation on COSH is set.

#### **IV. EVALUATION AND WRAP UP**

19. The moderated discussions were followed by quick evaluation sessions. In all three sessions, most participants gave a rating of 4 (effective) or 5 (highly effective), on a scale of 1 to 5, and only very few rated ADB lower than 3. Written comments to improve the consultations are documented in Menti.com.

20. The synthesis for each consultation included a summary of key points and questions raised by participants. It was followed by an overview of the next steps and a reminder to send ADB further suggestions and recommendations in writing.

#### **Session recordings can be accessed here:**

1. 29 November 2021: Governments, Civil Society Organizations and other non-Governmental stakeholders in East Asia, Pacific, and Southeast Asia:  
[https://youtu.be/\\_xfpqJTiMc8](https://youtu.be/_xfpqJTiMc8)
2. 29 November 2021: Governments, Civil Society Organizations and other non-Governmental stakeholders in North America and Europe:  
<https://youtu.be/7R6FbA3VMog>
3. 01 December 2021: Governments, Civil Society Organizations and other non-Governmental stakeholders in South Asia, and Central and West Asia:  
<https://youtu.be/bJM8iYmF1hc>

## FEEDBACK FROM STAKEHOLDERS

Disclaimer: In view of transparency, the feedback was documented based on the manner of delivery or sharing of the stakeholders, though some feedback was edited for brevity and clarity. They are categorized by topic and reflect questions, comments, conclusions, and recommendations of stakeholders. All the feedback is discussed in the interactive session that is part of the consultations.

### 1. Coverage of Labor and Working Conditions (LWC) Safeguards

- The Core Labor Standards (CLS) are very insufficient and should not be limited to the five areas that are reflected in the International Labour Organization (ILO) declaration. There should be a wider range of obligations, including Occupational Health and Safety (OHS), and the new Conventions 190<sup>1</sup> and 151.<sup>2</sup> Health and safety must be included, along with the issue of working hours (i.e., overtime pay and fair compensation, etc.). ADB should ensure that all workers are protected and that protection for laborers goes beyond those involved directly as employees in the project to cover a range of other workers, such as workers of contractors and those producing or pre-fabricating the materials off-site.
- Covering all workers in the supply chain is complex especially for ADB-funded projects that involve government, the private sector, and contractors. Audits for large-scale projects typically limit the review to the first-tier workers, even though violations usually occur further down the tier.
- Provisions specific to women should be included considering the ongoing discussions in the ILO for OHS to become part of the fundamental workers' rights.
- Gender should be considered in the labor standards, particularly the full protection of women and their job security/assurance during the pandemic and in the future.
- The safeguard policy should expand its definition of gender to also include lesbian, gay, bisexual, transgender, queer, and related communities (LGBTQ+).
- Persons with disabilities (PWDs) should also be covered by the LWC standards.
- ADB's analytical paper does not mention or recognize the rights of workers in the informal sector. This could aggravate existing situations of informal workers where they are not recognized by laws or laws protecting them are not implemented. For instance, waste pickers are displaced in waste to energy (WTE) projects, as well as when public-private partnership (PPP) models are introduced in the solid waste management systems. How will ADB protect the rights of informal workers in the waste sector? The ILO provides guidance on the importance of extending CLS on informal workers because this is such a huge employment in the country.
- The CLS should consider the changing methodology or practice of work that was spurred by the pandemic. The pandemic has caused the number of self-employed women to increase, and it is unfortunate that despite social protection measures provided by ADB to India, this has not reached most of the informal sector. Only a third of the informal workers received relief packages from the government even though it is informal workers who were greatly affected during the pandemic.

<sup>1</sup> International Labour Organization. 2019. [Convention 190 – Violence and Harassment Convention](#).

<sup>2</sup> International Labour Organization. 1978. [Convention 151 – Labour Relations \(Public Service\) Convention](#).

## 2. Upholding the International Labor Standards

- The position of the International Trade Union Confederation (ITUC) regarding the commitment to the CLS was reiterated, specifically on freedom of association and collective bargaining.<sup>3</sup> In many other multilateral financial institutions' (MFIs) safeguards, there are clear prohibitions for the other elements in the CLS, but the trade union's collective bargaining rights are typically only protected under national laws. This results in a difference in implementation. ADB safeguards policy should be leading in addressing this issue and require borrowers to uphold the ILO Convention regardless of the country context. How has this been covered in the earlier discussions for the updated policy? The analytical study cited that performance standards are preferred over policy principles. How has the discussion on freedom of association and collective bargaining progressed, especially in countries where these rights are not respected?
- As the language of the policy on LWC is drafted, ADB should consider some of the countries where freedom of association and collective bargaining is more challenging. A possible move could be to integrate mechanisms in the grievance redress mechanism (GRM) linked to workers' concerns, but this requires further and deeper discussions.
- The importance of international standards as opposed to national standards was reiterated. There are a lot of disputes as to what the national standards will be and there is difficulty in assessing these because of differences in country contexts. It was emphasized that ILO standards should be considered.
- ADB considering adding a stand-alone labor standard was appreciated. The ILO standards, particularly CLS, are an essential baseline for the fair treatment of workers. The benchmarking exercise with other MFIs is an important aspect. ILO will be following the discussions and is willing to provide expertise when needed, especially in the drafting phase of the new standards.
- The right to organize and bargain collectively is largely protected under each country's legislation, but ADB requires borrowers to comply with ILO standards regardless of the country context. So, ADB's safeguards must require all the countries who have not ratified the CLS to do so.
- Among the challenges faced in providing support to workers is the difficulty of contacting them-either on the worksite or in their living areas. The security is very tight and meeting workers is not allowed. An example was cited where working, living, and sanitation conditions are very poor. A public investigation was filed to address the grievances of the workers, many of whom are migrant workers who do not know the local language and are abused by contractors and are paid low wages.
- Even though the right to organize is a fundamental right embodied in the CLS and embedded in India's constitution, this is not being implemented or enforced in development projects funded by MFIs. In the project design stage, ADB should discuss with relevant labor unions to help ensure that the workers' right to organize are honored. The borrower should be ultimately responsible for ensuring contractors' compliance with the CLS. If bilateral discussion between the government and the

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<sup>3</sup> International Trade Union Confederation. 2021. [\*Promoting and Respecting International Labour Standards in Asian Development Bank Operations: A Binding Safeguard and Beyond.\*](#)



funding organization is the only action taken, this will not help redress the grievances of the workers whose lives and safety are at risk.

- The ILO conventions on freedom of association and collective bargaining are not properly implemented. An example cited was the ADB-financed Kathmandu Valley Water Supply Improvement Project where 30 workers were fired by the company for organizing and bargaining with the union. Another ADB-funded electricity project was cited where employees were punished by the management for conducting union activities. ADB should require compliance with the ILO conventions regardless of country context. Any prosperity brought on by development projects could not be deemed meaningful if the development does not benefit the laborers working on the projects.
- Project-level experience on nonpayment of subcontract workers was shared. ADB should establish transparent and clear policies, as well as coordinate with trade unions.
- The revised safeguards policy should include a section that has requirements and procedures to verify that the policy-based loans and technical assistance are aligned with ILO standards.
- With ADB's memorandum of understanding (MOU) with ILO, can ADB ask the Government of India to ratify the ILO conventions 98<sup>4</sup> and 190?<sup>5</sup>
- Many infrastructure projects ongoing in Pakistan are being done by construction companies from People's Republic of China (PRC). Companies from PRC do not abide by the ILO conventions 87<sup>6</sup> and 98,<sup>7</sup> and as a result, construction workers are experiencing great hardship with very low pay. Government favors companies from PRC over the workers in Pakistan. It is very difficult to register trade unions in Pakistan. Workers are being victimized and illegally terminated for joining unions. No collective bargaining is taking place. There are different experiences with projects funded by two other MFIs, where the World Bank was able to address the workers' concerns while the International Finance Corporation (IFC) did not. There are so many issues to resolve, including labor laws not being implemented, no OHS standards adopted, companies providing poor quality personal protective equipment (PPE), workers are given very low wages and not paid overtime and termination benefits, etc.

### 3. Benchmarking Standards with Other Multilateral Financial Institutions

- ADB should not be constrained by and strive to go beyond the standards of other MFIs and aspire to set best practices in LWC while adhering to and being completely aligned with ILO labor standards. A lot of safeguards from MFIs are not working effectively, and none is ideal. ADB knows best what the challenges are in Asia and the Pacific, and one of the greatest threats to development is the very poor labor standards in the region. Issues that need to be addressed include the inability of workers to organize, the growing gap between wages and profits which is driving the inequality, and a range of gender-related inequalities. Focusing solely on CLS is insufficient because it misses a range of international law and international labor standards that are not included in

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<sup>4</sup> International Labour Organization. 1949. [Convention 98 – Right to Organise and Collective Bargaining Convention](#).

<sup>5</sup> Footnote 7.

<sup>6</sup> International Labour Organization. 1948. [Convention 87 – Freedom of Association and Protection of the Right to Organise Convention](#).

<sup>7</sup> Footnote 8.



the CLS. These include the recent ILO Convention on Eliminating Violence and Harassment in the World of Work, OHS standards, and public sector workers and specific professions that have their own standards. These are critical to respecting labor rights.

- The World Bank's Environment and Social Standards 2 (ESS 2) on labor and working conditions has guidance notes that are well-described, while there are some gaps in the actual standard. Does ADB intend to have an actual standard and guidance note? How does ADB plan to ensure that the guidance notes come where concessions are made?

#### **4. Occupational Health and Safety and Linkage with Labor and Working Conditions**

- ADB was requested to disclose a range of data on OHS to labor unions, governments, and employers, such as data on injuries, major incident reports, among others.
- Most of the work done on a project site is by subcontractors and there have been challenges. This is a great opportunity in the SPS update to acknowledge these challenges. Recommendations include enhancing the capacity of inspectors, filling gaps in the protection of the subcontractors with regards to implementation and the gap analysis. The gaps are in the supply chain and building capacity.
- OHS should be a prime concern in ADB projects. Projects were cited where there were cases of fatalities due to the deterioration of working conditions, injuries due to a lack of PPE, and proper compensation for engineers. These denote omissions in the project design and the lack of consultation with trade unions.
- There is a tendency in the policy language and in the thematic categories to lump labor and working conditions with community health standards. The risks, concerns and regulations are very different for both. In waste incineration, for example, the waste workers/waste pickers are exposed to different kinds of risks particularly during the coronavirus disease (COVID-19) period. WTE and landfills also create permanent damage to the health and living conditions of the community surrounding these facilities. ADB was urged to clearly delineate these two and align them with existing more stringent and relevant standards.

#### **5. GRM for workers**

- There should be an opportunity for all workers to raise complaints in case they are affected by the development project.
- Having a project-level GRM is important. A complaint was filed for the Himachal project in India, but it was rejected. This is due to missing the 2-year prescriptive period to file complaints for an intermediary financing scheme. It is recommended to extend the prescriptive period to file complaints regarding noncompliance.
- Protect the rights of workers, including all staff in the supply chain. It is important for workers to have a GRM customized to their needs so they can file complaints about their working conditions, pay, etc.
- Most of the infrastructure projects have no unions. Because of the short-term nature of these projects, it is quite difficult to establish or organize the workers. It would be good practice for ADB to promote the idea that with or without a union, projects should

have a kind of grievance system. A system for processing disputes is good not just for ADB, but also for the government.

- Quick and decisive remediation measures are crucial in matters of labor because it's very easy for employers to create intimidating atmospheres and environments in which the freedom of association is limited.
- On reprisals, there is a concern regarding the IFC standards where the reprisals cover the direct client of IFC (the equivalent in ADB would be the main contractor). In the supply chain, subcontracted workers are not protected through the safeguards, especially in reprisals.
- On the issue of nonpayment of workers by some contractors and subcontractors in ADB-financed projects, a suggestion is for ADB to include provisions for financial safeguards through specific policies on financial support. This is to ensure proper payment of wages and other benefits to the workers in case of contractors' defaulting on payments. This could be either through the creation of a special fund or any other measures for exceptional cases.
- ADB can establish a performance bond system on contractors to remedy the instances of contractual violations. The bond amount can be a certain percentage of the contract amount so that in the event of violations or nonpayment of salaries by the contractor, the bond will help remedy the situation. The percentage can be adjusted based on the level of risk of each contractor. A performance bond system can ensure that companies can be held accountable for violations or nonfulfillment of obligations.
- The ADB safeguards should include clear provisions on ensuring effective implementation of ground-level GRM. This is important to protect both project workers and other workers who may experience job loss, violation of their rights, and poor working conditions due to a project.
- ADB should give importance to the United Nations (UN) guiding principles on human and business rights, which consists of three principles: respect, protect, and remedy. ADB's efforts to move toward performance standards adheres to the principles of "respect" and "protect", but not of "remedy."
- Where there are ADB-funded projects, companies from PRC are adopting new methods and pushing local issues and oppressing the workers. ADB should work with the unions to come up with new ways to resolve them.

## 6. Asbestos Use

- ADB should include in its safeguards policy an exclusion list for all types of asbestos and other chemicals that are dangerous, including agricultural pesticides. It is critical to adopt a zero-tolerance exclusion, that is, materials must contain zero asbestos to meet the requirements. ADB should ensure that this will be adopted and there will be deletion of any reference to an acceptable amount or percentage in the annex or elsewhere in the policy. ADB's strategy now on asbestos use is two-staged—an interim precautionary approach in terms of good practice in the short term, and then a more comprehensive response once the safeguards review is completed. What are ADB's plans for the interim approach?

- There was a continuous call for ending asbestos use in any amount and including asbestos and other hazardous materials in the exclusion list of materials in the revised safeguards policy. This affects the health of workers on ADB project sites.

## **7. Capacity on Labor Standards**

- One of the big failures around safeguard processes is the lack of adequate staffing who have expertise in the field of labor and OHS. This also applies at the national level. So, ensuring that adequate staffing is in place is crucial to effective implementation.
- ADB should conduct training for ADB staff and borrowers on LWC safeguards.

## **8. Increased Involvement of Trade Unions**

- ADB should require borrowers to conduct multi-level consultations with relevant trade unions throughout the whole process. Trade unions were engaged when it is already too late or when people have already been devastated by the impacts. Unions are willing to be actively involved in providing further input to ADB on the issues and recommendations discussed during the session as well as those submitted in the position paper.
- ADB should consult with trade unions at various levels in developing the LWC safeguards.
- ADB should form a labor advisory group that would provide inputs, and work with ADB in the drafting and implementation of the LWC safeguards.
- ADB should work jointly with the ILO and the trade unions in forming the LWC safeguards to leverage the technical expertise of the respective organizations. This can culminate in the formation of a labor advisory group. This would be a useful initiative in addressing the gaps and challenges in labor safeguards that have been going on for many years and especially in the context of COVID-19.
- There is a need for ADB to provide consultants who will work with relevant trade unions throughout the project cycle to identify risks and violation of rights of workers.
- For the implementation of the performance standards to be successful, ADB should have a mechanism for the trade unions to be part of the accountability mechanism (e.g., IFC's labor portal).
- The ADB safeguards should have adequate provisions for consultations with relevant trade unions throughout the project cycle.
- ADB should renew the MOU with the ILO and update its CLS handbook. Some ADB resident missions are not cognizant of the local context on LWC.
- For ADB projects in India, all workers are unorganized, informal, and precarious, which makes the work of the trade unions very critical. ADB should ensure the direct involvement of trade unions throughout the project cycle since the current sovereign portfolio of India with ADB consists of about 80 projects. Trade unions have an important role in GRM hand-in-hand with civil societies and other organizations.

## 9. Labor Management Procedures

- What does the ADB's review suggest in terms of adoption of a labor management plan (LMP), including the disclosure of LMP as a project document?
- ADB can put pressure on the government to put in place policies in line with ILO convention 190 on eliminating all types of violence and harassment in the world of work. In Bangladesh, the freedom of association and collective bargaining is not fully implemented in the power sector.

## 10. Gaps and Recommendations

- The language of the policy should convey the legally binding nature of the safeguards in line with international standards.
- The introduction of employment impact assessments, both in the planning and evaluation of projects, is important. In implementing a bus rapid transit project to bring good transport services to the public, there are obvious impacts on the informal public transport services and its workers that are almost never measured. In the case of bringing in electric vehicles, the informal workers who are driving vehicles that do not pass the environmental standards lose their jobs. Are these informal workers integrated into new systems? These need to be measured but are not currently done. Even though there is a goal around positive job creation, there is a whole sector of workers whose jobs are negatively impacted, or their livelihoods are being erased. There is a need for a process to integrate these workers into the new systems, not just in the public transport sector but in other sectors as well.
- Monitoring is important and there should be a way for ADB to monitor the employment outcomes of people who have been engaged in ADB projects. This will also help funnel resources and attention into monitoring the resolution of labor complaints.
- ADB should promote social dialogue between the government and the labor representatives at every level in the consultation process.
- ADB should undertake assessments to determine whether there are alternatives for better labor, social, and environmental outcomes even before the funding comes in. Assessments should also include health impact assessments, for instance, on COVID-19 related aspects. ADB should also develop a procedure for collaborating with stakeholders on due diligence and project monitoring.
- One of the biggest challenges in implementing labor laws in India's construction industry is that most workers are not organized and not recognized by the government. The sector and these workers had been heavily affected by the COVID-19 pandemic and were not provided any support by the government since they are not recognized.
- Workers under ADB projects should be required to register and be allotted a universal account number so they can be covered by the labor laws and receive the same benefits as other employees. ADB should discourage engagement of workers through intermediaries. Workers should be paid their wages directly through bank accounts, without having to go through intermediaries and given an identification card bearing information on where they are employed. These measures would enable monitoring whether they are protected and covered by the labor laws.

- Robust monitoring and implementation should be considered, focusing on the transparency of the supply chain. ADB should work with trade unions on this. ADB should have an inclusive approach and keep a gender lens, even in the place of work.
- ADB needs to meet and interact with the workers and contractors working on the project every 6 months. Monitoring of rights violations in ADB investment projects is essential because the framework agreement needs to be implemented.

## **11. Others**

- Animal rights in the context of the CLS and in the overall safeguards policy should be included.
- The challenge of the privatization of the electricity supply sector was raised. It is important to establish social safety nets for workers. Although there are laws on minimum wages, this is not being implemented in Pakistan. Joining trade unions is also not promoted. This has created great resentment among laborers. ADB should take the necessary action and promote better working conditions for the workers.
- ADB's sustained policy on privatization has a range of labor, social, and environmental impacts. Although governments are the ones promoting privatization, ADB is one of the drivers of this.
- A correction to the presentation on the analytical study was raised: based on the 1998 declaration, ILO's members states are not required to ratify the core conventions because by their mere membership to the ILO, they are obligated to observe them.