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Monitoring and Reporting of Project Compliance to Core Labor Standards

1-3 August 2023 | Islamabad, Pakistan

The logo of the Asian Development Bank (ADB), consisting of the letters 'ADB' in white on a dark blue square background.

ADB

What are Core Labor Standards (CLS)?

The Minimum and basic conventions that set the ground rules for work covering four basic areas of protection and rights for workers:

- (i) Elimination of all forms of forced or compulsory labor (ILO Convention 20)
- (ii) Effective abolition of child labor (ILO Convention 132 and 182)
- (iii) Elimination of discrimination in respect of employment and occupation (ILO Convention 111)
- (iv) Freedom of association and effective recognition of the right to collective bargaining (ILO Convention 87 and 98)



ADB Commitment to CLS

-Social Protection Strategy (2001)

- Social Protection Operational Plan (2014-2020)
- OM C3: Incorporation of Social Dimensions into ADB Operations (2010)
- IPSA and SPRSS reports on CLS due diligence

-Safeguard Policy Statement (2009)

(Upcoming Environmental and Social Framework will have a specific environmental-social standards on labor and working conditions – ESS 2)

-ADB and CLS in Practice

- RRP
- Loan Covenant
- Bidding Documents
- FIDIC Conditions of Contract (2010)
- Gender Action Plan – as it pertains to labor discrimination



ADB Social Protection Strategy (2001)

(para 84): “in the design and formulation of its loans, ADB will comply with internationally recognized core labor standards”

“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 (e.g. minimum wages, safe working conditions, social security contributions, etc.) as well as with Core Labor Standards”

ADB Safeguard Policy Statement (2009)

- Prohibited Investment Activities List (page 76):
“The following do not qualify for ADB financing: (i) production or activities involving harmful or exploitative forms of forced labor or child labor”



Pakistan's Commitment to CLS

Pakistan is an active and important member of the International Labour Organization (ILO) since 1947 and has ratified 36 ILO Conventions, including eight Fundamental Conventions:

- (i) Forced Labor Convention 1930 (No. 29)
- (ii) Abolition of Forced Labour Convention, 1957 (no. 105)
- (iii) Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)
- (iv) Right to Organize and Collective Bargaining Convention, 1949 (No. 98)
- (v) Equal Remuneration Convention, 1951 (No. 100)
- (vi) Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
- (vii) Minimum Age Convention, 1973 (No. 138)
- (viii) Worst Forms of Child Labor Convention, 1999 (No. 182)



Pakistan's Commitment to CLS

- The 1973 constitution of Pakistan contains a range of provisions with regards to labor rights found in Part II: Fundamental Rights and Principles of Policy. These provisions include:
 - (i) Article 11: Prohibits all forms of slavery, forced and child labor.
 - (ii) Article 17: fundamental right to exercise the freedom of association and the right to form unions
 - (iii) Article 18: Right to enter upon any lawful profession or occupation and to conduct any lawful trade or business.
 - (iv) Article 25: Right to equality before the law and prohibition of discrimination on the grounds of sex alone.
 - (v) Article 37 (e): securing just and humane conditions of work, ensuring that children and women are not employed in vocations unsuited to their age or sex, and for maternity benefits for women in employment



Standard Loan Covenants Related to Labor Standards, Health and Safety

The Borrower shall cause ___ to ensure that the core labor standards and the Borrower's applicable laws and regulations are complied with during Project implementation. The Borrower shall cause ___ to include specific provisions in the bidding documents and contracts financed by ADB under the Project requiring that the contractors, among other things to: (a) comply with the Borrower's applicable labor law and regulations and incorporate applicable workplace occupational safety norms; (b) not use child labor; (c) do not discriminate workers in respect of employment and occupation; (d) do not use forced labor; (e) allow freedom of association and effectively recognize the right to collective bargaining and (f) disseminate or engage appropriate service providers to disseminate information on risks of sexually transmitted diseases, including HIV/AIDS, to the employees of contractors engaged under the Project and to members of the local communities surrounding the Project area, particularly women.

The Borrower shall cause ___ to strictly monitor compliance with the requirements set forth in paragraph ___ above and provide ADB with regular reports.

Standard Bidding Documents:

From User's Guide on Procurement of Plant: Design, Supply and Installation (Dec. 2016)

General Conditions of Contract--22.2 Labor,

22.2.3 Labor Laws

22.2.4 Rates of Wages and Conditions of Labor

22.2.5 Working Hours

22.2.9 Records of Contractor's Personnel

22.2.15 Prohibition of All Forms of Forced or Compulsory Labor

22.2.16 Prohibition of Harmful Child Labor



Standard Bidding Documents:

From User's Guide to Procurement of Works-- Small Contracts

Section 7 General Conditions of Contracts

Part B on Staff and Labor

Para 31 on Forced Labor

Para 32 on Child Labor

Para 33 on Workers' Discrimination

Para 34 on Nondiscrimination and Equal Opportunity

FIDIC Conditions of Contract (MDB Harmonized Edition):

include four conditions under Section 6 on Staff and Labor, one each for the four CLS:

6.20 Forced Labor

6.21 Child Labor

6.23 Workers' Organizations

6.24 Nondiscrimination and Equal Opportunity



Findings from the Stocktaking of Project Performance on CLS Monitoring and Reporting

- Implementation and reporting of CLS requirements are part of the DMC commitments with ADB through loan agreements and contract obligations.
- Reporting of CLS is deficient and is limited to the Occupational Health and Safety aspects.
- Lack of information and understanding of CLS requirements, limited capacity of EAs staff.
- The GRMs established as part of all the projects with the intention to cater for the complaints related to safeguard aspects, CLS aspects ignored.
- Weak monitoring in the implementation of national laws.



Recommendations / Next Steps:

- ADB to provide a checklist on the CLS requirements and TORs for reporting aspects, the checklist and TORs to be provided to the PMCSC for reporting of CLS in MPRs/QPRs.
- Dedicated focal persons on CLS to be deployed at the EAs, capacity building of staff on CLS monitoring and reporting to be conducted.
- Project GRMs to cater for labor related complaints as well. The information regarding GRM to be disseminated to the contractor and labor.
- GOP needs to be taken on board, gaps analysis conducted to determine responsibility in the implementation and monitoring of Labor Laws.