Core Labor Standards

HANDBOOK

CORE LABOR STANDARDS HANDBOOK

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Foreword

The Asian Development Bank (ADB), in its Enhanced Poverty Reduction Strategy in 2004, has reaffirmed its commitment towards its overarching goal of an Asia-Pacific region free of poverty. The International Labour Organization's (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. This Core Labor Standards Handbook is a result of close collaboration between ADB and the ILO.

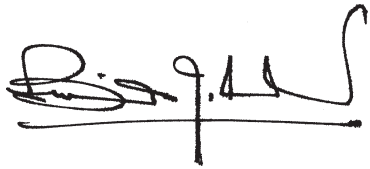
ADB adopted a commitment to core labor standards (CLS) as part of its Social Protection Strategy in 2001. Since then, ADB ensures that the CLS are duly considered in the design and implementation of its investment projects.

This Handbook provides information about CLS, explains the difference between core and other (noncore) labor standards, and presents examples of good practices in the application of CLS in ADB operations. It does not introduce new policies or requirements, but instead gives practical knowledge on how CLS can be taken into account by ADB staff and their Government counterparts. In order to give a comprehensive view, the Handbook is not limited to project-level interventions, but also covers the planning and design of country strategies and programs.

The Handbook is divided into three parts. Part 1 is an introduction to international CLS. Part 2 presents the eight Conventions that the ILO's International Labour Conference recognized in 1998 as fundamental to the rights of every person at work, irrespective of the level of development of individual member States. Part 3, Core Labor Standards in ADB Operations, presents ideas on how ADB can integrate CLS into its operations. The Handbook includes several

appendices on practical information about CLS, checklists, ILO contacts, and other information that can prove helpful to ADB staff and Government officials.

We hope that ADB staff and their Government counterparts will find this Handbook useful. Nonetheless, this Handbook remains a working document. As more experience and examples of good practice emerge from Asia and elsewhere, the Handbook may be revised, enhanced and updated to ensure that ADB staff and Government officials have access to the best and latest information on CLS. ADB and the ILO will continue to work closely on this and other related issues.



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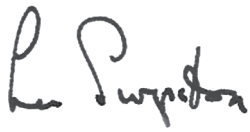

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Abbreviations

ADB	—	Asian Development Bank
CLS	—	core labor standards
DMC	—	developing member country
ILO	—	International Labour Organization
ILS	—	international labor standards
IPEC	—	International Programme on the Elimination of Child Labour
IPSA	—	initial poverty and social analysis
LFPR	—	labor force participation rate
NGO	—	nongovernment organization
PCR	—	project completion report
PPER	—	project performance evaluation report
PPTA	—	project preparatory technical assistance
RETA	—	regional technical assistance
RRP	—	report and recommendation of the President
SLMA	—	summary labor market assessment

NOTE

In this report, "$" refers to US dollars

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Part 1
Introduction

Background

"Only decent work for all—that is work that is carried out in conditions of freedom, equity, security and human dignity—can provide the social foundations for the global economy. This is the concept of decent work."

Juan Somavia, Director General, ILO

"Because Asia is home to two thirds of the world's poor, the fight against global poverty must be won in this region. We must dedicate ourselves to achieving our vision—a region free of poverty. This is no utopian dream. The Asia and Pacific region can be free of poverty. This will lead to a world free of poverty. We must move strongly and swiftly from vision to action."

Tadao Chino, Former President, ADB

A. Context of the Handbook

The goal of an Asia and Pacific region free of poverty clearly defines the mission of the Asian Development Bank (ADB). The overarching goal of the International Labour Organization (ILO) is decent work. The two objectives have many in common.[1] They are two sides of the same coin with the common goals of social justice and sustainable economic development for people in the region. ADB and the ILO are working together on ways to reach these goals and have signed a memorandum of understanding[2] that identifies areas in which the two organizations can cooperate, collaborate, and coordinate activities at the regional, national, and enterprise levels.

This Core Labor Standards Handbook is an example of such cooperation and collaboration. The two organizations have worked together to produce this practical publication to encourage and assist policymakers at the national and regional levels, ADB staff, project teams, consultants, and members of national executing/implementing agencies involved in the design and implementation of country programs and projects to take into account core labor standards (CLS) wherever and whenever appropriate. The challenge is to convince decision makers that the introduction of CLS and labor standards in general will not impede development. On the contrary, respect for basic human rights at work and for the legal and regulatory structures to implement them, assist workers, employers, and society as a whole in the quest for sustainable economic growth and inclusive social development.

This Handbook gives some basic information on international CLS, and looks at ways in which they can be incorporated into ADB activities. The recommendations here are not an expansion of any policy, and the user should note the distinction between good practice suggestions, i.e., the examples in this Handbook, and the policy requirements presented in ADB's *Operations Manual*. All developing member countries (DMCs) of ADB, by virtue of being members of ILO,[3] are bound to respect and promote the fundamental CLS.

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1 Inaugural speech by Mr. Yasuyuki Nodera, Regional Director, Asia Pacific Region, International Labour Organization, at the Regional Technical Workshop on Labor Standards, Manila, 18–19 September 2002.

2 The memorandum of understanding between ADB and ILO aims to facilitate collaboration between the two organizations in matters of common interest to their DMCs. It was signed on 9 May 2002 in Shanghai.

3 The following DMCs are not the members of ILO: Kingdom of Bhutan, Cook Islands, Maldives, Marshall Islands, Federated States of Micronesia, Nauru, Tonga, and Tuvalu. However, six of these Pacific DMCs have signed the Cotonou Agreement with the European Union in 2000, which obligates them to comply with CLS.

This Handbook describes the CLS and how to integrate them into ADB operations, whenever necessary. It was developed by ILO and ADB as a result of regional technical assistance.[4]

B. ADB and ILO Working Together

In ADB's view, poverty is characterized by the lack of access to essential goods, services, assets, and opportunities to which every human being is entitled. Everyone should be free from hunger, should be able to live in peace, and should have access to basic education and primary health care services. However, in the context of this Handbook, one of the main challenges is to demonstrate that failure to respect labor standards places an economic obstacle in the way of development in DMCs. If ADB is to take account of these standards in its work, it must be on a sound economic basis and not just a social imperative.

ILO, which is a specialized agency of the United Nations system, is committed to the attainment of social justice through the promotion of decent work with its strategic components of CLS, employment, social protection, social dialogue, and cross-cutting gender issues, in order to enable men and women to have decent and productive work in conditions of freedom, equity, security, and human dignity.

ADB and the ILO recognize the expertise of each organization and seek to establish an operational framework and practical modalities for their cooperation, which focus on development issues, including

(i) consultations between the two organizations on ADB country strategies and assistance plans, and, where appropriate and feasible, participation by ILO technical staff in ADB country poverty analysis or country strategy and program preparatory missions, by contributing advice and a summary labor market assessment, to ensure that ADB's portfolio supports inclusive, employment-generating development patterns, enhances welfare, and helps to allocate human resources to their most productive uses;

(ii) contributions by ILO, within the framework of its mandate, to the development of a cooperative framework and networking among ministries, social partners, and other civil society partners in countries

[4] ADB. 1999. *Strengthening the Role of Labor Standards in Selected DMCs* (TA 5887). Manila.

where ADB is planning a social protection intervention in line with its social protection strategy;[5] and

(iii) assistance from ADB to ILO in the development of decent-work country programs through interagency consultations.

C. ADB's Social Protection Strategy in Relation to Core Labor Standards

Progress in ensuring compliance with CLS has been uneven in Asia. Child labor is prevalent in many developing countries and bonded labor is reported in some Asian countries. Discrimination at the workplace for such reasons as gender, race, caste, age, and religious and political beliefs, is widely reported. Some governments in the region repress unions and impede workers' freedom of association and from discussing their working conditions. Many workers are exposed to health hazards and suffer accidents that can be avoided. There is overwhelming evidence that decent working conditions reduce poverty, raise living standards, and improve economic growth. For these reasons, many countries and development agencies are supporting improved labor standards.[6]

Since the approval of ADB's Social Protection Strategy[7] in September 2001, CLS have become an integral part of ADB's development mission. ADB's Social Protection Strategy and its Action Plan commit ADB to comply with the CLS, and guide ADB operations to good labor and social protection practices.

In the context of ADB's work, social protection is defined as a 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. As such, it consists of five major elements, with each element closely interlinked to the application of labor standards and more specifically, to the CLS as outlined above:

(i) labor markets,
(ii) social insurance,
(iii) social assistance,

5 ADB. 2001. *Social Protection Strategy*. Manila.
6 Opening address at the ADB/ILO Regional Workshop on Labor Standards, 18–19 September 2002, Manila by Mr. Akira Seki, Director General, Regional and Sustainable Development Department, ADB.
7 http://www.adb.org/Documents/Policies/Social_Protection/default.asp

(iv) micro and area-based schemes to protect communities, and
(v) child protection.

Within ADB's long-term strategic framework for 2001–2015,[8] and medium-term strategies, the social protection priorities for the Asia and Pacific region are the design of sound, comprehensive social protection programs that effectively reduce poverty and vulnerability, including

(i) interventions to protect communities and the informal sector;
(ii) child protection; and
(iii) labor market programs to ensure productive employment, decent working conditions, and improved human capital development.

D. Purpose of the Core Labor Standards Handbook

This Core Labor Standards Handbook gives practical knowledge on how ADB operations can comply with the CLS. It does not introduce any new policies or compliance requirements for ADB's operational staff. The main purpose of the Handbook is to provide information about CLS, explain the difference between core and other (non-core) labor standards, and finally, to present some ideas, opportunities, and examples of good practices about the application of CLS in ADB's operations. In order to give a comprehensive picture of CLS and ADB operations, the Handbook is not limited only to project level interventions, but it also covers the planning and design of country strategies and programs.

The Handbook is meant to be used by ADB operations staff who are involved in project design and implementation, but it can also be useful for a wider audience. It focuses on how CLS can be incorporated into ADB's operations, where a project or program has issues in which CLS need to be considered.

The Handbook is divided into three parts. Part 1 is an introduction into international CLS. Part 2 discusses all the eight Conventions that ILO's International Labour Conference adopted in 1998 as fundamental to the rights of every human being at work, irrespective of the level of development of individual member

[8] ADB. 2001. *Moving the Poverty Reduction Strategy Agenda Forward in Asia and the Pacific: The Long-term Strategic Framework of the ADB (2001–2015).* Manila. This document identifies three core areas of intervention for poverty reduction: sustainable economic growth, inclusive social development, and governance for effective policies and institutions.

States. These rights are a precondition for all the others in that they provide a necessary framework from which to strive freely to improve individual and collective conditions at work. Part 3, Core Labor Standards in ADB Operations, presents ideas about how ADB could integrate CLS in its operations. Finally, the Handbook includes several appendixes that include practical information of CLS, checklists, ILO contact information, and others.

International Core Labor Standards

The increasing attention to and international discourse on labor standards, and especially on CLS, is an inevitable consequence of globalization. As the imperatives of current economic undertakings create new work arrangements and production processes, cultivate complex supply chains, and facilitate rapid movements of capital and production units, working people in many cases suffer from the quantum leaps (and falls) of the global economy.

Just like democracy, the concept of labor standards is controversial and often misunderstood. Efforts to implement them in national laws have sometimes been seen as "anti-business," "investment disincentive," "a regulation that has no place in the free market," and "as a hindrance to competitiveness." Initiatives to include this concept in trade discussions have earned it labels like "a nontariff measure," "a job killer," and "a western protectionist measure." Some simply call it "market rigidity" and "a desirable incentive without empirical basis."

Over the last decade, attitudes have begun to change. Codes of conduct and corporate social responsibility initiatives covering human rights, environmental protection, and workers' rights have emerged. However, the debate on labor standards continues. In a recent issue of the ILO *International Labor Review*, an econometric study by David Kucera concluded that "no solid evidence is found in support of what has been referred to as the 'conventional wisdom', namely, that foreign investors favor countries with lower labor standards; indeed all evidence of statistical significance points in the opposite direction."[9] This was demonstrated recently in Cambodia, where the lifting of textile quotas after the Multifibre Agreement expired at the start of 2005 threatened to destroy Cambodia's textile industry.

Although this trade deal no longer holds in the post-quota world, "the strategy of protecting labor standards in order to keep sewing orders up from socially conscious companies will be crucial, as Cambodia still cannot compete with China in productivity terms. In fact, according to a World Bank survey of international buyers in 2004, more than 60% of companies who bought apparel from Cambodia said compliance with labor standards was of equal or greater

[9] www.ilo.org/public/English/support/publ/revue/sommaire/141-1-2.htm

importance than price, quality, and speed of delivery. Companies like Gap and Marks and Spencer are still continuing to source supplies from Cambodia for the same reason."[10]

A. What are International Labor Standards?

Labor standards are simply the rules that govern how people are treated in a working environment. They come in a variety of forms and originate at the local, national, and international levels. Taking account of the spirit of labor standards does not necessarily mean applying complex legal formulae to every situation; it can be as simple as ensuring that basic rules of good sense and good governance have been taken into account.

Labor standards cover a very wide variety of subjects, mainly concerning basic human rights at work, respect for safety and health, and ensuring that people are paid for their work. They also extend to questions of good governance, such as labor inspection and basic labor administration. In an economic context, they are important for raising productivity and competitiveness over the long term.

At the national level, labor standards are usually set by laws and regulations. Some can also be found in collective agreements. Normally, these bind only the contracting parties—trade unions and employers—but once accepted in some countries, they acquire the force of law for the entire country or economic sector.

At the international level, labor standards are found in international conventions and recommendations. International labor standards (ILS) are important for two reasons. First, they represent the international consensus on minimum best practices, whether on human rights generally or more precisely on labor matters. Second—and more immediately important in many cases—when they have been ratified by member countries they constitute binding legal obligations in national and international law, and may even be incorporated in national law. Most ADB project documents require governments to apply their own laws, and that usually includes ratified international human rights conventions.

[10] 2005 Asia Times Online Ltd.

B. Importance of Labor Standards

1. The Economic Argument for Labor Standards in General

Putting labor standards into practice improves the economies of DMCs.[11] Many developing countries argue that keeping labor costs low is their only comparative advantage in manufacturing and services. This is not correct because it needs to take into account the productivity-increasing effect of labor standards. Lack of respect for basic workers' rights has a negative impact on development and on the people directly affected by these problems. Labor standards are a tool used both to assist development and to measure progress toward development. They are both instruments and indicators.

2. Good Governance and Labor Standards

Good governance demands that labor standards be set and enforced. Respect for people's rights in their most basic economic activity, and action by the government to protect them, is in itself support for the concept of governance. Respecting labor standards, in whatever form, has a number of positive governance benefits; for example, it

(i) builds respect for the law,
(ii) increases respect for human rights,
(iii) promotes decent work,
(iv) improves dialogue between social partners, and
(v) improves prospects for exports as importing countries increasingly demand respect for ILS including CLS.

As such, it makes a major contribution to poverty reduction.

By applying improved standards in its own investment projects, ADB creates a demonstrative effect for the benefit of DMCs, showing the viability of better labor standards. It also raises the awareness of all workers and employers of the region to the necessity and the benefits of applying standards.

[11] D. Kucera. 2002. Core labour standards and foreign direct investment, in *International Labour Review*, Vol. 141, No. 1-2 (2002), pp. 31-70.

3. Human Rights and Labor Standards

It should also be kept in mind that many labor standards are internationally recognized human rights, contained in international conventions that are almost universally ratified, including by most DMCs. There is a growing international consensus that human rights are indivisible and have to be applied to everyone.

C. ADB's Actions to Promote Respect for ILS[12]

From an ADB perspective, it is useful to take labor standards into account in order to provide assistance to DMCs. The issue is how this can be done. There are various levels and ways to promote labor standards, as proposed in a series of recommendations drafted at the ADB/ILO Regional Workshop on Labor Standards in September 2002 (Box 1).

D. What are Core Labor Standards?[13]

CLS are a set of four internationally recognized basic rights and principles at work:

(i) freedom of association and the effective recognition of the right to collective bargaining,
(ii) elimination of all forms of forced or compulsory labor,
(iii) effective abolition of child labor, and
(iv) elimination of discrimination in respect of employment and occupation.

While there are many types of labor standards, the four listed above have achieved consensus internationally as the "core" labor standards. International support for these standards reflects an understanding that they are applicable to all countries. They do not establish a particular level of working conditions, wages, or health and safety standards to be applied internationally. They are not intended to alter the comparative advantage of any country. These basic rights have been repeatedly articulated in international human rights instruments and declarations, such as the Universal Declaration of Human Rights in 1948 and the Convention

[12] General recommendations adopted at the ADB/ILO Regional Workshop on Labor Standards, Manila, 18–19 September 2002.
[13] This component has been incorporated from World Bank. 2002. *Core Labor Standards Toolkit*. Washington, DC.

Box 1: Recommendations from the Asian Development Bank/ International Labour Organization Regional Workshop on Labor Standards, 2002

- **Strengthen Country Programming Strategies**. The inclusion of labor standards consideration in the Asian Development Bank (ADB) country programming strategies should be strengthened to improve its country-based poverty and social analysis and to highlight priorities that need to be addressed.
- **Strengthen Project Design.** The inclusion of labor standards consideration should be strengthened in the planning, design, and implementation of all ADB activities, as approved by ADB in its Social Protection Strategy. Respect for labor standards should be addressed as an issue in itself, and as a matter of ADB's corporate social responsibility.
- **Strengthen Project Implementation**. Violations of labor standards in the implementation of ADB-funded activities, or failure by contractors and subcontractors to observe the standards they are required to implement, should be prevented. ADB has limited capacity for oversight of the employment conditions of its projects. A proposed option is to request social audits from its contractors or reports from relevant labor stakeholders (e.g., labor unions).
- **Review Procurement Documents**. Procurement documents should be reviewed to ensure that they meet these requirements. There is a need to incorporate general clauses on labor standards in bidding documents.
- **Develop Proactive Policies and Interventions.** Enforcing labor standards and good working conditions cannot happen overnight. For instance, if working children were suddenly removed from their income-generating activities, their families would sink further into poverty. The solution lies in a progressive agenda to eliminate child labor, in which the first step is to fight its worst forms (children working in prostitution, hazardous jobs, etc.) urgently, while other working children are temporarily allowed to help their families providing that they can combine work with an education.

Box 1(continued)

- **Ensure Cost-Effectiveness.** The measures necessary to take full account of labor standards may involve additional costs of implementation. Care has to be taken (i) not to construct implementation measures at such a high level that it is uneconomical to carry out economic activities and projects, (ii) to build the costs of implementation of labor standards into the costing of economic activities and projects at all levels, and (iii) to ensure that respect for labor standards is never used as a nontariff barrier or protectionist measure.
- **Develop Capacity and Training.** The measures needed to respect labor standards require training and familiarization of responsible staff, contractors, and subcontractors, and probably the acquisition of new skills. A training program should be put into place, once good practice on labor standards has been established.
- **Raise Public Awareness.** Public information campaigns ensure sensitization of public opinion on the long-term benefits of respecting labor standards, and how the cycle of poverty is reproduced by violating labor standards.
- **Involve Different Stakeholders and Institutions.** Ensuring compliance with labor standards requires positive involvement of nongovernment organizations, such as employers' associations, labor unions, and community and civil society groups. Proper involvement of these institutions is particularly required for conflict resolution. It is estimated that more than 350 million new jobs are needed in the next decade to absorb all the new entrants into the labor market in Asia and the Pacific. Involving the private sector in good, corporate socially responsible practices is essential to promote employment under decent working conditions.

on the Rights of the Child, 1989. Their most prominent recent expression is in the Declaration of the 1995 Copenhagen Summit on Social Development.

The ILO further substantiated the CLS in 1998 by the Declaration on the Fundamental Principles and Rights at Work,[14] which calls upon its member countries to comply with the four principles, regardless of whether they have ratified the relevant conventions. It also identified a role for international organizations, such as the World Bank and ADB, in promoting respect for CLS.

While each of the CLS corresponds to one or more ILO conventions, a country may be in compliance with a core standard even if the conventions have not been ratified. Conversely, the fact that a country has ratified a convention does not automatically prove its compliance with that standard. In all cases, domestic legislation and practice must be considered.

It should be recalled that an obligation to respect the CLS is an inherent part of membership in the ILO. The CLS form more specific international obligations when the conventions containing them are ratified.

There are additional standards that develop aspects of these CLS, such as those on workers with family responsibilities, protection of migrant workers, working hours for young workers, and industrial relations. Other labor standards cover such subjects as

(i) occupational health and safety (OHS);
(ii) employment promotion, including mechanisms (employment exchanges, etc.);
(iii) minimum wages and payment of wages;
(iv) social security;
(v) labor administration (including labor inspection); and
(vi) specific economic sectors or occupations (seafarers, dockworkers, nursing personnel, home workers, plantation workers, etc.).

[14] http://www.ilo.org/public/english/standards/relm/ilc/ilc86/com-dtxt.htm

E. Locating Information on CLS

There are many sources of information on the status of CLS in ADB's DMCs. The most important partner on issues related to labor standards is the ILO,[15] and country teams preparing country strategies and programs (CSPs) are strongly encouraged to contact staff from ILO country offices (Appendix 1). Local trade unions and employer organizations are also important sources of information. Of course, another potentially key source of information on how labor standards are treated in a country is ADB staff members' own observations and information gleaned from their networks on the ground. ILO supervision of the application of conventions is explained in Appendix 2.

F. CLS in ADB Operations

Since the approval of ADB's Social Protection Strategy in September 2001, CLS have been an integral part of ADB's development mission. The strategy and its action plan commit ADB to comply with these core labor standards and guide ADB operations to good labor and social protection practices. The following excerpt from the Strategy highlights ADB's commitment:

- "Vulnerable groups that may be 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);[16] mitigation measures should always aim to adequately balance social objectives and economic sustainability; and

[15] Information of the ILO Conventions and Recommendations, as well as, the ratification of CLS by each DMC, is available from http://www.ilo.org/public/English/standards/norm/index.htm. From this web-page, click "Ratifications of the fundamental conventions."

[16] Other typical examples are loans dealing with shifts toward market-determined pricing of energy, water, telecommunications, and housing. Ideally such development interventions should take place after appropriate regulatory institutions have been created and safety nets established. Often, however, interim measures may have to be adopted to ease the effects on households (e.g., tiered pricing of utilities or exemptions from user charges).

- (i) in the design and formulation of its loans, ADB will comply with the internationally recognized CLS;
  (ii) 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, and social security contributions, etc.) as well as with the CLS;
- As part of its regular loan reviews, ADB will monitor that (i) and (ii) are complied with."

The 1998 ILO *Declaration on Fundamental Principles and Rights at Work* specifically asks international organizations, such as development banks, to promote an atmosphere conducive to the achievement of CLS. Accordingly, although compliance with CLS may not be a condition for lending or technical assistance in client countries, ADB staff are encouraged to analyze the situation relating to CLS in formulating CSPs and individual loan projects. The question is how can ADB staff, project teams, etc., ensure that CLS are included in ADB operations? How can they find out if CLS are being respected? At what stage/s of the operational cycle can CLS be incorporated to ensure that ADB's overarching goal, strategic objectives, and operational priorities are met? A parallel question concerns the relationship of CLS and other labor standards. Since ADB needs to comply with CLS "in the design and formulation its loans", the same does not apply literally to the rest of the labor standards. However, it is important to notice that several labor standards have either been ratified by a particular DMC or integrated into its labor legislation. Therefore, it is necessary to consult the existing labor legislation, since ADB needs to ensure that ADB-financed procurement of goods and services, contractors, subcontractors and consultants will comply with the country's labor legislation.[17]

ADB recognizes the specific priorities in the ILO *Declaration on Fundamental Principles and Rights at Work,* ranging from freedom of association to the elimination of discrimination in employment and occupation. The CLS in the following chapters have been presented in a different order from the ILO Declaration, reflecting the frequency in which they are taken up in ADB operations, namely:

[17] ADB. 2001. *Social Protection Strategy*. Manila.

(i) effective abolition of child labor,
(ii) elimination of discrimination in respect of employment and occupation,
(iii) elimination of all forms of forced or compulsory labor, and
(iv) freedom of association and the effective recognition of the right to collective bargaining.

Part 2
Core Labor Standards

Effective Abolition of Child Labor

A. Nature of the Problem

Children enjoy the same human rights accorded to all people. But, lacking the knowledge, experience or physical development of adults and the power to defend their own interests in an adult world, children also have distinct rights to protection by virtue of their age. One of these is protection from economic exploitation and from work that is dangerous to the health and morals of children or which hampers their development.

Millions of children worldwide are engaged in labor that is hindering their education, development, and future livelihoods; many of them are involved in the worst forms of child labor, those that cause irreversible physical or psychological damage, or that even threaten their lives. This situation is an intolerable violation of the rights of children; it perpetuates poverty and compromises economic growth and equitable development. The effective abolition of child labor is an essential element of achieving the ILO goal of decent work for all women and men. It is also an essential element of ADB's quest for poverty reduction as described in the ADB *Annual Report 2000*, subtitled Develop a Child, Develop a Nation.

ILO has collected information worldwide about children working in different occupations. The following summary highlights the overall situation:

- In 2000, some 352 million children aged 5–17 years were involved in economic activity in the world;[18]
- 246 million children were engaged in what the ILO defines as child labor;
- 171 million of 246 million were estimated to be in hazardous situations or conditions that qualify as worst forms of child labor;[19]

[18] ILO. 2002. *Every Child Counts—New Global Estimates on Child Labour*. Geneva.

[19] The estimates relate to numbers of child laborers globally in 2000 and are taken from ILO. 2002. *A Future Without Child Labour*. ILO Global Report. Geneva. The worst forms of child labor are those defined in Convention 182 and are described in its Article 3.

- 8.4 million of 246 million were involved in the unconditional worst forms of child labor;[20]
- Some 127 million children aged 5–14 years are economically active in the Asia and Pacific region, or 60% of the world's 211 million economically active children in that age group.

Although urban street children and children in factory work and export manufacturing have received considerable attention, far larger numbers are employed in agriculture and domestic service. Child labor is much higher in rural than in urban areas, and three quarters of working children are engaged in family enterprises.

B. ILO Conventions on Child Labor

There are two basic conventions on child labor adopted by the ILO, and one adopted by the United Nations. The ILO *Minimum Age Convention*, 1973 (No. 138) and its accompanying Recommendation (No. 146) set the goal of elimination of child labor, and the basic minimum age for employment or work (in developing countries at 14 years of age or the end of compulsory schooling, whichever is higher; and 15 or the end of compulsory schooling for developed countries). The Convention sets a minimum age of 2 years younger for "light work," i.e., 12 and 13 years, respectively; and a higher minimum age for dangerous or hazardous work (basically 18 years of age, but 16 in certain circumstances). The Convention also has various other flexibility clauses.

The main issues in the *Minimum Age Convention* No. 138 are:

- **National Policy**. Each State that ratifies Convention No. 138 undertakes to pursue a national policy to ensure the effective abolition of child labor.
- **Declaration of minimum age** for admission to employment or work.
- **Individual exceptions**. After consultation with organizations of employers and workers, the competent authority may allow exceptions in individual cases in a very few areas, but not to the basic rules.

[20] Internationally defined as slavery, trafficking, debt bondage, and other forms of forced labor, forced recruitment of children for use in armed conflict, prostitution and pornography, and illicit activities.

- **Hazardous work**. The employment of young persons from the age of 16 years may be authorized, after consultation with organizations of employers and workers, on condition that their health, safety, and morals are fully protected; and they have received adequate specific instruction or vocational training in the relevant branch of activity.
- **Light work** is work which is not likely to be harmful to the health or development of the young persons concerned and is not such as to prejudice their attendance at school or their participation in vocational orientation or training programs.

In June 1999, the ILO adopted the *Worst Forms of Child Labor Convention* (No.182) and Recommendation No.190, which target the worst forms of child labor as a matter of urgency. Convention No.182 applies to all branches of economic activity and requires immediate action, regardless of the level of economic development of the ratifying country. It is a clear statement of the need to take immediate action to eliminate the intolerable conditions many children face and to help them recover and lead healthy lives. The "worst forms of child labor" are

(i) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage, and serfdom and forced or compulsory labor—including forced or compulsory recruitment of children for use in armed conflict;
(ii) use, procurement, or offering of a child for prostitution, production of pornography, or pornographic performances;
(iii) use, procurement, or offering of a child for illicit activities, in particular for the production and trafficking of drugs; and
(iv) work that, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety, or morals of children.

In addition, the Convention on the Rights of the Child, adopted by the United Nations in 1989, has been ratified by almost every country in the world, and applies also to child labor.

Two basic conventions on child labor are well ratified—C138 by 142 countries and C182 by 158 as of 24 January 2006—and both increasing fast.

C. Why ADB Needs to Take Action on Child Labor

Abolition of child labor is not just another aspect of basic human rights; it is increasingly recognized as being crucial to reducing poverty in the region. Child labor is not only a consequence but also a cause of poverty. Despite short-term benefits to families, child labor deprives the young of their childhood, causes stunted growth, removes children from education and skills formation, and deprives them of the possibility of studying and becoming more productive adults. While it may be difficult to accomplish quickly in many countries, the abolition of child labor is nevertheless a basic goal of development activities (see, e.g., Box 2).

The principle of the effective abolition of child labor means ensuring that every girl and boy has the opportunity to develop physically and mentally to her or his full potential. Its aim is to stop all work by children that jeopardizes their education and development. This does not mean stopping all work performed by children. International CLS allow the distinction to be made between what constitutes acceptable and unacceptable forms of work for children at different ages and stages of development.

The principle covers both formal employment and the informal economy where, indeed, the bulk of the unacceptable forms of child labor are to be found. It covers family-based enterprises, agricultural undertakings, domestic service, and unpaid work carried out under various customary arrangements whereby children work in return for their keep.

The ADB *Annual Report 2000*, subtitled Develop a Child, Develop a Nation, stated that if ADB's vision of a region free of poverty is to be realized, then today's children need to be healthy, well nourished, and educated. Further, addressing the needs of the youngest and the most vulnerable members of society is the first and most vital step to economic and social development. Investing in children strengthens the quality and productivity of the future labor force; in other words, it is an investment in the next generation. Child labor prevents this investment in the future by keeping the children of the poor out of school and limits their prospects for training, upward social mobility, and, ultimately, access to decent work as adults.[21]

[21] ILO. 2001. *Decent Work in Asia*. *Report of the Director General*. 13th Asian Regional Meeting, August 2001. Bangkok.

Box 2: Street Children

Street children often lack control over their situation and the power to change it. On the street, they are vulnerable to considerable dangers and problems. They are more likely than other children to contract HIV/AIDS; more likely to engage in criminal behavior and substance use; more likely to be forced into child prostitution or be victimized by human traffickers; more likely to be without hope and engage in destructive and desperate behavior. They are also likely to be engaged in hazardous work.

Although the list is harrowing, street children face an even graver, long-term threat to their rights and their future: the likelihood of never having the opportunity to fulfill their potential.

Following the United Nations' rights-based approach to development, the Asian Development Bank (ADB) is committed to helping improve the lives of citizens of its developing member countries (DMCs). ADB believes that everyone should have access to basic education and primary health services, and that people over the age of 15 years have the right to work to support themselves and to receive fair reward for their labor. It also believes people have the right to a degree of protection to external shocks. For many street children, this access and these rights are too often distant dreams.

Under the Social Protection Strategy (2001) and in consultation with its DMCs, ADB is exploring ways to help street children.[a] Projects or project components designed to help street children can fit with ADB grants and loans in a number of areas, such as urban infrastructure, early childhood development, education, rural infrastructure, social protection for vulnerable groups, governance, and partnerships with nongovernment organizations.

[a] ADB. 2003. *Working with Street Children. Exploring Ways for ADB Assistance*. Manila.

With children and youth comprising 40% of DMC populations, child protection is vital to the development of the region. It is also an essential element of ADB's development mission.

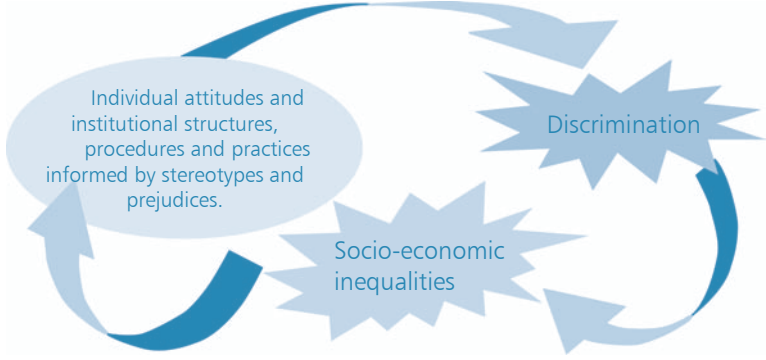
This is also a basic aim of the ILO, whose International Program for the Elimination of Child Labor (IPEC) is active in many countries in Asia and the Pacific. This is ILO's largest and most widespread technical assistance program, and there are significant advantages to ensuring ILO and ADB cooperate wherever possible on this issue.

Elimination of Discrimination in Employment and Occupation

A. Nature of the Problem

Discrimination in one form or another occurs in the world of work everyday, throughout the world. Discrimination at work can be direct or indirect. Discrimination is direct when regulations, laws, and policies explicitly exclude or disadvantage workers on the basis of characteristics such as political opinion, marital status or sex. Prejudices and stereotypes are normally at the heart of direct discrimination (see Figure 1).

Figure 1. The Vicious Cycle of Discrimination and Inequality[a]



[a] ILO. 2003. *Time For Equality At Work*. Report of the Director-General. International Labour Conference, 91st Session 2003, Report I (B). Geneva.

At the same time, work is a privileged entry point from which to liberate society from discrimination. Literally millions of people in the world are denied jobs, confined to certain occupations or offered lower pay simply because of their sex, their religion, or the color of their skin, irrespective of their capabilities or the requirements of the job. At its worst, the discrimination that certain

groups, such as women, ethnic or racial minorities, and migrants, face in the labor market makes them vulnerable to such abuses as forced or compulsory labor. Barriers to decent jobs often lead parents belonging to an ethnic group or a denigrated caste to resort to the labor of their children to make ends meet.

A more equal distribution of job opportunities, productive resources and assets, including education, between men and women of different races, religions, or ethnic origins, contributes to higher growth and political stability. The elimination of discrimination at work is an indispensable component of any strategy for poverty reduction and sustainable development. It lies at the heart of the ILO mandate and the concept of decent work, and it also concerns one of ADB's strategic development objectives, namely gender and development.[22]

Discrimination at work may manifest itself in access to a job, while performing a job, or through dismissal from a job. Individuals who face discrimination in access to a job tend to continue experiencing discrimination while in the job, in a vicious cycle of cumulative disadvantage. It applies to self-employment and entrepreneurship as well as to employment.

Discrimination at work does not result just from isolated acts of an employer or a worker or from a single policy measure. Rather, labor market processes, practices and institutions either generate and reinforce, or break the cycle of discrimination. Institutions and practices are not set in stone and can be changed to promote equality.

In the 1980s and 1990s, the range of occupations in which women were employed broadened in a majority of countries, especially in some OECD countries (Organisation for Economic Co-operation and Development) and in several small developing countries where occupational segregation was high. The opposite trend was observed in some transition economies. It appears, however, that as horizontal segregation declines, vertical segregation often tends to rise.

With regard to remuneration, the gender gap is still large, although it has been decreasing in most places. Women's lower educational attainments and intermittent career paths are not, contrary to conventional belief, the main reason for gender differentials in pay. Other factors, such as occupational segregation, biased pay structures and job classification systems, and decentralized or weak collective bargaining, appear to be more important determinants of inequalities in pay.

[22] ADB. 1998. *Policy on Gender and Development*. Doc. R74-98. Manila.

A common trend in the region is a shift from laws that prohibit discrimination to laws that provide for a positive duty to prevent discrimination and promote equality. These seem to be more effective in tackling the subtlest forms of discrimination, such as occupational segregation. From ADB's perspective, public policy, beyond legislation, is also helpful in addressing discrimination at work; for example, public procurement policies can be a powerful device to combat discrimination at work against members of minority groups or persons with disabilities.

B. What is Discrimination in Employment and Occupation?

Discrimination in employment and occupation takes many forms and occurs in all kinds of work settings. But all discrimination shares a common feature—treating people differently because of certain characteristics, such as race, color, sex, age, social origin or religion, which results in the impairment of equality of opportunity and treatment. In other words, discrimination results in and reinforces inequalities.

1. Elimination of Discrimination is Central to Social Justice

As indicated earlier, the elimination of discrimination at work is central to social justice, which lies at the heart of ILO's and ADB's mandates. The elimination of discrimination is an indispensable part of any viable strategy for poverty reduction and sustainable economic development.

2. Proactive Approaches

In recent decades, countries have adopted laws against discrimination and have undertaken proactive approaches to eliminate unequal treatment at work. Enterprises and employers worldwide have modified recruitment and hiring procedures and practices, wage-setting systems, and management policies to ensure fairness at work. Trade unions have made equality their goal in collective bargaining and in other actions, as well as in their internal representative structures. Today, we are aware of the multiple links between discrimination and poverty, social exclusion, and forced and child labor.

3. A Specific Example: Gender Discrimination and Inequality in Employment and Income-generating Activities

Inequalities in access to education and training, inequalities in access to productive resources, reproductive responsibilities, and the stereotyping of gender roles all constrain women's opportunities for entry or re-entry into the labor force. Women remain disadvantaged and discriminated against in economic structures and policies, in labor market structures, in all forms of productive activity, and in access to economic resources—including land, capital, credit, and technology. Even when they are part of the labor force, women continue to face various forms of discrimination and disadvantage that violate their labor rights set out in CLS (Box 3). Women's contributions, especially in terms of unremunerated work and other types of nonmarket activity, remain unmeasured, unrecognized, or undervalued.

In spite of becoming fully committed members of the workforce, women, unlike men, have to balance child-care responsibilities with employment demands. Relative to men, women still face

(i) unequal hiring standards;
(ii) limited hiring opportunities;
(iii) unequal (limited) opportunities and choices for training, retraining, and skill development;
(iv) unequal (lower) pay for equal work or work of equal value;
(v) unequal (limited) access to productive resources;
(vi) segregation and concentration in a relatively small number of female sectors and occupations, including in informal economy and homework;
(vii) less participation in decision making;
(viii) exposure to sexual harassment;
(ix) poor and unprotected working conditions;
(x) fewer promotional prospects;
(xi) greater employment insecurity and less social protection;
(xii) more vulnerability to retrenchment;
(xiii) greater likelihood of being unemployed or poor; and
(xiv) greater family and household responsibilities.

Box 3: Women's Participation in Road Construction and Tree Planting in Bangladesh

The Third Rural Infrastructure Development Project (TRIDP: 1998–2005) in Bangladesh is funded by the Asian Development Bank (ADB).[a] The objective of TRIDP is to accelerate economic growth through infrastructure development by creating access to economic activities in rural areas.

Infrastructure is considered a man's domain. However, due to poverty in rural Bangladesh, women are gradually participating in construction activities. As in most parts of the world, construction activities in Bangladesh are implemented by private contractors who typically discriminate against women laborers. Women are often allocated the least skilled tasks and are paid lower daily wages than men for similar tasks. Thus, TRIDP conducted orientation sessions and required 604 contractors to provide training to female laborers so they can undertake more skilled tasks and enjoy equal pay for equal work. The contractors were also required to ensure safety and provide basic services like water and sanitation facilities to female laborers.

Reaching wage parity for women in construction work has only been possible under project requirements and close monitoring. In some cases, women have been able to receive equal wages and have gained greater access to higher skilled work.

[a] ADB. 1997. *Third Rural Infrastructure Development Project (TRIDP)*. Manila (Loan No. 1581). TRIDP is also supported by the International Fund for Agricultural Development (IFAD), Swedish International Development Cooperation Agency (Sida), Japan Bank for International Cooperation (JBIC), and Government of Bangladesh.

4. Regional Perspective[23]

a. Participation of Women and Men in the Labor Force

A primary indicator of gender gaps in terms of labor market activity is usually the labor force participation rate (LFPR) of women and men. A recent ILO report[24] on gender equality in the world of work in the Asia and Pacific region indicates that women's LFPRs do vary considerably in the region but do not necessarily depend on high levels of economic growth. In Bangladesh, Nepal, and Sri Lanka, where women's LFPRs in 2000 were 67.4%, 58.3%, and 46.1%,[25] respectively, great improvements in women's LFPRs have occurred in spite of relatively low levels of economic growth. Of course, in making comparisons among countries, account must be taken of possible differences in definitions, of labor force participation, unemployment, etc.[26] Also, traditions in a society play a large role in determining whether or not women consider themselves as integral to the labor force. However, given these anomalies, it is still worth noting that LFPRs for women are generally significantly lower than those for men, ranging from 77.3% for women and 86.9% for men in East Asia, 64% for women and 85% for men in Southeast Asia, to 46.5% for women and 85.7% for men in South and Central Asia, and 41.6% for women and 81.2% for men in West Asia. In the Pacific region, women's LFPRs range from 38% in the Fiji Islands to 67% in Australia and 81.9% in the Solomon Islands.

In the high-growth countries, women are underrepresented in both agriculture (except in Indonesia, Japan, Republic of Korea, and Thailand) and industry, but overrepresented in services. In low-growth countries and countries in transition, women are overrepresented in agriculture but underrepresented in industry and services. However, high-growth countries seem to enjoy lower gender differentials in LFPRs. Gender differentials are, however, higher in low-growth countries and have decreased less.

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23 Information taken from Banerjee, Nirmala. 2002. *Equality in Economic Activities and Employment.* ADB/ILO RETA project 5887.

24 ILO. 1999. *Toward Gender Equality in the World of Work in Asia and the Pacific.* Geneva. Technical report for discussion at the Asian regional consultation on the Follow-up to the fourth World Conference on Women, Manila, 6–8 October 1999.

25 ILO. 2000. *World Labour Report 2000. Income Security and Social Protection in a Changing World*. International Labour Office. Geneva.

26 For example, in Bangladesh, the labor force includes all those who may have worked even for 1 hour per day. This is not true of the estimates for all countries.

b. Characteristics of the Female Labor Force

i. Overrepresentation in Unremunerated Work

The ILO report on gender equality in the Asia and Pacific region and country level research clearly indicate that a large proportion of women's work, be it in the formal or informal economy, is unremunerated, because it is generally unaccounted for in the economy.

ii. Unemployment and Underemployment

In the region, unemployment rates for women tend to be higher than for men. For example, in Bangladesh, research indicates that in the ready-made garment industry, once the special concession given to the industry was taken away, the main burden of job loss would have to be borne by the women workers. Apart from the constraints that women face in terms of access to formal economy employment and remunerative work, they also face disadvantages and discrimination in the labor market, which makes them more vulnerable to crises than men, as in the Asian financial and economic crisis. In some of the worst hit industries of Thailand, the share of women in the total of jobs lost during the crisis was 70–90%.

Another important characteristic of women's employment is high levels of underemployment in terms of the hours worked. In some countries, underemployment is a more serious problem for women than for men and underemployment of women seems to have increased for a number of countries during the 1990s. In Bangladesh, while there was little difference in male and female unemployment rates, the underemployment situation was quite different: male underemployment rates were still less than 10% when converted into unemployment equivalence, but for women the corresponding figure was over 40%.

iii. Differences in Wage Rates and Earnings: Wage Differentials

While women's overall participation in the labor force has been increasing, the continuing gender wage gap remains a major barrier to equality of men and women in the workplace. A comprehensive overview on the gender wage gap in the region is difficult because wage data by gender are very scarce across countries. While it can be safely stated that in the Asia and Pacific region, women, overall, earn less than men, United Nations Development Fund for Women

(UNIFEM) data of 1997 on six Asian countries show that female wages as a percentage of male wages are generally higher in the industry and services sectors (e.g., Republic of Korea, 62%; Singapore, 76%; Sri Lanka, 90%; and Thailand, 72%) than in the manufacturing sector (Republic of Korea, 56%; Singapore, 60%; Sri Lanka, 85%; and Thailand, 68%).[27]

Country-level research conducted in 2002 in Bangladesh, Nepal, Philippines, and Thailand gives some further indications about the wage differentials in the region.[28] In Bangladesh, data for 1995/96 indicate that women's average rates of pay in both the agricultural and the nonagriculture sectors were around 60% or less compared to men's pay. In the rural/agriculture sector of Bangladesh, the ratio of male to female wage rates went up from 1.36 in 1984/85 to 1.76 in 1995/96. When men and women did the same kind of jobs, there was still a difference in pay favoring men, but of a much smaller degree. In urban nonagricultural occupations, the same ratio over that period fell from 2.38 to 1.67. In the public sector, wage-based discrimination was mostly closely related to women's relative access to high-level jobs. In the private organized sector and particularly in the female-dominated garment industry, data showed that at low levels of education of both men and women, there was a difference in male/female wages favoring men. However, at higher levels of education, the wages for women were higher than those of men.

In Thailand, the average wages of women in the private sector were about 80–88% of male wages. In the public sector, the difference in average wages was small and had gone down during the previous 4 years.[29] This, however, did not mean that women had an equal share of jobs at all rungs of the job ladder in the civil service.

In the Philippines, while discrimination on grounds of sex is actively forbidden in public sector jobs, there is still a shortfall in women's relative earnings. Despite the fact that women's educational attainments are relatively higher than men's, only younger urban women (those below 25 years of age) enjoy some advantage over men in earnings from clerical occupations. In older age groups when, presumably, all workers have earned some promotions, the difference in male

27 UNIFEM. 2000. *Progress of the World's Women 2000.* UNIFEM Biennial Report. New York.

28 Rahman, Rushidan Islam. 2002. *Gender Equality in Economic Activities and Employment in Bangladesh.* Country report for ILO/ADB RETA project 5887.

29 Pawada Tonguthai. 2002. *Gender Equality and Decent Work in Thailand.* Country report for ILO/ADB RETA project 5887.

advantage in earnings is bigger, indicating that women do not go as far as men up the promotional ladder. Even in professional occupations where many of the workers would presumably be self-employed, the female mean earnings are 70% or below compared to male earnings. Another, rather surprising, factor is that married women fare worse than unmarried women. The indication in the report that, overall, over the 1990s, differentials in male and female earnings had been shrinking in the Philippines, could be partly due to a new law that has raised wages of public sector workers at lower ranges.

In Nepal, there was a marked shortfall in women's wages compared to men's wages in agriculture; but in construction, the difference between the two was small. Interestingly, male wages were significantly higher in the more developed areas, indicating that where other employment opportunities are available, they push up the opportunity cost of male labor much more than women's. In the organized sector of Nepal, minimum wages fixed for women are higher than for men in several industries, including agriculture, while for mining and quarrying they are usually on par with those of men. But maximum wage rates in almost all industry groups were significantly lower for women.[30]

iv. Concentration in the Informal Economy

While both men and women are employed in informal economy and home-based jobs throughout the region, women take up the larger share. For example, in both Bangladesh and Nepal, about 90% of women workers against about 70–80% of male workers are involved in informal economy and home-based jobs. In Bangladesh, there is also a significant difference in the distribution of male and female workers between formal and informal jobs. In the public sector, the ratio of female to male workers is 8.4, 24.2 in the private formal sector, but 69.4 in the informal sector. However, even in high-growth countries, women are still overrepresented in the informal sector according to the ILO *World Labour Report 2000*.[31] Estimates of the informal economy in a few countries in the region show that the gender gap—which demonstrated the relative over- or underrepresentation of women in a particular economic activity—is highest in Bangladesh (by 60%) and lowest in Thailand (by 7%).

[30] Shrestha, Ava Darshan. 2002. *Gender Equality in Economic Activities and Employment in Nepal.* Country report for ILO/ADB RETA project 5887.

[31] ILO. 2000. *World Labour Report 2000*. *Income Security and Social Protection in a Changing World*. International Labour Office. Geneva.

5. Other Forms of Discrimination in the Labor Force

It is gender discrimination that has attracted the most recent attention and consequently more data are available on it. But other bases for discrimination are also widespread throughout the region, and must be kept in mind in ADB's work.

Other prohibited grounds of discrimination appear in various international instruments and in national legislation. These include race, color, religion, political opinion, national extraction and social origin (i.e., caste), all of which are covered by ILO Convention No. 111. Other international conventions add coverage of such characteristics as language, birth, or other status (e.g., whether a person was born in wedlock), age, health or HIV/AIDS status, and others.

Many of the negative effects of gender-based discrimination mentioned above apply also to these other forms of discrimination, although there are differences. While other forms of discrimination are unlikely to involve the double work-and-family burden known by women almost everywhere, ethnic and religious discrimination can deprive entire regions from access to education and training. It can determine the kinds of investments governments make in these regions and can, of course, lead to civil unrest and internal conflict. In some countries, governments decide not to keep statistics on race or ethnicity, which can further complicate the process of identifying and combating these forms of discrimination.

C. ILO Conventions on Discrimination in Employment and Occupation

The first binding international instrument to be adopted with the specific objective of promoting gender equality and eliminating discrimination was the ILO *Equal Remuneration Convention*, 1951 (No. 100), along with its accompanying Recommendation (No. 90). Upon their adoption, it was recognized that equal pay could not be achieved without the elimination of discrimination in all areas of employment and that other grounds of discrimination also should be the subjects of prohibition.

The main issues in the *Equal Remuneration Convention* No. 100 from 1951 are:

- **Remuneration:** the ordinary, basic or minimum wage or salary and any additional emoluments whatsoever payable directly or indirectly,

whether in cash or in kind, by the employer to the worker and arising out of the workers' employment.

- For the purpose of the Convention, the term "**equal remuneration** for men and women workers for work of equal value" refers to rates of remuneration established without discrimination based, directly or indirectly, on sex.
- Where **differential rates** between workers correspond, without regard to sex, to differences in the work to be performed, as determined by an objective appraisal, these must not be considered as being contrary to the principle of equal remuneration.

These instruments were shortly followed, in 1958, by the adoption by the ILO of the *Discrimination (Employment and Occupation) Convention* (No. 111), and Recommendation No. 111, which address all forms of discrimination concerning employment and occupation.

The main issues in Convention No. 111 are:

- **Discrimination:** any distinction, exclusion or preference made on the basis of race, color, sex, religion, political opinion, national extraction or social origin (or such other ground as may be specified by the State concerned), which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.
- Each State that ratifies the Convention undertakes to declare and pursue a national policy designed to promote equality of opportunity and treatment with a view to eliminating any discrimination in respect of (i) access to vocational training, (ii) access to employment and to particular occupations, and (iii) terms and conditions of employment.
- In particular, it has to
  - seek the cooperation of employers' and workers' organizations and other appropriate bodies in promoting the acceptance and observance of its policy;
  - repeal any statutory or administrative provisions inconsistent with the policy;
  - enact legislation and promote educational programs to secure its acceptance;

- ensure observance of the policy in employment, vocational guidance, vocational training and placement services under the direction of a national authority; and
- indicate in its annual reports on the application of the Convention the action taken in pursuance of this policy.

D. Why ADB Needs to Take Action on Discrimination in Employment and Occupation

Gender, ethnic, religious, or other biases prevent a large section of the workforce from operating optimally. At one time, labor-surplus countries were encouraged to specialize in labor-intensive industries employing large numbers of low-skilled workers, mainly women. However, for a sustained and steady growth over long periods, a country has to build its human capital and move to industries and services using more sophisticated skills.

In developing countries, a large part of the domestic resources (workers, land, and capital) is used in activities of the self-employed or family enterprises, and these activities together produce a significant section of the domestic product. Increasing the productivity of these activities and the women workers engaged in them is essential for the country to reach a higher rate of economic growth.

For poor households, the only available productive resource is the labor of its members. Unless they can find work that is sufficiently remunerative, the household remains mired in poverty. One consequence of this is to compel children of the households to join the workforce. As discussed in the section on child labor, this means that children are unjustly denied their childhood and their chances of a better future. Also, there are many households where women are the main earners. Yet, often, policymakers and employers ignore this, viewing women as supplementary earners, primarily engaged in household activities.

Economic growth alone will not eradicate discrimination, nor will it necessarily provide equality of opportunity and treatment. Moreover, gender neutral action or intervention will not automatically promote equality and may even perpetuate discrimination. Similarly, action that does not take into account the previous injustice and exclusion of members of ethnic, religious or caste-based groups will often leave them mired in poverty and in a permanent state of exclusion.

Elimination of All Forms of Forced or Compulsory Labor[32]

A. Nature of the Problem

Forced labor is universally condemned. Yet the elimination of its numerous forms—old and new, ranging from slavery and debt bondage to human trafficking—remains one of the most complex challenges facing local communities, national governments, employers' and workers' organizations, and the international community. It is revealing ugly new faces alongside the old. Traditional types of forced labor, such as chattel slavery and bonded labor, still exist. In economic contexts, disturbing new forms, such as forced labor in connection with the trafficking of human beings, are now emerging. From the perspectives of ILO and ADB, forced labor contravenes their overarching objectives. The abusive control of one human being over another is the antithesis of decent work and impedes poverty reduction. Clearly, there is a need to identify any broad patterns of forced labor in the region as well as country-specific data on it. Such information is needed to assist ADB decision makers in their deliberations on how best to tackle the problem, assess priorities, and design and target interventions against forced labor.

Vital questions include

(i) How many people are affected by forced labor today?
(ii) Where are they?
(iii) Who are the main victims?
(iv) How exactly does forced labor operate differently for men, women, boys, girls, youth, migrant workers, and various racial groups?
(v) What are the profiles of those benefiting directly from placing others in human bondage?

[32] Much of the following information in this section is taken from ILO. 2001. *Stopping Forced Labour.* ILO Global Report. Geneva.

The first minimum global estimates of the numbers of people in forced labor were given in the ILO second Global Report on forced labor.[33] About 12.3 million people globally are victims of forced labor, more than 2.4 million of them have been trafficked, 9.8 million are exploited by private agents, and 2.5 million are forced to work by the state or by rebel military groups. The majority of forced labor in the world is in Asia and the Pacific (9.5 million).

It is not always possible to give an accurate estimate of the numbers affected on a national/local scale; or to take into account in detail the diverse experiences of different categories as a basis for targeted action. The reason for this is that forced labor is inevitably in the illicit, underground economy, thus tending to escape national statistics. Further, those statistics that are available are not sufficiently robust to get a true picture of forced labor.

Even without a full statistical picture or in-depth socioeconomic analysis, there is enough evidence to detect a serious problem. Precise statistics are not necessary to enable ADB efforts to combat it in project activities.

There are many different types of forced labor, but they all share two common features: the exercise of coercion and the denial of freedom. The coercive practices of forced labor first came to be associated with colonial regimes of the early twentieth century and remnants of serfdom. Then came the concentration camps, labor camps, and other forms of compulsory labor. With the contemporary consolidation of democratic regimes, together with more open economies and renewed commitments to fight poverty and transnational crime, there is renewed hope that forced labor can be relegated to the past.

Some aspects of forced and compulsory labor remain tenacious. Some involve slavery-like systems such as debt bondage, a form of forced labor most often found in Asia. Traditionally this has been found in rural areas, above all in agricultural systems where landowners have been the only source of financial credit. Yet, there is also evidence that new forms of bondage are emerging both within and outside agriculture, affecting migrant workers and workers in new frontier development areas as well as in urban domestic households, and sometimes involving bondage over a relatively short period rather than a lifetime.

[33] ILO. 2005. *A Global Alliance against Forced Labor*. ILO Global Report. Geneva.

B. What is Forced or Compulsory Labor?

Paradoxically, there is still some uncertainty among countries as to whether certain practices do or do not constitute forced labor. It is important, therefore, to understand some of the basic elements of forced labor (Box 4). Such information helps to assess the scope of the problem of forced labor and assist in decision making. It will also help in discussions with all stakeholders and may focus attention on any covenants or conditions attached to a loan.

The diverse forms of forced labor today include

- slavery and abduction,
- compulsory participation in public works projects,
- forced labor in agriculture and remote rural areas (coercive recruitment systems),
- domestic workers in forced labor situations,
- bonded labor,
- forced labor imposed by the military,
- forced labor in the trafficking of persons, and
- some aspects of prison labor and "rehabilitation through work".

Certain groups, such as women, ethnic or racial minorities, migrants, children, and above all the poor, are particularly vulnerable to these contemporary forms of forced labor. Situations of armed conflict can also compound the problem.

1. Slavery and Abductions

The physical abduction of persons for forced labor purposes is certainly not as common in the modern world as it was before slavery became outlawed. However, a few contemporary cases have been detected. Abductions may take place in the context of tribal conflicts, traditional national rivalries, or in out-and-out armed conflict.

2. Compulsory Participation in Public Works

In a number of societies, able-bodied individuals have been required to participate in certain aspects of community or even national development. In any discussion of forced labor and development, the role of traditional authority systems is

Box 4: ILO Conventions[a] on Forced or Compulsory Labor—Definitions

Forced labor is a legal term as well as an economic phenomenon. Clearly it is not possible to "respect, promote, and realize" the principle of the elimination of all forms of forced or compulsory labor without knowing what the phrase means. The full definition contains exclusions—but the basic idea was set out in the first International Labour Organization (ILO) convention on the subject, the *Forced Labour Convention,* 1930 (No. 29) (Article 2(1)): "The term 'forced or compulsory labor' shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily." The "penalty" referred to need not be in the form of penal sanctions, but might take also the form of loss of rights or privileges.

There are also exceptions allowed in the ILO conventions. Any work or service under compulsory military service laws is exempt, as long as it is for purely military purposes. Work or service that is part of the normal civic duties, such as jury duty, is not prohibited; nor is compulsory work in an emergency, or communal work that is an obligation of the whole community. Prison labor is exempt from the definition, but only if it is imposed as a consequence of conviction in a court or law, and is carried out under the supervision of a public authority; and prison labor may not be hired out to a private company or individual without the consent of the prisoner. Forced labor for such reasons as mobilizing for economic development, punishment for strike participation, or as a means of discrimination, is also prohibited.

[a] The key ILO conventions on forced labor, which are included in the CLS, are the Forced Labour Convention, 1930 (No. 29), the Abolition of Forced Labour Convention of 1957 (No. 105), and the Worst Forms of Child Labour of 1999 (No. 182). Other international conventions include the United Nations' 1956 Supplementary Convention of the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; and the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, 2000.

bound to arise. Many communities have a long-standing tradition of participatory voluntary labor, including the reciprocal arrangements in which families assist each other in agricultural and other tasks. However, designating practices as "minor communal services" or "normal civic obligations," which are exempt from the definition of forced labor, should not mask situations that are, in fact, forced labor. In parts of Asia, there have been requirements for compulsory participation in public works. It has sometimes been argued that there is cultural acceptance of this practice as a contribution to rapid economic development, but this has not been considered an acceptable viewpoint.

3. Forced Labor in Agriculture and Remote Rural Areas: Coercive Recruitment Practices

Systems of peonage and serfdom have for the most part been successfully eradicated over recent decades. Other forms of coercion and compulsion have, however, continued to exist. Rural workers can still be locked into debt through advances made by recruiting and transporting agents, who are often independent contractors supplying a labor force for landowners or other forms of rural enterprise. In isolated areas, workers have no choice but to incur further debt for food and other necessities supplied by the landowner or contractor, or accepting goods in lieu of wages.

Serious problems may exist in remote areas; for example, where tropical forests have been opened up for agricultural, mineral, or forestry development. The persons susceptible to abuse may be indigenous and tribal peoples.[34] A common feature tends to be that workers recruited to work there end up very far from home, often in inhospitable and inaccessible tropical areas where government institutions do not exist. This isolation increases their vulnerability to abuse, and lessens the chance of effective redress through formal sector law enforcement institutions, trade union representation, or community networks. Thus, the problems of coercion are often connected with seasonal labor migration, both within and across national frontiers. The migration may be to jobs in agriculture, forestry, processing of food products or materials, or domestic work, but all risk ending up in debt bondage.

[34] Policy guidelines are given in: ADB. 2004. Indigenous Peoples. *Operations Manual*, Section F3. Manila, and ILO. 1989. Indigenous and Tribal Peoples Convention (No. 169). Geneva.

4. Domestic Workers in Forced Labor Situations

Working largely in private households, domestic workers experience an unparalleled degree of vulnerability. Domestic work per se is not forced labor, but it can degenerate into forced labor when debt bondage or trafficking is involved, or when the worker is physically restrained from leaving the employer's home or has his or her identity papers withheld. In a variety of countries, the plight of female domestic workers in forced labor situations has been well reported. The worst situations involve violence, sometimes extending to rape and/or torture. When the domestic workers are international migrants, the problems are often compounded further. And in many of these countries, domestic work is omitted from the coverage of national labor law.

5. Bonded Labor

Another form of forced labor that is still extensive in the region is bonded labor. The term "bonded laborer" refers to a worker who renders service under conditions of bondage arising from economic considerations, in particular indebtedness through a loan or advance. Where debt is the root cause of the bondage, the implication is that the worker (or dependents or heirs) is (are) tied to a particular creditor for a specified or unspecified period until the loan is repaid. Even where bonded labor has been declared unlawful, legal intervention is required to enforce this legislation, and to provide for sanctions against those landowners or other employers who hold their workers in bondage. Where cases of bonded labor are found, it is important that supplementary measures are provided, including economic assistance and rehabilitation, to assist the released workers to earn a livelihood so that they do not fall back into a situation of bondage.

The identification of bonded laborers has presented certain difficulties throughout the Asian region in particular (Box 5).

The legal definitions of both a bonded laborer and a bonded labor system may be considered clear enough in such countries as India and Pakistan, which have adopted specific legislation on the subject, but that first step remains to be taken in other countries where the problem also persists. However, identification and rehabilitation of bonded laborers often lags far behind the formal law, and its continued existence in fact is a real obstacle to economic development.

Box 5: Sind Rural Development Project

The Sind Rural Development Project[a] in Pakistan seeks to improve the social status and income of the rural poor in the project area. Concerning labor in the area, special components focus on governance and legal support (e.g., the Sind Tenancy Act, 1950, and the Bonded Labor System (Abolition) Act, 1992), as well as on providing *haris,*[b] marginal farmers, and agricultural laborers access to credit through community-based organizations in order to avoid bondage with their landlords.

[a] ADB. 2002. *Report and Recommendation of the President on a Proposed Loan for the Sind Rural Development Project* ($50,000,000). RRP: PAK32024-01. Manila.
[b] The Sind Tenancy Act, 1950 uses the term *hair* and *tenant* synonymously defining a tenant as a person who personally cultivates the land of another person (the landlord).

6. Forced Labor Exacted by the Military

In contrast to situations in which governments are increasingly acknowledging the existence of various forms of forced labor and making attempts to address them, a few countries basically reject the idea that there is such a problem. This perception has often coincided with the exaction of forced labor by the military and related authorities. In these cases, forced labor had been exacted for portering; the construction and maintenance of military camps; other work in support of the military; work on agriculture, logging, and other production projects undertaken by the authorities or the military; the construction and maintenance of roads, railways, and other infrastructure work; and a range of other tasks. As this is easily subject to abuse, it has sometimes resulted in sexual slavery as well, for the benefit of the military.

7. Forced Labor Related to Trafficking in Persons

The broader phenomenon of trafficking in persons often has forced labor aspects. It involves men and boys, but more so women and girls.[35] Affecting richer and

[35] See also ADB. 2003. *Combating Trafficking of Women and Children in South Asia–Regional Synthesis Paper for Bangladesh, India, and Nepal*. Manila; and ADB. 2003. *Combating Trafficking of Women and Children in South Asia–Guide for Integrating Trafficking Concerns into ADB Operations*. Manila.

poorer countries alike, it is a global phenomenon. The points of origin may be the poorer countries, and often the most deprived rural areas within these countries. The main destinations may be the urban centers of the richer countries and the capitals of developing and transition countries. The movement of trafficked persons is highly complex and varied. While the media focus on trafficking for the sex industry, persons are often trafficked for other purposes that may also involve forced labor—coercion involving agricultural migrant workers has been detected on several continents. Domestic workers, factory workers, and particularly those in the informal sector, can all become the victims of this phenomenon.

A key aspect of trafficking is the gender dimension of the migratory flow, and the rapid rise in women's labor force participation. The "feminization of migration" has been put forward as a major determinant of labor trafficking. Notably in Asia, women have been moving more in their own right as autonomous economic migrants, rather than as dependents. Sending countries have been mainly Indonesia, Philippines, Sri Lanka, and Thailand—and recently also the People's Republic of China, Lao People's Democratic Republic, and Myanmar—with recipient locations including Hong Kong, China; the Gulf Cooperation Council states, in particular Kuwait and Saudi Arabia; Brunei Darussalam; Japan; Malaysia; and Singapore.

8. Prison-linked Forced Labor

Prison labor is exempted from the definition of forced labor under Convention No. 29, except in specified circumstances—otherwise put, it is permitted forced labor—if

(i) it is "as a consequence of a conviction in a court of law," meaning that "administrative" imprisonment imposed by government officials without a court's involvement is not exempted. This relates, among other situations, to imprisonment for political offenses without a proper trial;

(ii) it is "carried out under the supervision and control of a public authority," which raises questions in the growing number of situations where prisons are privately owned and operated, or where prisoners work for private companies without detailed supervision by a public authority;

(iii) the person is not "hired to or placed at the disposal of private individuals, companies or associations," meaning that while it is perfectly in order for prisoners to work for private enterprise, there has to be an element of consent in this relationship to avoid prisoners being made into a cheap workforce under compulsion, without the protections normally available to workers; and

(iv) The prisoners have not been jailed "as a means of political coercion or education or as a punishment for holding or expressing views," or for participating in strikes.

For ADB, two kinds of situations are the most relevant. In the first case, covered in sections (i) and (iv) above, in which prisoners may be assigned to work in ADB projects, there is a need to ensure that they are not political prisoners who have been jailed without trial for their political views, or are not working under a "re-education through labor" regime.

As concerns prison labor for private entities, there is a great value in rehabilitation through training and integration into the private workforce, and in private enterprise forming partnerships with the government to provide constructive work for prisoners. The concerns that arise are simply that prisoners should work under government supervision to prevent possible abuses against a captive workforce, and the abuses by exploitation of prisoners for the private profit of corrupt officials should not be allowed.

C. ILO Conventions on Forced or Compulsory Labor

The ILO definition of forced labor comprises two basic elements: the work or service is exacted under the menace of a penalty, and it is undertaken involuntarily.

In its original Convention on the subject, the *Forced Labour Convention,* 1930 (No. 29), the ILO defines forced labor for the purposes of international law as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily". The other fundamental ILO instrument, the *Abolition of Forced Labour Convention*, 1957 (No. 105), specifies that forced labor can never be used for the purpose of economic development or as a means of political education, discrimination, labor discipline, or punishment for having participated in strikes.

This Convention clarifies certain purposes for which forced labor can *never* be imposed, but does not alter the basic definition in international law.

However, certain types of labor are excluded from the scope of Convention No. 29:

- work of a purely military character;
- work that forms part of the normal civic obligations of citizens;
- work as a consequence of a conviction in a court of law, provided that
  - (i) said work is carried out under the supervision and control of a public authority;
  - (ii) the said person is not hired to or placed at the disposal of private individuals, companies or associations;
- work in cases of emergency (war, calamity, and in general any circumstance that would endanger the existence or the well-being of the population); and
- minor communal services (services performed by the members of the community in the direct interest of the said community).

D. Why ADB Needs to Take Action on Forced or Compulsory Labor

Forced or compulsory labor makes headlines almost daily in stories of trafficking in persons, imprisonment in sweatshops, and the slavery-like conditions on some plantations and even in private homes. Much of the abuse occurs in the Asia and Pacific region and includes several of ADB's DMCs.

Aside from activities carried out by the ILO in different regions, which are indirectly concerned with the objective of eliminating forced labor, its eradication per se has not in the recent past been a priority concern for international technical cooperation by the organizations in the United Nations system and international agencies, such as ADB, concerned with economic and social development or with the promotion and protection of human rights. Child labor and labor trafficking, along with the promotion of microcredit schemes, have been perhaps the only areas where there has been a concerted international effort to combat forms of forced labor in recent years. Fortunately, this picture is changing, with more targeted technical assistance projects starting that either directly or indirectly include the concepts of CLS.

Freedom of Association and the Effective Recognition of the Right to Collective Bargaining

Freedom of association and the effective recognition of the right to collective bargaining are the foundations for a process in which workers and employers make claims upon each other and resolve them through a process of negotiation leading to collective agreements that are mutually beneficial. In the process, different interests are reconciled. For workers, joining together allows them to have a more balanced relationship with their employer. It also provides a mechanism for negotiating a fair share of the results of their work, with due respect for the financial position of the enterprise or public service in which they are employed. For employers, free association enables firms to ensure that competition is constructive, fair, and based on a collaborative effort to raise productivity and conditions of work.

A generally positive recent trend has been widespread recognition of the importance of social dialogue to economic and social development and good governance. In the context of the ILO, the term "social dialogue" covers all types of negotiation, consultation, or exchange of information between, or among, representatives of governments, employers, and workers, on issues of common interest relating to economic and social policy. Freedom of association and the right to bargain collectively are essential enabling conditions for, as well as elements of, the proper functioning of social dialogue. Considering ADB activities, social dialogue is similar to participation. Participation is an important tool in preparing CSPs, projects, and programs.

A. What are Freedom of Association and the Right to Collective Bargaining?[36]

The ILO *Convention on Freedom of Association and Protection of the Right to Organize*, 1948 (No. 87), is always cited together with the *Right to Organize and Collective Bargaining Convention*, 1949 (No. 98). These are referred to as the twin conventions on freedom of association and collective bargaining. They give workers their most fundamental rights—the right to form and join organizations of their own choosing and to promote and defend their economic and social interests. These conventions give the same rights to employers.

While Convention 87 gives workers the right to form and join trade unions, Convention 98 consolidates this basic right with guarantees and safeguards for trade unions to operate freely and independently of governments and employers. Further, Convention 98 lays down the key principles of the right to organize and bargain collectively. It provides the protection that workers and their organizations need against acts of anti-union discrimination and of interference by either public authorities or employers. It also lays down the obligations of ratifying states to respect and promote freedom of association and collective bargaining. Therefore, not only does this Convention establish the right of a trade union to exist, it also defines its purpose—to negotiate with employers "with a view to the regulation of terms and conditions of employment by means of collective agreements."

Freedom of association is considered the most fundamental of labor standards within ILO. Even prior to the 1998 *Declaration on Fundamental Principles and Rights of Work*, this standard as defined in ILO conventions 87 and 98, was thought vital enough that all member states could be subject to complaints on the principle they embodied, regardless of ratification status.

Freedom of association applies to both employers and workers in formal and informal economies. It is considered an "enabling" right in that it allows key actors in the economy to join together to pursue their interests. The ILO Committee on Freedom of Association examines complaints on the principles of freedom of association whether or not the relevant ILO conventions (87 and 98) have been ratified by the country in question. This tripartite committee oversees

[36] Much of the following information in this section is taken from the ILO. 2000. *Your Voice at Work*. ILO Global Report. Geneva. This was the first global report issued under the ILO Declaration on Fundamental Principles and Rights at Work. The second global report on freedom of association and collective bargaining, *Organizing for Social Justice*, was presented at the International Labour Conference in June 2004.

compliance with the fundamental principles of freedom of association. After investigating the complaint, the Committee reports to the ILO Governing Body which may request action by the government concerned, and follow up whether this action has been taken.[37]

B. Special Areas of Concern

The debate surrounding CLS is highly relevant for ADB under its broader mandate and mission of poverty reduction and economic and social development. Indeed, access to safe and productive work is a critical factor in reducing poverty, and the legal framework surrounding employment is a central issue for job creation and worker protection.[38]

The core standards on freedom of association and the effective recognition of the right to collective bargaining have often been considered by international financial institutions to be more controversial than other CLS. The reason for this in ADB comes from its Charter: Article 36 says "…shall not interfere in the political affairs of any member…" However, at the same time, ADB is committed to comply with all CLS in its lending activities[39] based on sound economic considerations. ADB can attach conditions of CLS/ILS to individual loans, but only to the extent that lack of compliance with the standard undermines the economic development objective of its programs. Additionally, such conditions must not interfere in the domestic political affairs of the borrowing country.

While acknowledging that the relationship between collective bargaining and economic development is complex, ADB encourages the development of a positive role for labor market actors, especially workers' and employers' organizations, in its DMCs. Supported by research and training activities, dialogue with trade unions and tripartite arrangements are encouraged by ADB at the national level. ADB is introducing a number of initiatives, including this handbook, to ensure that staff better understand unions and management and their role in supporting CLS, are able to have effective discussions with social partners to meet development goals, and understand that organized labor supports strong,

[37] Comments from the Freedom of Association Committee are available through ILOLEX (www.ilo.org/ILOLEX/English/)
[38] World Bank. 2002. *Core Labor Standards Toolkit*. Washington, DC.
[39] ADB. 2001. *Social Protection Strategy*. Manila.

independent unions and employers' organizations. Even where they do not yet exist, ADB should take no action that would make organization and collective bargaining more difficult.

C. ILO Conventions on Freedom of Association and the Right to Collective Bargaining

Freedom of association is the most basic of all principles underlying the work of the ILO. In addition to recognition of the principle of freedom of association in the ILO Constitution and the 1944 Declaration of Philadelphia that was incorporated into it, two conventions—adopted in 1948 and 1949, respectively—set out the essential elements of freedom of association, the right to organize, and the importance of collective bargaining.

1. Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)

This Convention establishes the right of all workers and employers to form and join organizations of their own choosing without prior authorization, and lays down a series of guarantees for the free functioning of organizations without interference by the public authorities. The essence of the Convention 87 is the following:

- Workers and employers have the right to establish and to join organizations of their own choosing for furthering and defending their interests without previous authorization.
- The public authorities have to refrain from any interference that would restrict this right or impede the lawful exercise thereof.
- In exercising the rights provided for in the Convention, workers and employers and their respective organizations have to respect the law of the land. However, the law of the land must not be so applied as to impair the guarantees provided for in the convention.

2. Right to Organize and Collective Bargaining Convention, 1949 (No. 98)

This Convention provides for protection against anti-union discrimination, for protection of workers' and employers' organizations against acts of interference by each other, and for measures to promote and encourage collective bargaining. Convention 98 includes the following issues:

- Workers must be protected against acts of anti-union discrimination, such as
  - making their employment subject to the condition that they shall not join a union or shall relinquish membership thereof;
  - causing the dismissal or otherwise prejudice a worker by reason of union membership, participation in union activities outside working hours, or, with the consent of the employer, within working hours.
- Workers' and employers' organizations must enjoy adequate protection against any acts of interference by each other.
- Measures to encourage and promote the full development and utilization of machinery for voluntary negotiations with regard to employment contracts, and to collective agreements.
- The Convention leaves it to national laws or regulations to determine the extent to which it applies to the armed forces and the police. Furthermore, it does not deal with the position of public servants engaged in the administration of the State.

D. Why ADB Needs to Take Action on Freedom of Association and Right to Collective Bargaining

Freedom of association is to be enjoyed by all workers and employers. Yet major gaps in the exercise of freedom of association and the right to collective bargaining persist. Workers in many parts of the region are either denied the right to form and join a trade union, or are working in situations where these rights are significantly curtailed. In some countries, independent employers' organizations also face barriers to exercising their freedom of association. Despite

the universality of these rights and their distinction as key civil liberties, there is still no universal acceptance of these fundamental principles and rights in practice.

To be effective in eliminating poverty, development policies must fully integrate economic, social, and political dimensions. Sectoral approaches to development that give primacy to economic and financial objectives, on the assumption that social goals will be tackled separately, are destined to fail or to be only partially successful. Participation in poverty reduction strategies, such as those of ADB, means having an effective voice through the collective organization of interests. This, in turn, implies organizational rights and representational security. Respect for these rights builds social capital and paves the way for achieving decent employment and incomes for all women and men, thereby reducing poverty and inequality. There is growing acceptance that respect for these rights is not only a desired outcome of economic development, but also a critical means of achieving sustainable development.

In considering the most appropriate national policies in an open world economy, the debate is beginning to shift from a narrow preoccupation with "getting prices right" and reining back regulations, to a broader consideration of how best to govern the market and balance social and economic goals. In an open economy, the policy changes necessary to restore macroeconomic balance, such as devaluation or an increase in interest rates, can have important distributional implications and trigger disputes that delay adjustment. Research shows that countries that have benefited most from integration into the world economy are those that already have institutions for conflict management in place and are, thus, better equipped to handle these disputes. Experience gleaned on the recovery from the Asian financial and economic crisis has pointed to the value and importance of sound labor market institutions, systems of collective bargaining, dispute prevention and resolution, and social dialogue in dealing with the consequences of the crisis and enabling economic and social recuperation.

Part 3
Core Labor Standards in ADB Operations

Core Labor Standards in Country Strategy and Programs

ADB's country strategy and program (CSP) provides the overall strategic framework to guide ADB's operations in a country over a 5-year period. The preparation of CSPs is accompanied or preceded by economic, thematic, and analytical work. 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 programming.

The discussion of CLS can be addressed in various contexts. For instance, they can be addressed in governance, foreign direct investment or sectoral issues. They can also be addressed as "cross-cutting" issues and be discussed in terms of investing in human development and insuring the poor access to resources and opportunities. Addressing CLS in CSP should depend on the strategic focus of CSP, and the CLS discussion as part of country poverty and social analysis may also fit in the context of human development or labor market reform.

Incorporation of CLS in ADB operations starting from CSP phase is often a straightforward issue, but more often a more challenging one. CSPs, through their risk and vulnerability profiles and summary labor market assessments, can give information on the general situation of labor standards in a particular country. This stage may "flag" potential conditions in a country that may trigger a CLS issue during project design.

During the project identification stage, depending on whether the project is a stand-alone project or a mainstreaming project, the team leader needs to consider if labor issues, and especially CLS, would affect the project design. CLS related to "freedom of association" and "forced labor" are rather uncommon in ADB activities. More common CLS, likely to be encountered in ADB-funded projects, are specific equality-discrimination related CLS, especially equal remuneration, and sometimes child labor issues, particularly in construction, livelihood, and agricultural activities.

A. Core Labor Standards in ADB Country Poverty Analysis

As a first entry point, CLS should be considered during the preparation of the country poverty analysis (CPA). From the CLS point of view, the CPA should look at a risk and vulnerability profile and a summary labor market assessment.

1. Risk and Vulnerability Profile

The risk and vulnerability profile will assist in understanding the dynamics of poverty. The profile should depict the major risks that affect poor people. The risks can be categorized into the following seven groups:

(i) *natural*: heavy rainfall, landslides, volcanic eruptions, earthquakes, floods, hurricanes, droughts, strong winds, etc.;
(ii) *health*: illness, injury, accidents, disability, epidemics (e.g., malaria), famines, etc.;
(iii) *life-cycle*: birth, maternity, old-age, family break-up, death, etc.;
(iv) *social*: crime, domestic, violence, terrorism, gangs, war, social upheaval, etc.;
(v) *economic*: unemployment, harvest failure, business failure, resettlement, output collapse, balance of payments shock, financial crisis, currency crisis, technological or trade-induced terms of trade shocks, etc.;
(vi) *political*: discrimination, riots, political unrest, etc.; and
(vii) *environmental*: pollution, deforestation, land degradation, nuclear disaster, etc.

A risk may have an effect at micro or individual level (idiosyncratic), or at macro level (covariant), and may have impacts in the short or long term. Whether individuals, households, communities, regions, nations, or larger entities are actually exposed to risks depends on various factors. For example, the existing health and nutritional status of individuals; their physical assets, such as housing, infrastructure, and household location; their educational levels and available information; and their cultural and behavioral practices, determine a household's exposure to health risks. If the individuals or households are exposed to risks, their vulnerability, or their resilience against the risks, depends on their asset base, human and social capital, etc.

When risks, their frequency, exposure possibilities of poor people, and anticipated impacts have been identified, proper strategies to manage these risks must be developed. Based on different strategies and arrangements, appropriate risk management instruments are needed to reduce the probability of risks or the vulnerability of individuals, households, and communities.

The risk and vulnerability profile serves mainly for poverty reduction. Concerning the CLS, the profile should identify persons at risk to, for example, forced or compulsory labor, child labor incidents, and employment situations where inequality is strongly present. At the same time, appropriate instruments need to be considered (Box 6). All data should be gender-disaggregated to understand better the division of the burden of poverty among women and men. Often, women are disproportionately affected by poverty, and impacts of poverty differ according to social groups of women and men. The risk and vulnerability profile should also be compared with the findings from the summary labor market assessment, e.g., due to labor market policies, labor standards and legislation, and child labor situations.

Why is a risk and vulnerability profile important with regard to CLS? First, it can be used for identifying public macro-level risk management instruments like policies and legislation. Second, at the individual level there are potential child labor issues. If households and families are vulnerable, their asset base is not strong and they are at risk of falling into poverty, in which case the children are often taken out of school and sent to work. When ADB projects deal with these areas or populations, there may be a need to implement CLS.

2. Summary Labor Market Assessment in the CPA

As an important component of the poverty profile, a summary labor market assessment includes, among other things, an analysis of ILS/CLS in the DMC (Appendix 3). The analysis should assess which sectors/subsectors and geographical areas have a demand for labor, which areas may have an unmet supply of labor, and identify the right mix of public policies. A labor market analysis is a key element in the strategic link between economic growth and poverty reduction, and the summary should provide recommendations to ensure efficient and inclusive development patterns. Given that all ADB interventions need to be designed in accordance with CLS,[40] the summary assessment should

[40] ADB, 2001. *Social Protection Strategy*. Manila.

Box 6: Examples of Risk Management Instruments Classified by Risk Management Strategy and the Level of Formality of Risk Management Actors[a]

Private Informal (mainly individuals, households, communities, NGOs)	Private Formal (insurance companies, financial market institutions)	Public (governments, donors, international organizations)
Risk reduction and prevention (reducing the probability of the risk)		
• Less risky production • Migration • Proper feeding and weaning practices • Engaging in hygiene and other disease preventing activities	• In-service training • Financial market literacy • Company-based and market-driven labor standards	• Good macroeconomic policies • Pre-service training • Labor market policies • Labor standards • Child labor reduction • Disability policies • AIDS and other disease prevention • Legislation to remove gender inequalities
Risk mitigation (reducing the possible impact of the risk in advance)		
• Multiple jobs • Investment in assets • Investment in social capital • Marriage/family support • Community arrangements • Shared tenancy • Tied labor • Extended family • Labor contracts	• Investment in multiple financial assets • Microfinance • Old-age annuities • Disability, accident, and other insurance (e.g., crop insurance)	• Pension systems • Asset transfers • Protection of property rights (especially for women) • Support for financial markets for the poor • Mandated/provided insurance for unemployment, old-age, disability, sickness, etc.
Risk coping (relieving the impact of the risk afterwards)		
• Selling real assets • Borrowing from neighbors • Intra-community transfers/charity • Sending children to work • Dissaving of human capital	• Selling financial assets • Borrowing from banks	• Disaster relief • Transfers/social assistance • Subsidies • Public works

[a] Heitzmann, K., R. Canagarajah, and P. Siegel. 2002. Guidelines for Assessing the Sources of Risk and Vulnerability. *Social Protection Discussion Paper Series No. 0218*. Washington, DC: World Bank.

= Highlighted text in risk management instruments refers to possible core labor standards issues.

indicate the country's compliance/noncompliance with labor standards, including CLS. The enforcement related issues should also be studied during the assessment. In general terms, the summary labor market assessment[41] should include the following information:

(i) **Employment and labor-related data**. Employment, unemployment, and underemployment rates; incidence of seasonal labor; sectoral distribution (people employed in agriculture, industry, services); regional disparities; real wage dynamics; labor-intensive sectors and their potential for generating employment; the informal sector; the self-employed; changes in participation rates (especially for women); working conditions; compliance with national and international labor laws and standards, including the reported existence of child or bonded labor and violations of other CLS.

(ii) **The country's labor-absorbing development pattern:** matching the supply and demand of labor. Has growth been sufficient to employ all the population in working age? What is the percentage of the population below 18, the future entrants into the labor market? Will the economy be able to absorb all new entrants into the labor market? Which are the most dynamic sectors of the economy? Are those labor-intensive? Which sectors/policies, in which geographical regions, should be promoted in the short/long term to maximize employment?

More specifically, these assessments should pay attention to

(i) the legal framework, including national labor laws and implementing regulations, and other legislation that may affect conditions of work, such as penal and civil codes and education laws—scope of coverage should be determined;
(ii) specific laws on women, equality, child labor, safety and health, industrial relations, etc.;
(iii) health and accident insurance schemes and whether there is provision for casual or informal sector workers;

[41] As regard to CLS, the Summary Labor Market Assessment is a much broader study of labor issues where CLS are only a component.

(iv) existence and contents of collective bargaining provisions applicable to the sector or activity, and of collective bargaining as a tool for dispute resolution;
(v) information on the occupational accidents and injuries;
(vi) information on the informal economy activities and levels of legal protection;
(vii) labor force participation patterns (disaggregated); and
(viii) demographic and other social data (disaggregated).

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.).

There may be cases in which no national labor law has been adopted in a particular field, or when its coverage is incomplete, and when it is necessary to refer directly to international labor standards to ensure compliance with ADB's *Social Protection Strategy*. Gaps in coverage of national labor law tend to be in the agriculture sector, domestic workers, home-based workers, people working for subcontractors, and small enterprises. In addition, while it is technically applicable, national labor law may not be applied in fact in the informal economy.

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.[42]

[42] 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 findings of the country poverty analysis in relation to CLS impact directly on the CSP, thereby harmonizing ADB's overarching goal of poverty reduction with the development priorities and preferences of the partner country. It is essential that the prioritization of all ADB programs, projects, and technical assistance involves a careful evaluation of the trade-offs between economic and social development, and is consistent with the findings of the poverty analysis. However, as indicated earlier, any such trade-offs should be consistent and support compliance with CLS.

B. Child Labor in the Country Strategy and Program

ADB's country poverty analysis and CSP are intended to generate an understanding of the nature of the social and economic terrain of a DMC. Thus, a review of the prevailing labor law framework and employment situation of children, as well as of education policies and their interaction with the economy, is a crucial input. Between and within countries, the extent of child labor, the specific reasons for its existence, and problems associated with its removal vary widely. Therefore, the summary labor market assessment (SLMA) outlined in Appendix 3, should include a review of the available information about child labor, which should then be used in the various parts of the country poverty analysis. The basic data for SLMA can be collected from the ILO key indicators of the labor market (Appendix 4). Child labor issues in the CSP are elaborated in Table 1.

Table 1: Child Labor Analysis

Activity	Input from Child Labor Analysis
Child labor country analysis	Estimating the nature and extent of child labor and its cost to the country and economy (information available from the International Labour Organization).
Poverty analysis	Links between household poverty and child labor.
High-level forum	Emphasizing priority given to removing child labor and promoting improved status of children.
Country strategy and program	Asian Development Bank programs for reducing child labor and strengthening structures and capacity of officials to deal with child labor questions.

C. Equality and Discrimination in the Country Strategy and Program

Due consideration should be given to the different forms of discrimination at work, including gender implications of all ADB projects. The preparatory stage of the inputs for the CSP should include a gender assessment of the country's labor market as an important input. Because country strategies are carried out in order to understand the nature of the social and economic terrain of the country, a review of the prevailing equality and labor law framework, employment and/or equality policies, and gender relations and their interaction with the economy are crucial inputs. ADB's policies on gender and development,[43] as defined in the *Operations Manual*, include several tools, of which those most relevant to this Handbook are shown in Box 7.

1. Explicit Links with regard to Women, Economic Activities, and Poverty

Removing discrimination against women in the labor market is an important step for reducing household poverty. For this, the following points should be explored:

(i) What is the distribution in the region of working women by class of household?
(ii) What is the nature of the women's economic activities in poor households?
(iii) What is the estimated share of women's contribution in household incomes?
(iv) What are the constraints on women's choices of activities?
(v) Among the poor, what is the proportion of households where women are the chief earners/only adult members?

[43] See ADB. 2003. *Operations Manual.* Section C2. Manila.

Box 7: Some Tools on Gender and Development

The *country gender assessment* provides the basis for formulating the gender strategy in the country strategy and program (CSP).

- The *gender strategy* for a country specifies how the Asian Development Bank (ADB) intends to address the gender issues highlighted in the gender assessment, and how the overall gender objectives will be achieved through ADB's program of assistance. It should be included as a core appendix in the CSP.
- A detailed *gender analysis* is required for those projects that have potential to correct gender disparities or to significantly mainstream gender equity concerns, or that are likely to have substantial gender impact. Gender analysis must be conducted as an essential component of the initial poverty and social analysis (IPSA).
- If the IPSA indicates that the project has the potential to correct gender disparities or significantly mainstream gender concerns, or is likely to have substantial gender impact, a detailed gender assessment needs to be undertaken during project design to prepare a project-specific *gender plan*. Results of the gender analysis and a short summary of the gender plan are given in the report and recommendation of the President.

2. Benefits of Providing Better Labor Standards for Women Workers

For the nation as a whole, the benefits are:

(i) Discrimination on grounds of sex is a violation of human rights and goes against the basic tenets of equality and social justice, so remedial action clearly benefits society as a whole.
(ii) Raising the productivity of the workforce helps to accelerate the rate of development for the economy.
(iii) Working women, especially those in the public sector, acquire through their associations with others, a greater awareness about their

surroundings as well as of the current social and ecological issues.

(iv) Having a decent income improves the status of a woman within her household, and control over her reproductive functions. Experience has shown that this leads to better overall management of family planning.

Apart from the women themselves, the families of workers are also beneficiaries:

(i) Increased earnings raise household incomes and reduce household poverty.

(ii) In most societies, a larger share of women's than men's income goes to raising the nutritional standards of their households.

(iii) Improved incomes and less poverty in the household mean that children are withdrawn from the workforce and sent to school.

(iv) Improving education/training levels of women results in increased likelihood that children will be educated.

3. Planning Actions for Addressing Discrimination

Discrimination is still a common problem in the workplace. "While some of the more blatant forms of discrimination may have faded, many remain, and others have taken on new or less visible forms", an ILO report says.[44] "For example, the combined effects of global migration, the redefinition of national boundaries ... and growing economic problems and inequalities have exacerbated problems of xenophobia and racial and religious discrimination." More recently, new forms of discrimination based on disability, HIV/AIDS, age or sexual orientation have become cause for growing concern.

Planned actions to address discrimination should include positive measures and targeted programs to improve women's education and training, as well as to provide support services and improvements in employment opportunities. To deal with cultural and perceptional prejudices (see Figure 1), gender awareness raising and sensitization programs for employers, trade unions, government officials, and families are required. Regulations and legislation should be reviewed

[44] ILO. 2003. *Time For Equality At Work*. Report of the Director-General. International Labour Conference, 91st Session 2003, Report I (B). Geneva.

and revised to eliminate discriminatory provisions and include requirements of equality and mechanisms to promote and enforce the provisions. It is important to ensure that interventions are introduced as early as possible in the employment and work cycle to avoid accumulation of disadvantages. For instance, if affirmative action is introduced only at the level of promotions, it will not be effective if women are already disqualified because they do not have the appropriate training or experience. Targeting should be applied to the specific needs of the most vulnerable groups of women suffering from cumulative disadvantages.

The failure to eradicate discrimination helps perpetuate poverty. The discriminated are often among the poorest of the poor, and poverty is more severe among women and other discriminated groups. Discrimination creates a web of poverty, forced and child labor, and social exclusion, the ILO report[47] says, adding "eliminating discrimination is indispensable to any viable strategy for poverty reduction and sustainable economic development".

Everyone gains from eliminating discrimination at work—individuals, enterprises and society at large. Fairness and justice at the workplace boosts the self-esteem and morale of workers. A more motivated and productive workforce enhances the productivity and competitiveness of businesses. A more even distribution of opportunities to develop and use one's talents, among different groups in society, contributes to social cohesion in increasingly diverse societies.

D. Forced Labor in the Country Strategy and Program

Few would argue that the use of forced labor is an economically viable proposition for any country. Indeed, states are bound to eliminate it. The leadership of the business community as a whole is also committed to the eradication of forced labor systems.[45]

ADB should assess more precisely which groups of the population, by gender, age, and ethnic origin, are most affected. The higher vulnerability of children to forced or compulsory labor is well known. There is reason to believe that women

[45] The Corporate Business Community – Be-FSA, on Forced Labor proposed the following principles, criteria, and benchmarks that are common to a number of business organizations. *Principles:* The company employs workers who choose to be employed by that company. The company does not use any forced labor, whether in the forms of prison labor, bonded labor, slave labor, or any other nonvoluntary labor. *Criteria:* The company has a clearly stated policy in regard to monitoring the employment of people under duress. If it is discovered that any workers have been employed under duress, immediate steps are taken to rectify the practice and to provide for the rehabilitation of the workers involved. The company does not solve the problem by the dismissal of the workers involved. *Benchmarks:* The company adheres to ILO conventions 29 and 105 on forced labor.

and men differ in their particular risks of new and differing forms of coercion. There is also evidence that indigenous peoples and other racial or ethnic minorities are especially vulnerable. Furthermore, there are indications that forced and compulsory labor can easily affect migrant workers, especially if they fall into a trafficking situation.

At the national level in some DMCs, certain forms of internal migration, for example seasonal migration in commercial agriculture or migration to cities to engage in domestic work, may be associated with debt bondage or other forms of coercion. These issues need to be explored further at the project level, and an examination made of

- recruitment and repatriation methods,
- payment systems,
- conditions of work and housing, and
- forms of representation and redress.

On the whole, the labor market aspects of forced or compulsory labor have not been examined in the light of current conditions. Why is forced or compulsory labor persisting in the face of poverty reduction strategies and more open economies? Why does it exist in some poverty contexts but not in others? How are broader macroeconomic prescriptions, such as greater labor market flexibility and adjustment policies, affecting the incidence of forced or compulsory labor? What can be done within the context of macroeconomic and sectoral policy to prevent or eliminate instances of forced or compulsory labor? How has pursuit of decentralization policies impacted on the government's ability to prevent, detect, and remedy forced labor? Why have existing national laws against phenomena such as debt bondage not been enforced? For ADB, much of this information can be gleaned indirectly from the summary labor market assessment and from discussions with stakeholders in national and local institutions.

E. Freedom of Association and Collective Bargaining in the Country Strategy and Program

It is important that ADB promotes an atmosphere conducive to the achievement of all CLS. In the case of freedom of association and collective bargaining, promotional activities include policy dialogue with international trade union

organizations (such as the International Confederation of Free Trade Unions or ICFTU) and the ILO, and training programs for ADB staff on how to work with trade unions and other stakeholders (Box 8).

As is the case with other CLS, ADB staff are beginning to analyze these core standards in the CSPs of eligible borrowers. Their coverage often requires a more subtle approach than with child labor, forced labor, etc. Freedom of association and collective bargaining are contentious issues for many governments and employers' organizations. In seeking the requisite data, it is essential that ADB staff promote the positive aspects of freedom of association and collective bargaining (which include economic and social development linked to poverty reduction) in the spirit of social dialogue. Insofar as the DMC in question considers that there is a political dimension to recognition of these rights, ADB staff should proceed with care and ensure that they do not promote actions contrary to these CLS.

Box 8: ADB and Trade Unions

The Asian Development Bank (ADB) consults regularly with labor unions through participation in regional conferences/meetings to discuss relevant issues. ADB took part in the yearly dialogue between the international financing institutions (IFIs) active in the region—the International Monetary Fund, the World Bank, and ADB—and the International Confederation of Free Trade Unions–Asian and Pacific Regional Organization (ICFTU-APRO). The third ICFTU-APRO regional dialogue with IFIs took place in Manila on 2–3 September 2004. Discussions were held under the theme "International Financial Institutions and Core Labor Standards (CLS)." There was a consensus among all participants on the need for CLS. IFIs are fully supportive of enforcement of the CLS on child labor, forced labor, and equality, but encounter some problems in the enforcement of the freedom of association because this issue has political implications. ILO, on the other hand, considers this set of rights fundamental to national development and to the full achievement of human rights.

To assess compliance with conventions 87 and 98 with regard to future projects, ADB should hold discussions with a range of stakeholders, including

(i) ministry responsible for labor,
(ii) national statistics office,
(iii) national trade unions and employers' organizations,
(iv) international trade unions and employers' organizations,
(v) regional representation of the ILO, and
(vi) civil society organizations concerned with labor issues in the respective project areas (e.g., women's organizations and trade associations).

Of these, perhaps discussions with the ICFTU and other global unions are among the most important because they have clear insights into the national situation regarding freedom of association and the right to collective bargaining. They can provide information on the number of affiliates, the sectoral coverage, collective agreements, and any national or enterprise-level abuses of these CLS. Such information can be verified in discussions with the national centers.[46] Similarly, discussions with the ILO office responsible for the particular DMC can detail any specific problems relating to conventions 87 and 98 and give details of any complaints to the ILO Committee on Freedom of Association.

In terms of concrete data, the ministry responsible for labor can give such details as the number of registered trade unions, collective agreements, disputes, etc. However, it has often been found that these ministries may not have the most up-to-date information; there is evidence of gross underreporting, especially from remote regions where the ministry may have little or no coverage. It is important, therefore, that ADB cross-references information from a number of sources rather than rely on one source.

F. Integrating CLS in Operations after the CSP Phase: Design and Implementation

The following diagram (Box 9) provides information on the generic processes and analyses required at the various stages of the ADB operational cycle for

[46] It must be remembered that most workers in the region, particularly those in the informal sector, do not belong to any form of traditional trade union, but that in most cases they have the right to join or form unions under national law.

considering or integrating core labor standard concerns into ADB operations. The role of CLS in the country strategy and program stage has already been discussed in this chapter. The diagram gives further advice on different activities during project design and implementation with regard to CLS.

Box 9: Core Labor Standards in ADB 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 labor market assessment
Pre-project design (PPTAs) • Concept papers (the project pipeline) • 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 ("flagging out") • Identification of the need for special consultants in the PPTA team (labor, gender, etc.) • Identification of the situation concerning freedom of association
Project Design • Selection of consultants • Inception report • Mid-term report • Final report • Draft RRP with SPRSS • Loan negotiations	• Designing necessary interventions to adhere to CLS • Participation with stakeholders concerning the future implementation of CLS clauses • Formulation of appropriate assurances/ covenants for inclusion in loan documents • Scrutinizing draft bidding documents (in construction projects)
Project Implementation • Government, executing and implementing agencies, beneficiaries • Contractors, suppliers, consultants • Review missions, progress reports • Mid-term review • Project Completion Report • Project Performance Evaluation Report	• Consultations with implementing agencies on CLS • Drafting model clauses for bidding documents • Compliance with national legislation concerning CLS and ILS • Monitoring and evaluating of CLS

ADB = Asian Development Bank; CLS = core labor standards; ILS = international labor standards; 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

Core Labor Standards in Project Design

A. General Principles during the Pre-design Phase

The challenges for considering CLS in the project pre-design stage are the many technical, economical, and policy issues to be remembered. The best way is to think of CLS as a part of some kind of "labor framework" to deal with labor issues in general. If the project, or a particular project activity, has something to do with labor and employment, or generally with working people, the issue of CLS might be relevant. If CLS are identified as an issue during the forthcoming design phase, it is necessary to devise ways of addressing them during implementation. And attention should be paid to whether any project activity might undercut CLS–e.g., by failing to involve established trade unions.

ADB projects may include specific stand-alone CLS components, or include general considerations for addressing the CLS:

(i) Design stand-alone projects to address a particular CLS, e.g., child labor, if this issue was identified in the CSP as a major concern in the DMC, or a component within a loan project (e.g., to get child labor dropouts back to school in education projects).
(ii) Ensure that all projects in all sectors comply with CLS and, if they fail to do so, ensure that adequate preventive and/or mitigation measures are included in the project design.[47]

In addition to ensuring adherence to CLS in ADB activities, investments can also focus on the adoption and enforcement of labor standards generally, as an investment in governance and management systems—for instance, in the reinforcement of national capacity to enforce labor law through capacity building and policy reforms, or the capacity of the labor inspectorate to build the capacity of enterprises to apply good labor practices.

[47] CLS issues may be relevant (i) in supporting labor market interventions that improve employment and working conditions; (ii) in public or private sector restructuring; or (iii) during the privatization of state-owned enterprises, ensuring that retrenched workers, regardless of race, sex, caste, gender, or religious or political belief, are not unfairly disadvantaged as a result of a project intervention.

The project pre-design phase (in a lending project) includes the preparation of a project concept paper, which is done after the country strategy and program, and the preparation of the project preparatory technical assistance (PPTA) document. There are two critical stages during the project pre-design when CLS issues need to be addressed:

(i) The concept paper constitutes the link between country programming and TA fact-finding mission. It describes the purpose and the expected results/benefits of a tentative project. Expected social or environmental issues or concerns, like CLS, need to be identified. The concept paper also identifies resources needed for the project design and preparation.
(ii) During the fact-finding mission for the PPTA, CLS should be flagged in the initial poverty and social assessment (IPSA).

An IPSA is mandatory for all ADB project and program loans. It is usually conducted as early as possible in project preparation to identify (or flag) the key social development and poverty reduction issues for in-depth analysis during the design phase of a loan.

The purpose of an IPSA during project preparation is to (i) identify the beneficiaries, (ii) assess opportunities and constraints for poor groups to benefit from project activities, (iii) establish a participatory process amongst all stakeholders, and (iv) prepare design measures for achieving poverty reduction and social development outcomes. CLS are an integral part of both the IPSA and the detailed poverty and social analysis. The section on labor in the IPSA should be used to record the national situation with regard to CLS.

1. Core Labor Standards in IPSA

During the project pre-design phase it is useful to consider the following questions as examples, in order to identify issues related to CLS:

(i) Is the project related to infrastructure development that includes civil works contractors? If yes, then child labor issues may be relevant, as well as equal wages between men and women for work of equal value. This category includes, as examples, rural road projects, rural and urban development projects, and often power sector development projects.

(ii) Is the project related to public sector reform where some labor policies and laws will be updated or revised? In such context, legislation related to CLS might be relevant.

(iii) Depending on the planned contractual arrangement, e.g., formal or conventional contracting, community contracting, or self-help schemes using unpaid labor in some community development projects, CLS need to be addressed differently.

(iv) Enterprise restructuring and privatization projects usually trigger several labor issues (staff audits, skill audits, benchmarks, retrenchment issues, voluntary redundancy, etc.) that are not CLS issues. However, redeployment issues may involve CLS in the form of elimination of discrimination and equal remuneration.

It is important to recall that this Handbook focuses only on CLS. For other labor-related issues, from employment generation projects to labor retrenchments and general labor standards, the reader should consult other sources, such as ADB's *Social Protection Strategy* (active labor market programs), or Appendix 9 of ADB's *Handbook for Poverty and Social Analysis* (labor retrenchment). ADB has also published guidance on how to handle labor issues in enterprise restructuring and infrastructure reform.[48] An excellent source of further information is the World Bank's *Labor Toolkit: Labor Issues in Infrastructure Reform.*[49] The ILO regional representation can provide information on other labor standards issues, and on how the country concerned applies them.

B. Core Labor Standards in the Project Design Phase

Measures should be taken to ensure that the design of all ADB projects conforms to CLS as required by the *Social Protection Strategy*, and to correct situations where such measures have not been implemented. Most projects involve some aspects of labor standards, but not necessarily of CLS, either because they address labor-related subjects directly or because work is done under them that involves employment and the engagement of workers. Equally, many projects will carry risks of infringing CLS.

48 See: http://www.adb.org/Documents/Events/2006/Workshop-Labor-Issues/default.asp
49 http://rru.worldbank.org/Documents/Toolkits/Labor/index.html

1. Checking for Compliance with CLS in Design

The first thing to consider in the project design is whether the project has a direct impact on CLS, either as its explicit purpose or as a side effect, for example:

(i) there are intended employment creation aspects of the project;
(ii) workers contracted under the project may be at risk of gender, race, or age discrimination;
(iii) the project location may have a high incidence of child labor or bonded labor, and the project contractors may be at risk of using them; and
(iv) the project area maybe in a high risk area for trafficking of women and children.

2. Checking for Conformity in Design with National Labor Law

Occasionally, ADB projects can involve unintentional violations of CLS, if precautions are not taken (Box 10). ILO offices in the country can assist government and ADB staff to identify the country's labor legislation and possible rights issues associated with the project. The most detailed source is the ILO ILOLEX database.[50] During the project design phase, seek the following information:

(i) Check national labor laws in the sector affecting the workers involved in the project. Does the country have legislation or regulations directly on the subject concerned?
(ii) Check the consistency between the existing law and practice, and the relevant CLS. If law and practice are not in conformity with the CLS, the latter should be the point of reference for ADB action.
(iii) If there is no applicable national labor law, the CLS should be the point of reference.

There will also be instances when no national labor law has been adopted, or when its coverage is incomplete. In these cases, refer directly to ILS/CLS to ensure compliance with the *Social Protection Strategy*. Some gaps in coverage of national labor law may include

[50] http://www.ilo.org/ilolex/english/index.htm

(i) the agriculture sector,
(ii) domestic workers,
(iii) home-based workers,
(iv) people working for subcontractors, and
(v) enterprises below a size specified in national law.

Box 10: Example of a Project Engaging Labor in Violation of Core Labor Standards

A hypothetical case might involve building a road to improve market access for local farmers or producers. An engineer is responsible for implementation, and contracts are concluded with a local traditional leader to supply labor for this project, of direct benefit to the community.[a]

The local leader supplies men from his own ethnic group, who work because he orders them to do so. The men bring their wives and children to help; the wives break rocks for building the road; the children help to gather the rocks for their mothers and take the rocks and water to their fathers to lay down on the road. At the end of the day, the local leader pays the men. Possibly, the following labor standards are affected:

(i) **Forced labor.** Did the workers involved have any choice about working, or would they suffer penalties if they did not?
(ii) **Gender discrimination**. Did women have equal opportunities to work on the project? Did men and women have equal wages for work of equal value?
(iii) **Ethnic and other discrimination**. Did persons from other tribes or communities have the opportunity to work on the project? Have the people with disabilities been taken care of?
(iv) **Child labor**. How old were the youngest children? Could they have been in school instead of working, and are schools available? Were they doing economically valuable work, and were they paid? Were the loads they were carrying of reasonable size and weight for their strength?

[a] This is called "community-based contracting."

Should the ADB observe CLS in its interventions even if the country has not adopted labor legislation, or if it has exempted some economic sectors or parts of the population from the law? The answer is yes. For example, ADB policies provide that there should be protection against **all** discrimination on the basis of gender, with no clauses exempting different types of work, etc. Working children are working and being prevented from attending school whether they are working on a garbage dump in an inner city, or on a plantation where no law applies. Thus, the rules are always relevant, even if their application varies according to the situation.

During the implementation of the PPTA, when conducting feasibility studies and design of the project, CLS issues should be assessed as part of the detailed poverty and social assessment, and reported in the summary poverty reduction and social strategy (SPRSS).

3. Design of Project Assurances and Covenants

If CLS concerns could create a violation in the project, the loan agreements should include covenants to address them. First, the CLS concerns could be explained also in the report and recommendation of the President (RRP) (Chapter VI, Assurances); an example of an assurance from a road sector loan project is given in Box 11.[51]

An example of a covenant related to the mitigation of labor law risks[52] in a secondary towns integrated flood protection project is given in Box 12, based on a similar paragraph from the RRP (Assurances).

C. Child Labor in Project Design

1. Basic Guidelines on Child Labor for Project Design

The economic rationale alone for eliminating child labor makes this an important issue for ADB (Appendix 5). ADB commitment to the CLS on child labor implies compliance with the following guidelines for ADB activities when projects affect child labor. The guidelines cover two basic subjects covered in the CLS on child labor, which overlap to a certain extent (the points below concerning ILO conventions 138 and 182).

[51] Not all the issues in this assurance relate to core labor standards.
[52] Not all the issues in this covenant relate to core labor standards. Only the references to child labor and equal wages are from CLS.

Box 11: An Assurance on Workplace Safety, Labor Law, and Occupational Health

The government will ensure and cause [the executing agency] to ensure that provisions are stipulated in all civil works contracts to require contractors employed under the project to incorporate minimum workplace occupational safety norms, including the core labor standards as identified by the fundamental ILO conventions. The government shall ensure that civil works contractors comply with all applicable labor laws, do not employ child labor in any aspect of their activities, and provide appropriate facilities for children in construction campsites if such sites are established. The government shall ensure that contractors provide appropriate training, and information materials, for workers on HIV/AIDS prevention, using an NGO approved by the ministry of health, and that contractors and their workers observe local protocols concerning acceptable behavior toward the local population. The government shall set employment targets for poor and vulnerable people, particularly women, for all construction and maintenance activities, require contractors to use local unskilled labor and require contractors not to differentiate wages between men and women for work of equal value. A specific clause shall be included in bidding documents, and compliance shall be strictly monitored during project implementation.

Box 12: A Covenant Mitigating Labor Law Violation Risks

The Borrower shall ensure that civil works contractors comply with all applicable labor laws, do not employ child labor for construction and maintenance activities, and provide appropriate facilities for children in construction campsites. The Borrower shall set employment targets for poor and vulnerable people, particularly women, for all construction and maintenance activities, require contractors to use local unskilled labor, and require contractors not to differentiate wages between men and women for work of equal value. A specific clause shall be included in bidding documents, and compliance shall be strictly monitored during project implementation.

a. Minimum Age for Employment or Work (Convention 138)

(i) Ensure that child labor contrary to the convention is not used in any ADB-funded project.

(ii) Define child labor as any work done by anyone under 14 years old, except for light work done by children 12 years and older.[53]

(iii) Ensure that no work is done by anyone of less than the school-leaving age, at least if schooling is available.

(iv) Ensure that no work is likely to jeopardize the health, safety, or morals of young persons, either by its nature or the circumstances in which it is carried out, is done in the project by anyone under 18 years of age.

b. Worst Forms of Child Labor (Convention 182)

(i) Ensure that "worst forms" of child labor—for anyone under 18 years[54] of age—are not used under any circumstances in an ADB-funded project.

(ii) Direct activities to take immediate and effective measures to eliminate these worst forms of child labor.

c. Proactive Investments to Combat Child Labor

Some of the policies and programs that affect decision making by families and/or employers, which can be envisaged for child labor-free projects, can deal with following:

(i) Strengthen labor markets and provide linkages and information between the adult labor force and employers and firms.

(ii) Establish community- or area-based economic development schemes that provide adult employment, income-generating activities, and credit lines to families practicing child labor; this will affect household decisions and encourage elimination of child labor.

(iii) In the community, deal with the family size, fertility, and dependency burden.

[53] Convention No. 138 provides that the minimum age shall be 15, or the end of compulsory schooling, whichever is higher, and the age for light work 13; but that developing countries may opt for ages one year younger.

[54] 16 years under certain conditions, as long as there is close supervision and prior training.

(iv) Improve social insurance for vulnerable groups and means of poverty reduction.

(v) Provide social assistance and welfare services for vulnerable groups.

(vi) Improve access to and quality of formal and nonformal education, skills formation, and training.

(vii) Address issues on caste, ethnic, and gender discrimination.

(viii) Promote awareness of the undesirable effects of child labor and diminish its acceptance by families, and deal with family situations (child abuse, strained family relations, etc.) conducive to child labor.

(ix) Raise awareness and undertake policy advocacy to deal with the child labor problem.

(x) Identify, detect, and monitor the areas and sectors where child labor is situated, and analyze the child labor problem in the identified areas and sectors (via research and field exposure).

(xi) Reduce or eliminate the worst forms of child labor and rescue and rehabilitate the children in the worst forms of child labor.

(xii) Penalize employers using the worst forms of child labor and penalize adults who violate children's rights and who force children to enter child labor, especially in its worst forms. This may include changes in legislation and ordinances.

(xiii) Reduce the health hazards and dangers to young persons in the workplace.[55] This may include changes in legislation and ordinances.

(xiv) Provide support to small-scale and family enterprises, provide credit schemes (combined with savings schemes for household enterprises), employment training, and apprenticeship programs.

(xv) Provide capacity building for government and nongovernment institutions addressing the child labor problem.

(xvi) Provide awareness raising, policy advocacy, data collection and research, identifying and monitoring areas and sectors where child labor is situated, and conduct research on the factors contributing to the specific forms of child labor.

[55] Full acceptance of the CLS means not accepting children in the workplace, except under defined circumstances, according to ILO and UN standards on child labor. There are, however, circumstances envisaged by international conventions in which young persons can work legitimately, and when it is productive to seek to improve their working conditions. Further information is available from the ILO.

2. Formal and Nonformal Education

Discussions of the consequences and determinants of child labor point to the importance of identifying programs and policies that address children's inability to attend school, in order to tackle the child labor problem effectively. Programs on formal and nonformal education can make indispensable contributions to this objective.

(i) Programs and projects in primary and secondary education should include teachers' and parents' programs to ensure proper monitoring and prevention of children dropout and bad performance because of child labor. Many child labor programs have met various degrees of success, employing teachers and parents to prevent child labor and deterioration of children's performance due to absences, and lack of study time due to child labor. Most primary and secondary education components of child labor programs in the ILO's International Program on the Elimination of Child Labor[56] have links with parents and teachers, and some are documented in country studies.

(ii) Due emphasis should be given to feeding programs and other subsidies and cost reduction for school expenses (subsidies for books and school supplies, transportation, tuition, and related expenses). These programs would be better conceptualized and implemented if they were enriched with studies on the household decision-making processes and analyses of opportunity costs to schooling plus actual school expenses. Child labor would most likely figure prominently in these analyses and considerations.

(iii) Formal and nonformal education for out-of-school youth and children (whether working or not) should also be given due emphasis. Skills development programs should be especially geared to young workers and entrants to the world of work, so that their human capital will not deteriorate in unskilled, unproductive activities.

(iv) In formal and nonformal education, children and youth should be taught about their human rights, including labor rights, the system of laws and regulations that protect them, and the facilities and services

[56] The International Program on the Elimination of Child Labor (IPEC) is ILO's largest program of technical assistance, working in some 90 countries.

(both government and nongovernment) that should provide them protection and services, and how to access them.

3. Need to Involve Various Stakeholders and Institutions

Another important activity that should be a component of any social protection strategy is rescue and rehabilitation of child labor. This again involves many agencies and stakeholders.

The programs and policies listed above would necessarily involve local government agencies as well as community and civil society groups and organizations. Proper coordination and good relations among these entities are vital for any successful resolution of the child labor problem at the community level.

4. Tackling Inter-country Migration of Children

Migrant children are some of the most vulnerable child laborers. If the source and destination of the migration patterns are in different countries, it may be difficult to address the problem without involving inter- and multinational efforts. Examples of this are the migration of Nepalese and Bangladeshi children into parts of India; and the influx of Myanmar, Laotian, and Cambodian children into Thailand. Many of these children are victims of child trafficking and become bonded laborers. Thus, multilateral agencies (including ADB) can be crucial in fostering international agreements and cooperation among the countries involved. One of the goals is to stop trafficking and give the children, who have already arrived in a particular country, a legitimate status in the destination country so that they can have access to social assistance (e.g., rescue and rehabilitation).

5. Mitigation Plans for Child Labor

Any development program or project may inadvertently bring about or encourage the use of child labor. Appendix 6 lists possible occurrences of this type in various kinds of projects, and possible mitigating measures and agencies or stakeholders to consult and to ask for assistance.

There is a fine distinction between child labor that is harmful to the growth and development of children, on one hand, and light child work that is acceptable

socially, economically, and morally, on the other. Following are some criteria to help guide this decision.

(i) Children performing light work (as defined by CLS Convention 138) should be at least 12 years of age.
(ii) The work should not interfere with a child's schooling and study time, play time, and time for vital activities (e.g., bathing, toilet activities).
(iii) The work should be only a few hours a day.
(iv) The work should be within the physical, psychological, and emotional capabilities of the child given her/his particular age.
(v) The work should impart some skill or learning.
(vi) The child should not intolerably dislike the work.
(vii) The work should not be hazardous to the child's physical, psychological, or emotional health and condition.

Working conditions for the child should be comfortable and conducive to the work, and management of the child should involve giving positive incentives and motivation, rather than disciplinary action, coercion, or physical/mental punishment.

Similarly, if negative unintended results would arise from child work-related programs and projects, mitigating measures need to be put in place.

D. Addressing Equality and Discrimination in Project Design

When considering the design phase, it is important to strengthen participatory planning and design with stakeholders and intended beneficiaries to identify needs and priorities of target beneficiaries. Community and beneficiary participation in conceptualization, planning, implementation, and evaluation of projects is fundamental.

For PPTA, and project design leading to the RRP, the issues mentioned in ADB's policies and operational procedures on gender and development (*Operations Manual*, Section C2) are relevant and not repeated here.

1. The Need to Promote More Proactive Gender-oriented Projects

ADB projects that impact most on women are those aimed at direct-wage employment, microenterprise, infrastructure, and public sector reforms in which there are retrenchment issues. More work should be undertaken to identify the specific sectors for ADB investment that would benefit women workers most, such as the education sector, including vocational training. Some examples of other specific actions related to the type of project are provided below.

a. Infrastructure Projects

(i) Give priority to schemes that provide ways of reducing the burden of household work. Schemes for providing water supply within easy reach of villages, forestry for fuel wood and fodder, and electrical and gas supply lines to villages could be on the state planning agenda.

(ii) Increase the productivity of women's work by opening up markets and making it possible for them to use better technologies.

b. Employment Creation in Formal Sector

(i) Promote employment through increasing women's participation in public service, in particular in nontraditional occupations and decision-making positions.

(ii) Set targets of at least 40% participation rates.

(iii) Provide training for management in private business on gender equality in employment.

c. Education and Skills Development

(i) Increase educational qualifications and skills development to enable women to fully participate in programs to promote increased employment opportunities in public or private sector initiatives. These programs should target the most economically vulnerable women and not be geared to those already in an advantaged position.

(ii) Wherever possible, ensure that women do not receive training only in traditional "women's work".

(iii) Enhance women's management and decision-making capacities through training geared to taking up supervisory and management positions in private sector growth areas.

d. Income Generation/Entrepreneurship

(i) Apply new and modern technologies that can improve women's productive and earning capacity and income generation. When technologies are upgraded in projects, women should be able to benefit alongside men and also get the requisite training.

(ii) Enhance women's participation in entrepreneurial and small business activities in conjunction with employers' associations—not only in microenterprise. Develop more linkages among enterprises of different scales.

(iii) Along with credit, women should get effective training in new skills as well as full information about markets, products, and techniques.

e. Women's Rights

(i) Promote schemes of having public day nurseries in each municipal ward or village, so that all working women can use the facility for a nominal fee.

(ii) Governments can review and modify all laws that restrict women's equal property rights through marriage, inheritance, or otherwise, including their right to have access to credit without their fathers' or husbands' permission.

2. Specific Project-related Antidiscrimination Issues for Ethnic Discrimination

The following suggestions are for additional antidiscrimination steps that can be integrated into the design of any project supported by ADB.

a. Complaints committee

There should be a mechanism within projects for the resolution of complaints of discrimination, harassment, or other working condition concerns.

b. Challenging stereotypes of minorities

Equality of opportunity and treatment means widening occupational choices for members of minorities, and employment promotion and

income-generating activities may often challenge traditional stereotypes of the capacities of members of minorities. To meet such resistance in a project, efforts must be made to identify this challenge at the design stage and to provide support and encouragement to minority members to take up the challenge and to the community to accept changing images.

c. Occupational health and safety

Special care needs to be taken in projects to ensure the health and safety of all workers, including members of minorities. In many cases, minority workers are unable to read safety instructions or to understand safety and health training given to other workers.

d. Health insurance and social security

In developing countries, ADB project workers as well as the self-employed in microcredit schemes are unlikely to enjoy coverage of social security or health insurance. A group insurance scheme in partnership with local government agencies and/or nongovernment organizations (NGOs) can be included in the design with as wide a participation of local people as possible. All beneficiaries will contribute to the cost.

e. Encouraging minority groups/organizations

The project team should encourage minorities in the project area to form and join groups/organizations representing their interests. These can be used for raising awareness of possible discrimination as well as for giving minority members information on such subjects as their legal rights as workers, health hazards from occupations, and protective measures against them.

f. Protecting migrant workers

All these questions can be particularly acute when members of ethnic minorities are migrant workers. It should be recalled that migrant workers are—or should be—protected on an equal basis by national legislation, and that they have the same human rights as national workers.

Certain aspects of the project design may have negative impact on the objective of reducing gender-based discrimination. The checklist provided in Appendix 7 shows points where safeguards are needed.

3. Other Forms of Discrimination in Project Design

ADB has not developed specific guidelines on other forms of discrimination as it has for gender discrimination, except the safeguard policies for indigenous peoples.[57] While some of the issues to be addressed are similar, others are different. In all such analyses, ADB staff should be aware of the fact of multiple discrimination—i.e., that women members of ethnic minorities, for example, are doubly vulnerable.

The economic and social benefits of addressing racial, ethnic and nationality-based discrimination have many similarities to those encountered when addressing gender discrimination. These include drawing on a larger possible workforce, and the benefits of spreading economic development, education, and training into sectors of the economy where they may have been lacking. One benefit that is unique to this kind of situation is that increasing the access of minorities to economic development will diminish social tensions and the possibility of civil conflict.

The issues to be addressed include prejudices of the rest of the national community, and presumptions that members of ethnic minorities are not capable by their very nature of doing certain kinds of work.

E. Forced or Compulsory Labor in Project Design

During the last few years there has been greater realization that forced labor in its different forms can pervade all societies, whether in developing or industrialized countries, and is by no means limited to a few areas of the world. Forced labor cannot be equated simply with low wages or poor working conditions. Nor does it cover situations of pure economic necessity, as when a worker feels unable to leave a job because of the real or perceived absence of employment alternatives. Forced labor represents a severe violation of human rights and restriction of human freedom, as defined in the ILO conventions on the subject and in other related international instruments on slavery, practices similar to slavery, debt bondage (Box 13).

[57] ADB. 2004. *Indigenous Peoples. Operations Manual*, Section F3. Manila.

Box 13: An Example of Bonded Labor

Bonding workers through debts is, in fact, a widespread form of forced labor in a number of developing countries. Sometimes it originates with a poor and illiterate peasant pledging labor services to an intermediary or a landowner to work off a debt over a period of time. Sometimes the obligation is passed on from one family member to another, even down to children, and from generation to another. The labor service is rarely defined or limited in duration, and it tends to be manipulated in such a way that it does not pay off the debt. The worker becomes dependent on the intermediary or on the landowner and works in slave-like conditions. The threat and, indeed, the occurrence of violence or other penalties for failing to work turn an economic relationship—one-sided as it is to start with—into a forced labor situation.

Source: ILO. 2002. The International Labour Organization's Fundamental Conventions. InFocus Programme on Promoting the Declaration. Geneva.

1. Addressing Forced Labor through Rural Development

A comprehensive strategy against forced labor must address the roots of the problem, which very often lie in the lack of income and asset security of the people whose freedom is at stake. Overall, this may require some reinforcement of technical assistance programs in relation to rural employment and development, the strengthening of rural workers' organizations, and the creation of conditions for genuine social dialogue in a rural setting.

Such a strategy might be pursued through a variety of innovative approaches to rural development. Within the United Nations system there is now an increasing emphasis on partnerships for poverty reduction, involving different agencies—such as ADB—in accordance with their specific areas of competence. There might also be links involving ADB, ILO, United Nations, and the private sector, as for example under the Global Alliance Against Forced Labor. Under this scenario, ADB and ILO can seek the inclusion of a specific component/s for the eradication of forced labor in any rural development program that is planned or under way in an area where its incidence has been detected. Greater attention might be

given to eradicating forced labor in the context of pursuing sustainable agriculture and rural development policies. This can include awareness raising, legal support, microcredit, control of the activities of recruiting intermediaries, and other activities as relevant.

In addition to rural development projects in places of origin, ADB could also support integrated employment projects or rural-rural migration for temporary/seasonal employment that include the entire cycle of recruitment from the places of origin, transport of workers, employment conditions in the destination where there is a risk of forced labor occurring, and repatriation.

This approach is best used for seasonal labor migration in commercial agriculture, either within or across national frontiers, where there have been indications of coercive recruitment and employment practices.

2. Forced Labor, Migration, and Human Trafficking

An estimated 2.5 million men, women, and children are victims of trafficking at any point in time, and that at the very least one third of these are trafficked for economic purposes other than sexual exploitation. These findings clearly indicate that responses to trafficking need to move beyond the present focus on commercial sexual exploitation of women and girls toward a more holistic approach that includes the broader labor dimensions of human trafficking.[58]

In dealing directly with governments of DMCs, ADB can assist certain government bodies in their fight against trafficking. For example, in much the same way that ILO can strengthen/build the capacity of labor ministries leading to improved labor inspection and administration, ADB can also work creatively with law enforcement agencies to stamp out abusive conditions in underground enterprises. ADB has gained positive experiences in the fight against trafficking in its rural road projects, which could serve as model interventions (Box 14).

3. Migrants and Forced Domestic Work

Domestic work involves substantial numbers of mainly female migrant workers. The ILO has documented the often abusive and unprotected working conditions of domestic workers in a range of destination countries. A global analysis of

[58] ILO. 2005. *A global alliance against forced labor*. International Labor Conference, 93rd Session 2005, Report I (B). Geneva.

Box 14: Preventing the Trafficking of Women and Children

A regional technical assistance for *Preventing the Trafficking of Women and Children and Promoting Safe Migration in the Greater Mekong Subregion*[a] aims to raise public awareness, improve subregional cooperation, and increase developing member country capacity to combat trafficking and promoting safe migration in the subregion.

[a] ADB. 2003. Regional Technical Assistance on Preventing the Trafficking of Women and Children and Promoting Safe Migration in the Greater Mekong Subregion. RETA: REG38471-01. Manila. ILO is a partner in this project.

domestic work by children, including its most exploitative forms, was published by ILO in 2004.[59] Domestic workers are especially vulnerable to forced labor because of the unprotected nature of their work and the highly personalized relationship between the worker and employer (Box 15). Domestic work takes place in the private household, which is typically excluded from labor market regulations. Although labor inspection is required in all employment situations, in practice the home is out of bounds for labor inspectors.

Box 15: An Example of Forced Domestic Work

A domestic worker is in a forced labor situation where the head of a household takes away identity papers, forbids the worker to go outside and threatens him or her with, for instance, beatings or nonpayment of salary in case of disobedience. The domestic may also work for an unbearably low wage, but that is another matter. If he or she were free to leave, this would not amount to forced labor, but to exploitation.

Source: ILO. 2002. The International Labour Organization's Fundamental Conventions. InFocus Programme on Promoting the Declaration. Geneva.

[59] ILO. 2004. *Helping hands or shackled lives: Understanding child domestic labour and responses to it.* Geneva.

4. Financial and Nonfinancial Interventions for Prevention and Rehabilitation of Bonded Labor

Bonded labor arises from a web of relations between worker and employer, including but not limited to financial dependency. Discrimination and social subordination are important root causes. Hence, an ILO project to promote the prevention and elimination of bonded labor in South Asia in 2000 was designed on the premise that appropriate microfinance services, adapted to the special situation of very poor households, should be a core component of an effective strategy to prevent debt bondage. The project seeks to develop financial and nonfinancial interventions for both the prevention of bonded labor and the rehabilitation of released bonded laborers (Box 16).

Box 16: Microfinance for Reducing Bonded Labor

Microfinance can be important both for reducing the dependence of workers on wage advances from their employers, and for effective rehabilitation of released bonded laborers.

An ILO project to promote the prevention and elimination of bonded labor in South Asia is collaborating with local microfinance institutions to test a range of financial services specially tailored to the needs of households at high risk of falling into debt bondage. Such families need financial services to smooth income and expenses, to manage risks, and possibly to pay for social obligations—in essence, removing the need for employer credit.

Experience indicates the need for four core financial services, with the emphasis on savings mobilization rather than credit, at least in the first instance:

(1) **"Contractual" savings.** The project emphasizes savings and asset building to create a buffer for the household to fall back on in times of emergency. Clients "contract" to save a fixed amount of money, however small, on a regular basis. They are meanwhile assisted with household financial planning, so as to produce a lump sum of money for a specific purpose, such as house construction, school fees or religious ceremonies.

Box 16: **(continued)**

(2) **Liquid savings.** Families vulnerable to bondage need a safe place to store small amounts of surplus cash, where it is accessible in times of need, but not so accessible that the temptation to spend is hard to resist. In some cases, savings are deposited weekly or fortnightly during group meetings. But in others, where pressures to spend are the highest, clients are provided with lockboxes that are kept at home so they can save on a daily basis; accumulated savings are then deposited at the group meeting.

(3) **Income-generating loans.** Innovative approaches to credit for income-generating activities aim carefully to avoid putting clients in a potentially worse situation through increasing their debt. The project is experimenting with very small loans; penalty-free repayment holidays; tailoring repayment schedules to the household's expected cash flow; and allowing each borrower in a group to have individual customized loan amounts and terms, or no loan at all if they so wish.

(4) **Emergency loans.** These are sometimes given in parallel with an income-generating loan. The project strives to cultivate an approach to repayment discipline in which the carrot greatly outweighs the stick, with plenty of second chances given, as long as the problem clearly stems from an inability rather than an unwillingness to repay.

Alongside the core financial services, the project also provides necessary supporting services, such as household financial planning to identify sources of high expenditures (dowries, religious ceremonies, alcohol) and financial education; awareness raising on the legality of employer and moneylender loans; community mobilization to cut down on unsustainable expenditures; and skills training to start or expand income-generating activities. Other services being tested include micro-insurance, debt consolidation loans, and land leasing.

Source: ILO. 2005. A Global Alliance Against Forced Labor. International Labour Conference, 93rd Session 2005, Report I (B). Geneva.

5. Improved Labor Inspection and Law Enforcement for Forced Labor

Stamping out forced labor requires particular vigilance by law enforcement institutions. Special programs have been established in some countries to tackle forced labor in remote and rural areas, and appear to have paid some dividends. It has been found that strengthening labor inspection services can be an important measure, and preventive labor inspection strategies offer considerable promise in eliminating forced labor. Although this type of project has usually been implemented by ILO, ADB has been involved in some countries in related policy and legal reforms.

F. Freedom of Association and Right to Collective Bargaining in Project Design

ADB staff should consider four interrelated priorities when considering the scope of conventions 87 and 98, and ADB's response to loan requests:

(i) ensuring that all workers can form and join an independent trade union of their choice without fear of intimidation or reprisal and that employers are free to form and join independent associations;
(ii) encouraging an open and constructive attitude by private business and public employers to the freely chosen representation of workers and the development of agreed methods of bargaining and complementary forms of cooperation concerning terms and conditions of work;
(iii) promoting recognition by public authorities that good governance of the labor market, based on respect for fundamental principles and rights at work, makes a major contribution to stable economic, political, and social development in the context of international economic integration, the expansion of democracy, and the fight against poverty;
(iv) identifying the areas where the barriers to women's organization are highest and ways of overcoming them, including through increased appreciation of gender issues in collective bargaining; and
(v) identifying obstacles to the rights of ethnic and other minorities to join and form trade unions.

During the project design, ADB staff and consultants should be aware of various discussion points if issues on freedom of association and collective bargaining become a concern in a particular project (Box 17).

G. Proactive Investments to Put Core Labor Standards into Practice

Projects can be designed to address major problems of compliance under implementation of CLS at the national or subnational level.

Examples of activities that can be undertaken to tackle governance problems in the area of CLS include

(i) strengthening national labor inspectorates;
(ii) training of police and other enforcement officers in criminal aspects of CLS (trafficking, child labor, bonded labor, etc.);
(iii) training of police and armed forces to deal with industrial disputes in conformity with CLS;
(iv) strengthening national statistics offices for labor related matters;
(v) capacity building for labor judges and tribunals;
(vi) capacity building for parliamentarians to deal with and correct CLS issues;
(vii) extension of labor law protection and a supervisory capacity to the informal economy or to economic sectors, such as agriculture.

Box 17: Discussion Points on Freedom of Association and Collective Bargaining

- Are there mechanisms for voluntary collective bargaining?
- How many trade unions are registered?
- Are there trade unions active in the sector of the economy concerned by the ADB activity?
- Does the government or employer put obstacles in the way of organization and collective bargaining?
- What type of union is it (general, sectoral, etc.)?
- Is there any type of affiliation (International Confederation of Free Trade Unions, etc.)?
- How many disputes are there relating to freedom of association and collective bargaining? Have any complaints been made to the International Labour Organization?
- Are these disputes mainly with national or foreign enterprises?
- Do collective agreements cover aspects of core labor standards and, if so, which aspects?
- Are there free and independent workers' and employers' organizations at the national level?
- Are there tripartite bodies at the national level with representatives from the social partners? If so, are the workers' and employers' representatives selected by their own organizations or appointed by a government body?
- At the enterprise level are there bipartite arrangements, such as joint worker-management committees, to deal with disputes? Does the disputes procedure follow conventional stages?
- Are any such joint structures balanced so that neither management nor workers dominate in terms of a majority?
- Are worker and employer representatives appointed without outside interference?
- Have any worker or employer representatives been penalized for carrying out their activities related to freedom of association and collective bargaining?

Core Labor Standards in Project Implementation

In projects that are designed to promote or to take account of CLS, it will be necessary to ensure that the standards are respected in the implementation of the project, both during bidding process and during implementation of the project. There will also be situations in which well-designed projects may encounter CLS problems during implementation by executing agencies, contractors, and subcontractors who violate these standards. Measures will have to be put into place to ensure that standards are taken into account in the letting of contracts for project implementation, which will involve information, training, and awareness raising among other factors. ADB review missions should ensure that projects are complying with CLS and with the terms of the contracts in this respect.

What is described here is an **ideal** level and approach to ensure that CLS are fully taken into account in project implementation. It currently exceeds the present capacity and practices of ADB (and of other development agencies). Consideration should, however, be given to the progressive implementation of these measures in order to comply with the requirement that CLS be implemented in all ADB activities. Advice can be sought from the regional representation of ILO if difficulties are encountered.

A. Preparing the Bidding Documents

It will be necessary to determine whether ensuring the implementation of ILS/CLS in the project will entail additional obligations of supervision, and other direct costs. The following should be considered:

1. Review Standard Bidding Documents

Invitations to bid should include a specific reference to ILS/CLS, if needed. They should include language indicating that the executing agency should ensure that all work done under the project (for example, by contractors or others providing goods or services) complies with applicable labor legislation, ensuring in particular that no child labor or forced labor is used, that freedom of association

and collective bargaining are available, and that equal remuneration for work of equal value and other forms of nondiscrimination are applied. The bidding document should also indicate that compliance with such provisions would be monitored during the project's implementation. It is important to

(i) identify the key procurement documents and the circumstances in which they are used, particularly the standard conditions of contract;
(ii) identify existing references to CLS and other labor standards in the contracts used for the type of physical works proposed. General Conditions of Contract will usually give an overview of what coverage there is, but it is in the Special Conditions (or Conditions of Particular Application) that any details will be specified in relation to local circumstances;[60]
(iii) adapt contract documents to take account of specific labor standards concerns in the particular project;
(iv) ensure that the documentation specifying terms indicate how additional costs are to be priced; and
(v) ensure that provision is made for monitoring and enforcing labor standards under the contract.

In 2005, ADB's Procurement of Works Standard Bidding Document (SBD) was amended to be consistent with the Multilateral Development Bank Harmonised Edition 2005 prepared by the International Federation of Consulting Engineers. Now the document includes 22 labor-related clauses covering some areas of core labor standards.[61] The Standard Bidding Document, Procurement of Plant, Design, Supply and Install, User's Guide, includes 16 clauses in its Section 7-General Conditions of Contract, which are partly related to CLS.

It should be noted that the above examples from ADB's bidding documents were taken from their General Conditions of Contract, which should not be modified in individual contracts. The necessary modifications due to CLS could be done in Section 8-Particular Conditions of Contract.

[60] Concerning the "new" International Federation of Consulting Engineers (FIDIC) contract documents from 1999, the social issues could be added there as part of "Particular Conditions" where appropriate subclauses into General Conditions could be presented. Concerning ADB standard bidding documents, see the next paragraph.

[61] See ADB's website: www.adb.org/Procurement/default.asp

2. Review and Take Account of Typical Site Practices

Whatever the law or collective agreements specify, practices on site tend to be different. Typical site practice for the sort of physical works (and categories of contractor) being considered must be understood by the ADB team. For example:

(i) Do employers/contractors in the sector keep records, and what do they include?
(ii) Do these records include the questions that need to be answered to monitor the application of labor standards (age and sex of employees, wages paid, accidents and illnesses, etc.)?
(iii) What are the contractors' attitudes to unions or other forms of organization?
(iv) Are site works committees, or some other form of worker/employer consultation mechanism, usually present? Is there any form of worker participation?
(v) Do contractors regularly provide basic safety clothing and equipment? Is it worn?

It will be necessary to carry out a kind of baseline survey or structured discussion concerning the implementation of labor standards. It is critical for successful implementation of the project that the technical staff supervising the contract clearly understand the need to implement CLS, and also the possible costs for the project. Additional financial needs might be caused by difficult working conditions that may create special occupational safety and health arrangements.

B. Implementing a Project

Project implementation begins with initial mobilization of government staff, beneficiaries, materials, and resources. In most cases, the recipient government has the main responsibility for implementation. Project implementation is monitored by ADB through periodic review missions as well as through progress reports submitted by the executing agency. Upon project completion, a factual record of the implementation of the project is provided in the project completion report (PCR), whereas a post-evaluation assessment of the performance of the project is provided in the project performance audit report (PPAR).

1. Preparing Implementation

ADB can assist and enhance project implementation by developing a consultation process, addressing the stakeholder concerns, and building the capacity of stakeholders to implement CLS.

a. Develop a Consultation Process

Several parties have a role to play in implementing ILS/CLS in the project, and they are more likely to cooperate if they know what is expected of them and are able to voice their concerns. Accordingly, it is important to

(i) plan and budget for a series of stakeholder workshops to address implementation issues;
(ii) plan and budget for training and briefing sessions for specific groups, e.g., trade unions, women's organizations, and organizations working for the protection of child workers;
(iii) provide for separate training for employers and those supervising the implementation of the contract (e.g., engineers on construction projects); and
(iv) provide for discussion and awareness-raising sessions, in appropriate cases, with workers under the project, especially where they may have safety and health concerns, or where gender or other discrimination is a particular concern (ethnically-divided regions).

b. Address Stakeholder Concerns

The concept of CLS is likely to be new to many of those involved in or affected by the project. Various parties have rights, responsibilities, and liabilities that should be addressed. The following list identifies the possible stakeholders that may need to be consulted or involved during project implementation. A detailed table of the initial concerns of stakeholders and suggested actions is presented in Appendix 8.

- The client (e.g., ministry carrying out public works)
- Employers' representatives
- Association of contractors and individual contractors
- Ministry of labor (department responsible for labor inspections)

- Trade unions for the sector
- Department of social security and national insurance
- Workers (permanent and daily wage) and adjacent communities
- Other donors (bilateral and multilateral donors and finance institutions)

c. Build the Capacity of Stakeholders to Implement CLS

Capacity building is one of the most important components of any labor standards scheme and an essential criterion for success and, in particular, for the sustainability of the project. It is important that labor standards briefings are included in all pre-bid meetings and ADB business opportunities seminars. Materials for these meetings need to be prepared (in hand-out form as well as on charts or overheads) and should cover

(i) what the CLS are and what is their relationship to national and local laws;
(ii) business benefits for contractors in implementing CLS;
(iii) where CLS will be addressed in the conditions of contract and associated specifications;
(iv) how they should cost each core labor standard in their bid;
(v) who will monitor implementation on site; and
(vi) any incentives agreed for compliance or sanctions for noncompliance.

2. Child Labor Issues during Implementation

a. The Need for Holistic and Integrated Area-based Strategies

Tackling the child labor issue calls for a holistic approach and knowledge of all the factors contributing to this problem. Data collection and research are vital in understanding the phenomenon of child labor and the many forms it takes. A partial solution may not lead to an improvement in the child labor situation, and may make things worse at the household level. For example, a simple prohibition of child labor at the workplace, without tackling income and employment opportunities and lack of access to resources at the household level, may increase the poverty situation of the child workers' families, and may even lead to worse forms of illegal and underground use of child labor.

The following activities focus on the needs of children:

(i) Children have been enrolled in schools for formal education through a scholarship program.
(ii) Socialization centers (drop-in centers) have been provided for children to get together for a few hours during the day and play games.
(iii) In some of these centers, a library has also been established through donation of books, including books received from the local district education office.
(iv) Some centers provide health care facilities.
(v) Nonformal classes have been conducted before integration of children into formal classes.
(vi) Counseling for children and their families has also started.

b. Institutional Capacity and Community Support

The success of child labor programs and policies will depend on

(i) feasibility and soundness of the plan of action;
(ii) institutional capacity and earnestness of the proponents;
(iii) level of coordination and cooperation among the agencies and institutions;
(iv) level of cooperation of the community members and/or various stakeholders (e.g., employers and trade unions); and
(v) level of awareness and social capital in the community or sector.

At each stage of implementation of projects and programs, an assessment of these five factors should be undertaken and where inadequate, corrective measures developed.

Some corrective measures include

(i) making modifications and improvements to the original plan of action;
(ii) capacity-development programs and values seminars for the proponents;

(iii) sufficient warning and indications to executing agencies of failures in implementation, with coordination and agreement on how to correct these failures;
(iv) in extreme cases, replacement of incompetent, corrupt, or erring executing agencies;
(v) in the case of bad coordination or lack of cooperation (including disagreements) among key stakeholders and institutions, a mechanism of problem solving through workshops, meetings, and intermediation through key persons or agencies should be adopted; and
(vi) lack of social awareness or social capital should be corrected through strong intensive values training and awareness-raising seminars and workshops among the participants and institutions of the project.

Child labor elimination programs and projects usually are holistic and integrated programs and the likelihood of achieving the desired results can be further enhanced by good, regular progress reports on the various interventions made in the project or program. Indicators of the effects of each intervention should be clearly set out for each progress report, to ensure that the desired results are being attained. Comprehensive, composite, or integrated indicators should be developed to assess the overall impact of the project or program at each implementation stage.

c. At the End of Implementation

It should be emphasized that evaluation of the project or program should not be based only on short-term indicators, such as the number of children released from child labor and put back into school. The following should also be included where the explicit reason for the project was to eliminate child labor:

(i) Did the children who were released/rescued from child labor return to school and remain there to finish their education?
(ii) Did the children go back to child labor within a relatively short time after the project/program was completed?
(iii) Did the stoppage of child labor lead to better economic conditions for the families and children involved, or did it lead to more deprivation for them?

(iv) Did the community or the sector benefit or suffer from the project or program economically and socially?

(v) Was child labor elimination limited to those target groups covered by the projects or programs or were there positive effects in the community or sector where the project/program was implemented?

Obviously these questions can only be assessed if there are follow-up monitoring and evaluation processes in the program area or sector. Such evaluations should ideally take place a significant period after the project or program ends. This would require additional resources and funds. But, these are necessary to ensure that the programs or projects were effective and ultimately beneficial to the children, their families, and their communities.

3. Ensuring Equality and Avoiding Discrimination during Implementation

a. Temporary Workers

In most developing countries, the majority of workers, especially on a large site, are employed on a temporary basis even in formal contracting. Only the minority of the total workforce in most Asian countries is made up of "permanent" employees who are also registered for social security. Most workers, whether they work in formal and community contracting or in self-help schemes, are "temporary" workers.[62]

A major issue, especially in large-scale infrastructure projects, is whether and how these temporary workers can receive benefits on a par with permanent (and registered) workers. In practice, temporary workers, who are mostly unskilled and among the poorest, receive neither the benefits of permanent workers nor additional wage rates to compensate for the loss of benefits.[63]

[62] The "temporary" category normally includes at least two categories of worker. "Casuals" are those employed on a specific project, on daily wages, for specific, unskilled tasks. This group is likely to live locally and work as laborers to supplement other livelihood strategies (e.g., in agriculture). A second group can be referred to as "permanent casuals", who often have many years of experience—often for the same employer—but have never been registered by any employer for social security.

[63] The absence of social security benefits from temporary workers is usually not in itself a violation against CLS. If national legislation covers such benefits for temporary workers, then the issue may relate to equality or discrimination.

What can be done will vary according to the local context and the size of the project. However, in general:

(i) Review the benefits enjoyed by all workers and compare the benefits that permanent workers get with those of different categories of temporary worker. Workers should not be discriminated against because they are casual workers, especially if casual workers are mainly composed of minority groups or women in a particular situation. Factors to be taken into account are the regularity of work, the nature of the task, and the skill involved.
(ii) CLS, health and safety provisions, etc., should be common for all.
(iii) If the project continues for a sustained period of time (beyond the legal limit for casual work) then laborers should be registered for social security entitlements.
(iv) In the case of serious accidents, where it is not possible to bring casual unskilled workers under the state social security system, accident insurance should be provided to pay for disability, death, serious medical expenses, and loss of income.
(v) The best option for dealing with minor accidents may be the creation of some form of local fund that can respond quickly to meet medical expenses, because the bureaucracy in most insurance companies or national insurance mechanisms is a deterrent to claiming small amounts of compensation, especially by the less educated.

b. The Role of the Executing Agency in Gender Issues

The executing agency of the project should ensure effective and efficient project implementation through, among other things, internal monitoring of gender concerns identified at the project design stage and during the course of the project. The executing agency monitoring team (Box 18) should review the progress made and changes that take place during the project, with regard to the initial quantitative and qualitative situation of men and women workers involved.

Box 18: Composition of the Executing Agency Monitoring Team in Gender Issues

(i) Ensure a gender balance in the composition of the team.
(ii) Ensure the participation of a gender consultant with expertise in labor and employment issues.
(iii) Include an official of the gender unit, if any, established within the employers' and workers' organizations.
(iv) Include a representative of the gender unit from the ministry responsible for labor.
(v) Include organizations concerned with women and gender issues at the national and/or community level, especially in the field of labor and employment.

The executing agency team should also carefully monitor any possible discriminatory outcomes for men or women workers as a result of the project. If indirect or direct gender-based discrimination emerges from the project with respect to access to employment and occupation, access to vocational training and education, or in terms of conditions of work, the executing agency will have to make adjustments to the new needs and conditions of men and women. Adjustments should be made with the involvement of all stakeholders concerned within and outside the project team and ADB, particularly the contractors and subcontractors, workers' and employers' organizations, ministries responsible for labor, gender units, men and women workers, and civil society organizations, especially those with expertise on gender and employment issues.

There are several basic steps during implementation:

(i) Contact women's departments of employers' and workers' organizations as well as the government to inform them about ADB gender and development objectives, and the project guidelines to promote gender equality in carrying out the project.
(ii) Contact the unit within the ministry/department for labor that is responsible for gender and women's issues, to inform them about

ADB's gender and development guidelines and project guidelines to promote gender equality.

(iii) Inform contractors and subcontractors about the gender equality guidelines of the project.

(iv) Meet special interest groups, including women's associations, in addition to the traditional social partners, to gain their input on the implementation, monitoring and evaluation of strategies and activities.

(v) Consult women's groups to help increase the participation of women in project activities and to assist in designing implementation and evaluation activities that have particular appeal and significance for women. Media networks of women's groups may be particularly useful to advertise project activities.

(vi) Set up a mechanism for receiving complaints from men and women workers as well as from other persons living in the project area who are adversely affected by the operations. The complaints mechanism should be made easily accessible to all workers, especially women from rural areas.

A detailed, non-exhaustive list of indicators to help the monitoring team assess to what extent the project has worked toward the promotion of gender equality and nondiscrimination in employment and occupation is found in Appendix 9.

Members of the executing agency monitoring team should make occasional inspections on site to verify these reports and seek explanations for any lapses that have occurred, as well as identify remedial action to address them.

At the end of the monitoring and evaluation exercise, the executing agency should identify and undertake remedial action to address any discriminatory practices resulting from the project. Remedial action can be identified through a rapid gender assessment of the project with the direct recipients and intended beneficiaries. This will provide factual information about women's and men's roles, needs, and constraints, and at the same time raise awareness and increase the capacity of those responsible for implementation in addressing gender and equality issues. On the basis of such an inventory, more detailed gender-specific measures can be designed and implemented to reduce and eliminate sex-based discrimination in employment.

c. Dialogue with Relevant Stakeholders during Implementation

During project implementation, the following stakeholders can be involved in a way that allows for meaningful dialogue and contribution.

(i) **Women's national machinery.** Most countries have a government department or a bureau for women's affairs. This agency has experts on the legal and economic position of women in the country.
(ii) **Ministry of labor**. There is usually a department for labor that keeps track of the application of labor laws and their violations. The ministry often has a statistical wing that should have gender-disaggregated data about labor. Also there is usually a gender focal point or women's department.
(iii) **Trade unions or other workers' organizations**, particularly their women's departments.
(iv) **Employers' associations**. Most do not have women's departments but they may have someone who is involved with women entrepreneurs or women in management.
(v) **National statistical bureaus** have the broadest coverage of labor market statistics through household surveys and wage and income surveys, disaggregated by sex and other criteria.
(vi) **Local women's and people's organizations** as well as NGOs working with women have a local perspective on gender and work issues.
(vii) **Local teachers, doctors, or women's clinics** may have suggestions for monitoring women workers' health, and work-related education issues.
(viii) **Local ILO offices** and **ADB resident missions** as focal points.

4. Forced and Compulsory Labor Issues during Implementation

Forced and compulsory labor issues, although very rare situations in ADB projects, may appear indirectly in ADB project areas in their "new" forms: trafficking of women and children, migration for bonded domestic labor, and for economic exploitation. Many migrant workers, who are particularly subject to this kind of abuse, are engaged in construction projects. Therefore, the project design stage is important. Monitoring activities during implementation by the executing agency or by an independent external agency, e.g., an NGO, would greatly reduce such situations.

5. Freedom of Association and Collective Bargaining during Implementation

The issues concerning freedom of association and collective bargaining may concern some construction and civil engineering projects where workers of different contractors might be associated with several trade unions, or when disputes concerning the application of collective agreements may appear. ADB's role is not to be involved in these issues except to verify compliance with the respective CLS.

C. Summary of Monitoring Activities for Compliance with Core Labor Standards

One of the main reasons that CLS are not implemented is the absence of monitoring. National inspection services and other mechanisms are under-funded and under-resourced, and monitoring of labor law is sometimes considered to be an unjustified expense. An effective monitoring system for implementing this aspect of ADB interventions, with clear roles and responsibilities for carrying out the monitoring task, could improve the present situation. It is also important that this monitoring be visible, because of the exemplary effect this will have. Incentives and sanctions play a part in monitoring because contractors are unlikely to implement the required standards unless they see a benefit to themselves in doing so (or a penalty for their failure). Monitoring systems should be agreed on in advance and put in place before the physical work starts. This means, among other things, that a decision should be made on who will be responsible for monitoring and the form of reporting. In ADB projects, the executing agency is usually responsible for monitoring. Sometimes, if the project is a complicated one, or draws a lot of public interest, like large power/resettlement projects, an independent monitoring team/agency could be hired.

Site meetings should have a regular "CLS slot" when the record system is checked and any other problems regarding CLS implementation are discussed and resolved. Members of the monitoring team, if such a team exists, should attend as many site meetings as they can—these will be the main mechanism for resolving problems.

It is often not possible for ADB operational staff to monitor closely ongoing projects except to the extent established within the normal review functions. However, if the project would include difficult and even controversial labor issues, it would be helpful to hire an outside agency, e.g., a local NGO, to monitor the

project. The following list gives some appropriate monitoring mechanisms to check the implementation of each core labor standard mentioned in the contract, including

(i) visual monitoring to check that workers are using the correct personal protective equipment for the job intended; that women are not being sidelined into only one type of job; that children are not working; that the record system is working, and so on;
(ii) the record system to check who is employed and for what duration, working hours, schedule of work for the day, pay, accidents, social security, tax and union dues, etc.;
(iii) conversations with workers to cross-check all the above;
(iv) discussions of inconsistencies with site agents and/or contractors at regular site meetings; and
(v) agreements on how to deal with consistent noncompliance by a contractor, for instance through incentives and/or sanctions.

D. Project Completion and Postevaluation

At the conclusion of implementation, a project completion report (PCR) is prepared as a factual record of problems encountered and how they have been overcome; any adjustments in project scope and implementation arrangements; the degree to which appraisal targets have been achieved; and the performance of various actors, including contractors, suppliers, consultants, executing agency, the government, and ADB. At this stage, the focus should also be on labor issues and how the CLS were implemented, if they were important in the project. Any adverse effects of the project on people, mitigation and compensation measures adopted, and the results of these measures should be assessed.

Normally, postevaluation, through the preparation of a project performance evaluation report (PPER) for the project,[64] is undertaken after significant project benefits start to flow.[65] Because PPERs are prepared a few years after the end of the project implementation (around 25% of the projects are targeted for evaluation), it gives a good opportunity to evaluate also the impact of CLS on project activities.

[64] http://www.adb.org/documents/guidelines/evaluation/pper-pso/default.asp
[65] In selected cases, ADB also undertakes re-evaluation of projects 3-5 years after PPER preparation.

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Appendix 1

Directory of ILO Offices in Asia and the Pacific

Program	Telephone	Fax	E-mail
ILO Regional Office for Asia and the Pacific in Bangkok (ASIE)	+66.2.288.17.10: Reg. Director +66.2.288.17.85: Deputy Reg. Director +66.2.288.12.34: ESCAP Operator	+66.2.288.30.62 +66.2.288.30.56: Director (for urgent matters only)	bangkok@ilo.org
ILO Subregional Office for East Asia (SRO-Bangkok)	+66.2.288.22.19: Director +66.2.288.22.20 +66.2.288.17.11: Deputy Director +66.2.288.17.96	+66.2.288.30.62 +66.2.288.30.58: Director +66.2.288.30.60 +66.2.288.30.43: Deputy Director	bangkok@ilo.org
ILO Office for China and Mongolia (ILO-Beijing)	+86.10.65.32.50.91 +86.10.65.32.50.92 +86.10.65.32.50.93 +86.10.65.32.50.94 +86.10.65.32.50.95: Director +86.10.65.32.50.96: Deputy Director	+86.10.65.32.14.20	beijing@ilo.org
ILO Office in Sri Lanka (ILO-Colombo)	+94.1.50.05.39: Director +94.1.59.25.25	+94.1.50.08.65	colombo@ilo.org
ILO Office in Bangladesh (ILO-Dhaka)	+880.2.911.29.07: Switchboard +880.2.911.28.36 +880.2.32.92.84 +880.2.911.28.76 +880.2.811.47.05 +880.2.811.69.89: Director	+880.2.811.42.11	dhaka@ilo.org
ILO Office in Viet Nam (ILO-Hanoi)	+84.4.846.51.00	+84.4.846.51.01	ilo-esp@hn.vnn.vn
ILO Office in Pakistan (ILO-Islamabad)	+92.51.227.64.56 +92.51.227.64.57 +92.51.227.64.58 +92.51.227.33.68: Director	+92.51.227.91.81 +92.51.227.91.82	islamabad@ilo.org

Program	Telephone	Fax	E-mail
ILO Office in Indonesia (ILO-Jakarta)	+62.21.314.13.08 +62.21.391.31.12 +62.21.315.55.75:Director	+62.21.310.07.66	jakarta@ilo.org
ILO Subregional Office for South-East Asia (SRO-Manila)	+63.2.580.99.00 – Trunk line +63.2.901.01.00: UNDP +63.2.580.99.01: Director	+63.2.580.99.99 - Incoming +63.2.580.99.97: Outgoing +63.2.580.99.96: Project	manila@ilomnl.org.ph
ILO Subregional Office for South Asia (SRO-New Delhi)	+91.11.460.21.01/02/03/06 +91.11.464.79.72: Director	+91.11.464.79.73: ILO/ SAAT +91.11.460.21.11: ILO Office	delhi@ilo.org
ILO Office for Fiji, Papua New Guinea, Solomon Islands, Kiribati and other South Pacific islands (ILO-Suva)	+679.331.34.10: Switchboard +679.330.97.11: Director +679.331.31.46 +679.331.38.66 +679.330.04.10: ISD	+679.330.02.48	suva@ilo.org
ILO Office in Japan (ILO-Tokyo)	+81.3.54.67.27.01 +81.3.54.67.27.02 +81.3.54.67.27.03	+81.3.54.67.27.00	tokyo@ilo.org
ILO Office in Nepal (ILO-Kathmandu)	+977.1.53.17.52 +977.1.54.21.29	+977.1.53.13.32	kathmandu@ilo.org

Appendix 2

ILO Supervision of the Application of Conventions

A. ILO Sources on the Application of ILO Standards

The International Labour Organization (ILO) has adopted many conventions and recommendations over the years that have been widely ratified and become binding on the countries that ratify them. Naturally, these include all Asian Development Bank (ADB) developing member countries (DMCs) that are ILO members.

The ratifications for each country can be found on the ILO website (http://www.ilo.org), under "International Labour Standards."

B. ILO Supervision of the Application of Conventions

ILO also carries out detailed supervision of the application of all its conventions by member states, principally on the basis of reports from governments supplemented by information from employers' and workers' organizations in each country. These reports are examined by the ILO Committee of Experts on the Application of Conventions and Recommendations, which may comment on the application of these conventions. The Committee of Experts makes two kinds of comments: *observations*, which are comments on the most important matters arising, and are published in an annual report to the International Labour Conference, as well as on the ILO website; and *direct requests*, which are not published as such, but after a short interval (to allow governments time to receive and consider them) they may be found on the ILO website.

Each year the ILO Conference establishes a committee of governments and of employers' and workers' representatives to examine the Committee of Experts' report. The Committee contacts about 25 of the governments referred to in that report for a more detailed discussion of the *observations* made concerning it, and these discussions also form part of the record of review of a country's implementation of the convention concerned.

Reports on most conventions are due every 5 years, but for a set of more important conventions—including all the core labor standards—reports are due every 2 years. Any comments ILO may have on the application of a core labor convention will therefore not be more than 2 years old, thus representing a very current view.

ILO has various complaints procedures by which complaints may be made of the way in which governments are applying conventions, and the results of these also are published on the website. These take three forms, the first two of which can be used only as concerns conventions the state concerned has ratified.

(i) Complaints under Article 26 of the ILO Constitution, leading to the establishment of a commission of inquiry. These are rare, but may be invoked in very serious cases.[66]

(ii) Representations under Article 24 of the ILO Constitution, which may be submitted by employers' or workers' organizations. These are more frequent, because they can come from nongovernment sources and are examined by an ad hoc committee of three members of the governing body of ILO.

(iii) The Committee on Freedom of Association, which can receive complaints of violations of freedom of association even against countries that have not ratified the relevant ILO conventions, based simply on membership of the ILO. The committee is composed of nine members of the governing body, representing employers, workers, and governments, and has considered more than 2,000 complaints.

Because there are now more than 7,000 ratifications of ILO conventions, ILO does not publish regular summaries of the way in which each country is applying each convention. However, the Committee of Experts does examine about 2,000 reports a year, so a great deal of information is available.

An additional measure is found under the 1998 *Declaration on Fundamental Principles and Rights at Work*, which relates only to the core labor standards. Countries that have not ratified all eight ILO core conventions are required to report annually on measures they are taking to implement the principles covered

[66] A recent example concerning Asia is Myanmar as concerns the application of the *Forced Labor Convention*, 1930 (No. 29).

by these conventions. This is particularly relevant to Asia, which has the lowest rate of ratification of CLS of any ILO region. Reports are reviewed by the Declaration Expert-Advisers, which publishes a compilation of governments' reports, workers' and employers' observations on them, and governments' replies to these observations, on the ILO website.[67]

[67] For detailed information see the Declaration web site at: http://www.ilo.org/dyn/declaris/DECLARATIONWEB.INDEXPAGE

Appendix 3

Summary Labor Market Assessment

The country poverty analysis should include a summary labor market assessment (SLMA), to be reflected in the country strategy and program. Given that work is the main source of income for the poor and, as development proceeds, employment becomes the major source of economic support for workers and their families, the SLMA is critical to help identify the country's development options. A labor market assessment should recommend policies to ensure inclusive, labor-absorbing, and efficient development patterns. Improving labor market operations is an important element of strategies to reduce poverty, assisting human capital development, addressing gender discrimination, allocating a country's human capital resources to their most productive uses, enhancing welfare, and encouraging growth and development.

The SLMA should be brief and concise, focused on the determination of country priorities by revealing employment patterns. The size of the formal and informal sectors; sectoral distribution (population engaged in agriculture, industry, and services); rural and urban active population; evolution of real wages; role of women in the labor force; working conditions; and compliance with national and international labor laws and standards, including the reported existence of child or bonded labor and violations to other core labor standards (CLS), will all provide information to help determine country priorities. In some countries, the priority attention will be to assist unemployed or underemployed working-age populations to find employment opportunities or to fight child labor. In others, the rural areas may have been forced to shoulder a disproportionate burden of the country's social problems, and strengthening rural systems may be a priority. Labor absorption is essential to avoid poverty. The country SLMA should evaluate which sectors/subsectors and geographical areas have a demand for labor and identify which areas may have an unmet supply of labor, to identify the right mix of public policies. Labor market assessment is a key element in the strategic link between economic growth and poverty reduction, and the assessment should provide recommendations to ensure efficient and inclusive development patterns.

The SLMA will be based on secondary sources. Some institutions, such as the International Labour Organization (ILO) have comprehensive country studies; other organizations, such as the World Bank, have selected country studies. The key information required for a labor market assessment includes the country's development pattern, the structure of the labor market (supply and demand), the institutional framework (labor market legislation, administrative structure, social stakeholders), and policy analysis. Some indicative, not prescriptive, notes are presented below.

A. Labor-absorbing Development Pattern

The assessment of the labor-absorbing development pattern of the country should be based on a comparison of the composition of economic growth (primary, secondary, tertiary sectors) and the sectors' labor intensity (labor force in primary, secondary, and tertiary sectors), leading sectors of the economy, the size of the informal sector, domestic and foreign investment prospects, and growth projections in the medium and long term.

(i) What are the characteristics of growth and poverty? Has the poverty rate been reduced at the same speed as the rate of growth? Has growth been pro-poor, trickled down? Has growth been sufficient to employ all the population of working age?
(ii) Which are the most dynamic sectors of the economy? Are they labor-intensive?
(iii) What is the percentage of the population below 18 years of age? Will the economy be able to absorb all new entrants into the labor market?
(iv) Which sector is the country's niche in the world economy? Is this leading sector labor-absorbing? If not, is it taxed? Do the tax revenues benefit those outside the labor market?
(v) Is the growth rate low? What are the barriers to investment by the private/public sector? What can be done to accelerate growth while ensuring pro-poor use of scarce public resources?
(vi) Which sectors, in which geographical regions, should be promoted in the short/long term to secure employment and prosperity for all citizens?

B. Structure of the Labor Market

The main purpose of this analysis is to identify labor market imbalances. This can be done by analyzing the demand and supply for labor separately, and by identifying the major sources of imbalances such as geographical, skills, education, or gender factors. Labor supply attends to the human capital available in the nation, while labor demand attends to the human capital needs. This allows the identification of imbalances and mismatches in the supply and demand of labor, which can be addressed in future development policies.

1. Labor Supply

The analysis of labor supply starts with demographic data. Many Asian and Pacific countries have fast growing populations—on average, 40% of the population are children and youth below 19 years old. Their economies must, therefore, grow particularly fast if they are to develop employment in the formal sector. Without that development, employment is confined to the informal, normally subsistence economy, and these countries have an impossible task in reducing their poverty levels. The important consideration is labor force growth—and labor force growth is obviously linked to controlling population growth. The analysis of labor supply should also center on the working-age population, including the economically inactive. Especially during deep economic changes, substantial flows of workers occur between the economically active and economically inactive pools. Following a typical ILO classification of the population according to labor categories, the statistics below should provide a comprehensive picture of labor supply:

(i) Demographic structures by major age groups: children and youth (0–14 or 0–18); working age population (15–60/65 or 19–60/65); elderly (60/65+); birth, death, and natural growth rates.
(ii) The size, structure (male/female; urban/rural; age; education) and projections of the working-age population (i.e., men and women 15–60/65); employment (and, if available, underemployment) by economic activity, occupation, gender, age, education, urban/rural, formal/informal and public/private sectors.
(iii) Unemployment by gender, age, education, and urban/rural sectors.

(iv) Economically inactive population by group (housewives, students, discouraged job seekers, and others), age, gender and education.
(v) Labor migration (internal and external) and impact on the structure of the labor force.
(vi) Literacy rates, average years of schooling, and changes in the education system affecting school retention.
(vii) If relevant, changes in the pension system affecting retirement age.

2. Labor Demand

The basic characteristics of labor demand that need to be assessed are the following:

(i) Economic structure (national and regional, by sector)
(ii) Wage levels and earnings
(iii) Relationship between the formal and informal sectors
(iv) Relationship between rural and urban sectors
(v) Size and structure of the public sector
(vi) Size and structure of the private sector, and potential for its development

Countries with a significant shortfall between economic growth rates and population growth rates are bound to have substantial informal sectors. Assessing labor demand, especially on a detailed industry or occupation level, may be difficult except in general terms. For most policy prescriptions, this proxy may be sufficient. Quantification of the informal sector requires effort in terms of (i) its definition and, once a definition is agreed, (ii) estimating its size.

The promotion of small and medium-sized enterprises is normally a good practice in order to generate employment and economic growth. The development of a manufacturing sector and the type and level of the sector depend on a variety of factors, such as accepted wage levels and the skills of the labor force. Typically, countries at the lower end of development gain immediate improvements in incomes as a result of direct foreign investment into manufacturing but the gains are limited unless there is a longer-term movement toward higher-level manufacturing involving greater skills. Services cover a wide range of sectors, notably tourism and commerce. These sectors are noted for numerous small enterprises and for informal employment in general. Tourism is

usually seen as a growing industry in the developing member countries (DMCs) of the Asian Development Bank (ADB), but a great deal depends on the nature of the country in question—on its openness, perceived levels of corruption, potential for civil unrest, natural or historical sites, and quality of infrastructure.

The final stage of the analysis of the labor demand consists of identifying the major constraints for matching labor supply with existing demand.

C. Existing Labor Market Policies

Labor market policies comprise active and passive labor market programs. Active labor market programs include

- direct employment generation (promoting small and medium enterprises, public works);
- labor exchanges or employment services (job brokerage, counseling), linking supply of with demand for labor; and
- technical and vocational training and skills development programs (training and retraining of labor).

Passive labor market policies include unemployment insurance, income support, and a legislative framework that should strike a balance between economic efficiency and labor protection. An appropriate legislative framework will include provisions on such issues as minimum age, maximum hours and overtime, labor contracts, industrial relations, special protection appropriate for new mothers, and antidiscrimination provisions to protect women and minorities. Internationally recognized labor standards, when ratified, are also part of the legislative framework of a DMC. No explicit ratification is needed for CLS to be part of the legislative framework of a country.

The primary goal of looking at the labor legislation is the identification of (i) legislation that acts to restrict the operations of the labor market, and (ii) possible noncompliance with the international CLS. All ADB interventions must be designed in accordance with national and international legislation—such as the CLS. The most relevant labor market legislation may include

(i) legislation on CLS;
(ii) wage policies, which include legislation on minimum wages;

(iii) job security provisions, which cover recruitment and separation of employees;
(iv) working conditions, which cover such issues as working hours, leave provisions, and occupational health and safety; and
(v) other relevant legislation, such as regulations controlling labor mobility (e.g., internal passports) and enterprise-based forms of social protection, including pensions and housing.

Regarding administrative structures, analysis of existing labor market policies may include

(i) enumeration of existing labor market policies (number and types of policies/programs);
(ii) organizations responsible for implementing labor market policies, including coordination between organizations;
(iii) sources of finance of labor market policies, including flow of funds from central to local units and cost recovery procedures, if any;
(iv) target groups and program effectiveness; and
(v) capacity to adequately inspect working conditions.

The analysis should avoid long narratives and statistical tables, but concisely evaluate the effectiveness of the country's labor market policies and point out areas where development is needed.

D. Recommendations

The steps above should allow (i) a first assessment of the mismatch of the demand and supply of labor; and (ii) determining whether the current development pattern of the country and labor market policies framework assist in matching the supply and demand of labor. This should allow recommendations on employment-generating policies and investments that may correct national or regional imbalances, and address uncovered problems in the labor market. The ADB portfolio should support inclusive labor-absorbing development patterns, enhance welfare, support compliance with national and international labor standards, and help to allocate human capital to its most productive uses.

Any proposed ADB labor or social protection intervention requires negotiation with many stakeholders, particularly the social partners. Proposed reforms, if any, should be discussed with all relevant players, normally with the national commission for social protection or, in its absence, with counterpart ministries, employers' and workers' organizations, and other civil society partners and development institutions (e.g., ILO, World Bank) present in the country.

Appendix 4

Key Indicators of the Labor Market

Key indicators of the labor market respond to the need of the International Labour Organization (ILO) and its constituents, and of policymakers and researchers for an easily accessible, reliable, and user-friendly tool for locating timely information on labor markets that is also comparable across countries. This information is essential for assessing policy impact, identifying policy gaps, and for shaping appropriate responses in the future. In ILO, the "decent work" agenda aims to promote opportunities for women and men to obtain productive work, in conditions of freedom, equity, security, and human dignity. The indicators provide an image of the labor market situation that can be used to help develop integrated strategies to promote standards and fundamental principles and rights at work, employment, social protection, and dialogue as well as the crosscutting themes of gender and development.

There are 20 key indicators that help to provide responses to the following kinds of questions:

(i) What types of economic activities are people engaged in?
(ii) What is the size and composition of the labor force?
(iii) How many hours do people work and how much do they earn for this work?
(iv) How many people are without work and looking for work?
(v) What types of inequalities exist, for example, in terms of earnings and the employment situation?
(vi) Are earnings keeping pace with the cost of living?
(vii) How are youth and women faring in the labor market?

The indicators are:

(i) Labor force participation rate
(ii) Employment-to-population ratio
(iii) Status in employment
(iv) Employment by sector
(v) Part-time workers
(vi) Hours of work
(vii) Informal sector employment
(viii) Unemployment
(ix) Youth unemployment
(x) Long-term unemployment
(xi) Unemployment by educational attainment
(xii) Time-related underemployment
(xiii) Inactivity rate
(xiv) Educational attainment and illiteracy
(xv) Manufacturing wage trends
(xvi) Occupational wage and earning indices
(xvii) Hourly compensation costs
(xviii) Labor productivity and unit labor costs
(xix) Labor market flows
(xx) Poverty and income distribution

Illustrative List of Labor Market Indicators and Products. The list of information sets below, derived from labor market indicators, is not intended to be exhaustive, but should rather be considered illustrative. In reality, the list developed for an individual country should correspond to the current labor market concerns of that country. As the concerns change, so will the information required—facilitating decision making by policymakers and individuals, and monitoring and evaluation of policies and programs.

(i) Labor supply (employment, unemployment, underemployment with appropriate coverage of age and sex, geographical location, education and training profile, occupation, and economic activity)
(ii) Hours of work and wages (from establishment-based activity, including surveys)

(iii) Skill shortages and current and likely future training needs
(iv) Occupational outlook
(v) Job seekers and vacancies
(vi) Retrenchment and displacement
(vii) International migration
(viii) Work permits in force
(ix) Training on offer, facilities, staffing, skills outputs produced
(x) Information from tracer studies
(xi) The informal sector
(xii) Labor disputes
(xiii) Occupational accidents and injuries
(xiv) Social security statistics
(xv) Membership of trade unions and employers organizations

Illustrative List of Labor Market Indicator Products

(i) Annual report on the performance of the labor market
(ii) Labor market bulletins (monthly, quarterly, biannually)
(iii) Thematic report
(iv) Sector studies
(v) Position papers

All labor market indicators and derived products should be gender specific.

Appendix 5

Economic Rationale for the Eradication of Child Labor

The main reasons for giving significant attention to child labor are

(i) protection of children and their rights,
(ii) ensuring conditions conducive to the proper growth and development of children, and
(iii) preventing and mitigating the negative impact of child labor on the macroeconomy and labor markets.

In terms of child protection, the argument is clear-cut, simple, and strong. The child is deprived of her/his right to be a child—to study, to play, to socialize with her/his peers—and must not undertake inappropriate work or have the responsibilities and burden of having to earn an income, nor be physically, psychologically, or emotionally abused and harmed. In the short term, the child has a high chance of becoming a school dropout or non-enrollee, or to be absent, tardy, or a bad performer in school. This leads in the medium and long run to low education and skills and low capacity to earn, and further to a vicious cycle of poverty in the future, and to increased likelihood of acceptance of child labor as inevitable.

The worst forms of child labor expose the child to health, safety, and moral hazards and to physical, psychological, and emotional abuse and harm. This in itself is a violation of the child's rights that should be prevented and avoided. Furthermore, it leads in the medium and long run to stunted growth, and psychological and emotional problems, as well as dysfunctional behavior and sometimes criminality.

In the macro perspective, there are additional reasons to believe that child labor makes negative contributions to both economic development and the development of strong labor markets. The stronger and more appropriate economic theories relevant to the child labor problem are the human capital

and endogenous growth theories. These state that the contribution of human capital to economic development results in increasing returns to scale and positive externalities that are key to economic development and sustained growth, and can account partially for the successes of the developed countries, and the economic successes of some East Asian economies and Chile.

This approach leads to the acceptance of large economic and social costs when children forego education and skills development, and experience stunted growth and health and emotional problems. Child labor leads to

(i) reduction in human capital and reduction in skilled and educated labor,
(ii) reduction in healthy and productive labor, and
(iii) reduction in the quality of the labor force by reducing socialization and interpersonal skills.[68]

High incidence and prevalence of child labor, therefore, leads to significant productivity and efficiency losses in the medium and long term, dragging the economy and society to lower and suboptimal growth paths.

From the industry point of view, the human capital and endogenous growth theories have pointed to the contribution of human skills, coupled with technological development, and "learning by doing" in firms as the primary spur to economic growth and development. This is a far cry from the old view that unskilled, passive labor should be the main asset and comparative advantage on which developing countries should depend.

The presence of children in labor markets should be viewed as a strong negative externality because the costs of foregone education and lack of acquisition of skills; the lower productivity resulting from stunted growth, health, and emotional damage; adverse effects on socialization and interpersonal skills; and relegation of most firms to low-skilled, low productivity status. These overall negative effects on current and future productivity and efficiency, not to mention the anguish and pain suffered by the children, are not internalized by the markets. Interventions become essential for economic development and are a justified response to the problem.

[68] Many studies point to the vicious cycles of child abuse and child exploitation, because some victims become abusers in adulthood. Child labor also cuts into playtime and socialization activities of the child and youth and, therefore, reduces his/her socialization and interpersonal skills.

But the prevalence of child labor could be taken to indicate that there are immediate benefits to the child or family if child labor is undertaken. In the short term, there is immediate increased income in the family, which may be seen as necessary during times of desperation or starvation.

Thus, any attempt to eradicate child labor should tackle the essential factors, which are in danger of inadvertently leading to the prevalence of child labor in the Third World.

Appendix 6

Potential Dangers in Inadvertent Use of Child Labor in Projects and Possible Mitigating Measures

Possible Inadvertent Use of Child Labor	Possible Mitigating Measure	Agency/Stakeholder to Consult and Ask for Assistance
Microfinance, livelihood, community or area-based development projects may lead to the employment of child labor in resulting economic activities.	• Ensure project planning from the very start to target only adult employment. • Make agreement with target groups that children should not be used (except in very light work) in projects. • Set up monitoring procedures in the project to check on child labor. • Set up pre-announced punitive measures on participants employing child labor (e.g., loss of credit line and technical assistance, litigation). • Incorporate in project positive incentives for children in target areas to have access to schooling. • Incorporate rescue, rehabilitation, and compensatory mechanisms for children adversely affected by child labor (e.g., compensation for schooling lost, compensation for physical, psychological, or emotional damage)	Local governments, department/ministry of labor, department/ministry of trade and industry, department/ministry of social welfare and children, department/ministry of education, community organizations, police, courts, CSOs on child labor, community leaders, local schools, parents' and teachers' associations, ILO-IPEC
Infrastructure and other construction projects may employ child labor.	As above	As above, plus department/ministry of infrastructure, construction and public highways

Possible Inadvertent Use of Child Labor	Possible Mitigating Measure	Agency/Stakeholder to Consult and Ask for Assistance
Area-based development, construction projects, free-trade zones, and industrial estates may lead to demand for child labor services in prostitution, domestic service, and other areas.	• Ensure that the area-based program includes plans for local officials to regulate prostitution and domestic services, and to prohibit child labor in ensuing economic activities. • Set up monitoring procedures in the program to check on child labor. • Set up pre-announced punitive measures on program participants employing child labor (e.g., loss of credit line and technical assistance, litigation). • Incorporate in project positive incentives for children in target areas to have access to schooling. • Incorporate rescue, rehabilitation, and compensatory mechanisms for children adversely affected by child labor (e.g., compensation for schooling lost, compensation for physical, psychological, or emotional damage).	Local governments, department/ministry of labor, department/ministry of social welfare and children, department/ ministry of education, department/ministry on women, police, courts, community organizations, CSOs, community leaders, local schools, parents' and teachers' associations, women's organizations, ILO-IPEC
Projects promoting particular economic or industrial sectors may lead to employment of child labor.	• Ensure that planning of the project includes safeguards to assure employment of adults and not children. • Set up monitoring procedures in the program to check on child labor. • Set up pre-announced punitive measures on program participants employing child labor (e.g., loss of credit line and technical assistance, litigation). • Incorporate rescue, rehabilitation, and compensatory mechanisms for children adversely affected by child labor (e.g., compensation for schooling lost, compensation for physical, psychological, or emotional damage).	Local governments, department/ministry of labor, department/ministry of trade and industry, department/ ministry of social welfare and children, police, courts, community organizations, CSOs, community leaders, ILO-IPEC

CSO = central statistical office; ILO-IPEC = International Labour Organization – International Programme on the Elimination of Child Labour.

Appendix 7

Checklist for Reducing Negative Impacts of Gender Discrimination

Requirement Related to Conventions	Problem	Corrective Measure
Convention 100		
Equal remuneration for men and women workers for work of equal value, without discrimination based on sex.	1. Women are paid lower wages or benefits than are men for same or similar work or work of equal value based on objective criteria of job content, including responsibility, skill, effort, and work environment.	1. Ensure that equal hourly and productivity rates are set and paid. 2. Ensure that equal benefits are paid, or that benefits are not based directly or indirectly on sex. 3. If different categories of pay exist, ensure that they are based on objective criteria. Whenever most women are in lower categories and most men in the highest, an objective review should be undertaken.
	2. Women (and/or men) are paid below minimum wages.	1. Ensure that both men and women are paid at least minimum wage if set at national or sector level.
	3. Occupational segregation of women and men that results in women being in low-skill, low-pay jobs.	1. Encourage women's participation in nontraditional areas through skills training, support mechanisms, adaptation training for men and women, successful demonstration effects.
Workers should not be subject to distinction, exclusion, or preference on the basis of race, color, sex, religion, political opinion, national extraction, or social	1. Less than 40% of project beneficiaries who are recruited for employment or to participate in income-generating activities are women.	1. Set target of 40% for recruitment of women. 2. Ensure that family responsibilities or marital status or age are not criteria for engagement.

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Requirement Related to Conventions	Problem	Corrective Measure
Convention 111		
origin, leading to nullifying or impairing equality of opportunity or treatment in employment or occupation, in recruitment, pay, access to training, promotion, terms and conditions of work, termination of employment, or any other aspects of the employment relationship or in occupation or income-generating activities.	2. Less than 40% of project beneficiaries who are employed or in income-generating projects are maintained in project.	1. Identify dropout reason and correct through provision of services, additional training, organizational flexibility to accommodate work and family, sensitization training of all involved to support participation of women, increase level of benefit derived from participation. 2. Establish complaint resolution mechanism sensitive to women. 3. Adopt, advertise, and enforce equal opportunity policy.
	3. Exclusion of women from certain components of projects.	1. Ensure inclusion of women in all components
	4. Few women are in positions of responsibility in the project.	1. Identify and correct low rate of women in positions of responsibility through affirmative action, additional skills and leadership training given to women, sensitization training for women to be accepted in such positions.
	5. Women are subjected to sexual harassment.	1. Prevent and prohibit sexual harassment through adoption of policy, training of all persons involved, and complaint resolution mechanism. Enforce policy.
	6. Destruction of traditional livelihoods of women. For example, clearing wasteland for building may mean that there are no more common pastures for the women.	1. Provision of alternative sources of living income to women.

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Requirement Related to Conventions	Problem	Corrective Measure
Convention 111		
	7. Overloading of women's household chores/burden, which restricts income-earning capacity or potential.	1. Inclusion of household work-saving mechanisms. 2. Ensure that children are not used to take up additional burdens or to replace women in household chores.
	8. Exclusion or segregation of minority or older women from participation in employment or income-generating activities	1. Affirmative action recruitment of minorities in relation to community population ratio. 2. Targeting of older women or poorest as beneficiaries on equal status.
	9. Exclusion of women from skill training or education or identification of skill deficit or illiteracy	1. Remedial education/training programs established for women to enhance ability to increase income. 2. Increase girls' participation in formal education system and formal vocational training.
	10. Disproportionate share of retrenched workers are women.	1. Ensure trade union/worker representation involvement in setting redundancy criteria and alternative proposals. 2. Ensure that objective criteria are used; if so, alternative solutions should be sought in alternative employment or compensation to cushion impact.
	11. Involuntary pregnancy testing.	1. Stop any such testing practices.

Appendix 8

Initial Labor Standards Concerns of Stakeholders During Project Implementation and Suggested Actions[69]

Stakeholder	Possible Concern	Suggested Action
1. The client (e.g., ministry carrying out public works)	• May have several concerns, e.g., extra costs, worker dissatisfaction, more burdens for emerging contractors.	• Stress that the project will help the ministry to meet its obligations under national law. • Be ready with examples of how it has worked elsewhere—of timescale and costs, of productivity gains, of capacity development for contractors. • Encourage the client to see the benefits of taking part in an initiative involving global players, e.g., ADB, ILO, relevant donors.
2. Employers' representatives	• May not feel core labor standards (CLS) are their responsibility; see their role as purely technical. • May have difficulties with particular standards, e.g., may see gender as a cultural issue irrelevant to their role as engineers.	• Ensure that the head of the department or ministry responsible for the project supports respect for labor standards. • Bring engineers into contact with other stakeholders so they have a chance to see issues from different points of view. • Over time you can anticipate that their interest will increase—they will begin to see action to protect labor standards extending their skills, and their status.

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[69] The table was originally presented in Ladbury, S., A. Cotton, and M. Jennings. 2003. *Implementing Labour Standards in Construction " A Sourcebook*. Leicestershire: Loughborough University, and London: Department for International Development. The table is slightly modified from the original, and it applies not only to core labor standards but also to labor standards in general.

Stakeholder	Possible Concern	Suggested Action
	• May resist adding monitoring CLS to their technical monitoring role. • May see this as an additional job for which they are unqualified.	• Build labor standards monitoring into the terms of reference for contract supervision. Include this in the service contract between the engineer and client. • Specific training on labor standards will be required.
3. Association of contractors and individual contractors	Likely to be the most resistant group and to have a range of questions, e.g.: • Who will pay? • How to procure equipment required to implement labor standards (e.g., protective clothing)? • Who will do the record keeping? • Trade union visits may incite workers. • Will there be rewards for compliance? • Will there be sanctions for noncompliance?	• Involve contractors as much as possible in initial planning discussions. • Ensure that the implementation of labor standards will be a bid assessment criterion. • Ensure the client has made it clear to contractors that they will not have to pay for standards-related costs from their overheads (e.g., by including labor items in call for bids). • Provide detailed specifications so that contractors are clear about the requirements. If the bidders are inexperienced in pricing for labor standards, include indications in call for bids. • Explain labor standards at all pre-bid meetings using well-prepared materials that potential bidders can take away. • Arrange briefing/training sessions at award of contract so that all know their roles and responsibilities. • Ensure contractors are clear about what will be monitored so they can brief their site representatives. • Get contractors and unions together to talk about their common interests. • Reward compliance.

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Stakeholder	Possible Concern	Suggested Action
4. Ministry of labor (department responsible for labor inspections)	• Will support the CLS program but may not have the resources to visit and inspect sites.	• Agree with the department whether it is feasible for them to be involved and, if so, how. • Invite to all stakeholder workshops so they can keep abreast of progress and provide information and advice on labor law and good practice.
5. The trade unions for the sector	• May not have the capacity (staff) or resources (transport, running costs) to play an active role outside the major towns, particularly if the number of workers on site is small.	• Examine whether additional resources for the trade unions (e.g., transport, training) should be provided, if requested. Otherwise trade unions may not be able to help with two vital jobs: raising worker awareness and monitoring the implementation of labor standards on sites.
6. Department of social security and national insurance	• May see the project as a way of getting more people to register (so will be supportive).	• No general guidance possible as it depends on national law. In principle, registering is to be encouraged as a social safety net for all workers. But if the law stipulates a contribution for a large number of years to qualify for a pension, it will be difficult to convince temporary workers to register (and contractors may not encourage them to register as they will want to minimize the amount they pay in employer contributions).
7. Workers (permanent and daily wage) and adjacent communities	• Workers are likely to prioritize pay above every other standard, at least initially. • At first, may not like wearing protective clothing, may sell it. May be wary of unions; may not want women on site; may prefer to side with contractor for fear of losing job.	• Plan a program of worker and community education. • Anticipate initial wariness but increasing support for labor standards by workers. • Anticipate that the word will spread and they will begin to lobby other contractors for standards, particularly increased wages, protective clothing, and potable water.

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Stakeholder	Possible Concern	Suggested Action
8. Other donors (bilateral and multilateral donors and finance institutions)	• Likely to be interested but to have limited experience unless gained through involvement with the ILO labor-intensive infrastructure program.	• Target donors funding the same employer/line department. • Try to ensure a consistent donor approach to labor standards. Avoid burdening the ministry with requests for slightly different standards or procedures. • Get the responsible ministry to ask other donors to apply the same standards.

ADB = Asian Development Bank; CLS = core labor standards; ILO = International Labour Organization.

Appendix 9

Indicators for Gender Monitoring and Evaluation

Indicator for Monitoring and Evaluation	Example of Indicator
Labor standards	(i) Respect for labor, employment, and equality laws, including minimum wages (ii) Absence of sex-based criteria in income, wages, and benefits (iii) Increase in number of women in higher decision-making posts (iv) Increase in number of women and men in nontraditional occupations (reducing sex-based occupational segregation) (v) Increase in numbers of women who have received vocational training, especially for skills that widen job opportunities (vi) Gender-neutral hiring and firing (vii) Quality of facilities (separate toilets, etc.) (viii) Maternity protection and benefits provided (ix) Safety measures geared to women's as well as men's needs (x) No dismissal on the basis of maternity or family responsibilities (xi) Increased awareness of men and women workers on women workers' rights (xii) Increased organizational and representational possibilities for women as well as for men (xiii) Increase in number of women covered by collective bargaining agreements (xiv) Increase in numbers of female members of trade unions, especially in leadership positions (xv) Affirmative action programs in place and operational to promote women's access to employment and training (xvi) Percentage of older women and women belonging to ethnic minorities or indigenous peoples participating in the project (xvii) Women's legal status with respect to access to credit, land, and jobs improved (xviii) Effective and operational complaints procedures
General welfare and awareness	(i) Group insurance for all workers' families (ii) Equal benefits for women workers arising out of insurance schemes (iii) Crèches for the use of all women and men (iv) Increase in awareness of men and women workers, contractors, and trade unions about health hazards/remedies (v) Increase in awareness of men and men about rights, facilities, and schemes (vi) Organizations for raising awareness of issues on ecology, family planning

Indicator for Monitoring and Evaluation	Example of Indicator
Economic growth	(i) Increased viable income for men and women workers (ii) Increase in sustainable wage employment or income-earning activities for women (iii) Improvement in productivity of women workers (iv) Increased control by women over income from wage employment and other income-earning activities (v) Infrastructure in place for raising market returns (vi) Improved access for women to credit, skills, and land (vii) Improved access for women to information on markets, different types of skills training, job opportunities, health care facilities, and child and family care facilities
Poverty reduction	(i) Increase in number of poor women, especially in female-headed households, who are engaged in sustainable employment (ii) Increased productivity of the work they do (iii) Better health for poor men and women and their families
Relief from housework and family responsibilities	(i) Investments made to reduce the load of housework and family care on women and men in the project area (ii) Child care and family care facilities in place and used by women and men in the project area (iii) Increase in awareness of workers and the community of the importance of equal sharing responsibilities between men and women (iv) Positive changes in men's and women's time use in household and family activities (v) Improved in women's status with respect to decision making within the family and community
Institutional strengthening	(i) Increase in number of female staff recruited, including at higher-level positions (ii) Increase in recruitment of female labor inspectors (iii) Gender balance among staff involved in the project (iv) Gender and employment training provided to ADB and executing agency staff; government agencies, including labor ministries, labor inspectors, trade unions, employers, contractors, community-based groups, and nongovernment organizations (v) Budget allocated for gender issues in labor and employment increased (vi) Partnership established between private sector, trade unions, and gender networks
Mitigation of adverse outcomes	(i) Complaint machinery established and operating (ii) Complaint machinery accessible to women (iii) Relief provided to those whose livelihoods are disturbed (iv) Reports submitted on number and kind of complaints and by whom

Core Labor Standards Handbook

This Handbook provides information on core labor standards (CLS) and illustrates examples of application of CLS in operations of the Asian Development Bank (ADB). This Handbook also gives practical knowledge on how ADB staff and their Government counterparts can appropriately consider CLS in project level interventions, and in planning and design of country strategies and programs.

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