

# Executive Summary

## *Chapter 1: Introduction*

1. Links between labour welfare, good governance practices and poverty reduction is relatively under-researched, at least in the Pakistani context. Yet, given the over-arching focus of the Asian Development Bank (ADB) on good governance and poverty reduction, this is a critical link to explore. Poverty reduction not only requires that employment opportunities be created but also that these employment opportunities be able to pull individuals and households out of absolute poverty.
2. There is increasing concern that employment conditions should remain 'humane', i.e. devoid of conditions of forced labour, child labour and provide a living wage (conditions of decent work).
3. The ADB has also recently signed an MOU with the ILO formalizing the former's efforts to maintain a certain minimum standard of rights for workers involved in its projects. The MOU states: "The ADB is committed to ensure that all relevant ADB interventions should be designed in accordance with core as well as other labour standards if the latter ones have been ratified by the concerned DMC."
4. This report is an examination of violations of core labour standards in the road construction sector in general and in ADB funded roads in particular, and a study of the social and statutory environment within which they occur. The emphasis on road construction is warranted by the inherent labour intensive and informal nature of road construction, as well as ADB's considerable presence in the sector.
5. Since secondary data on the road sector is not readily available, a survey was carried out in Sindh and Punjab to get a handle on the issue at hand.
6. The main source of secondary data, and the most relevant to provide insight into the labour force, the Labour Force Survey, does provide some statistics on the construction sector in general, but does not provide statistically reliable information on road construction.
7. According to this information, road construction workers constitute a mere 0.2 percent of the total employed force in the construction industry, a predominant number of which are regular paid employees. This is a finding which is contrary to field observations and anecdotal evidence.

## *Chapter 2: The formal Legal Environment in Pakistan*

8. The second chapter provides an overview of the stipulations of the ILO core labour standards, the national statutory framework within which labour markets operate as well as enforcement mechanisms and professional standards of ethics.
9. The four core labour standards, freedom of collection action, freedom from forced labour, equal remuneration, and freedom from child labour. These standards have been agreed upon through eight conventions in all, two for each standard.
10. The conventions on forced labour, passed in 1930 and 1957 call for the abolition of forced labour in all forms. Exceptions are however made for national emergencies such as fire/flood.
11. Child labour was made illegal through two conventions, one calling for a minimum age before a person could be allowed to work, and another banning worst forms of child labour. The former convention gives ample leeway to the signatory governments to define their minimum age in view of their labour markets and educational systems. The minimum age can therefore be anywhere between 13 and 18. However, for certain hazardous works the floor is immutable at 18 years of age.
12. Discriminatory wages are disallowed through two conventions, the first of which is limited to gender based discrimination while the second increases the scope of the convention to include all forms of discriminations such as racial, religious etc.
13. Conventions covering freedom of association reserve the right of workers to associate, organize and bargain collectively without fear of punitive measures.

### *National Labour Laws*

14. *The Factories Act of 1934*, covering issues such as health and safety, working hours etc. is inapplicable on either the formal or the informal sector workers in the construction industry. Firstly the law excludes temporary workers, which constitute the bulk of road construction workers. Secondly, the manner in which a 'factory' and the 'manufacturing process' are defined preclude unambiguous inclusion of construction and construction related activity. If protection of workers in the construction sector in general and in road construction in particular is to be formalized, a change in definitions in the Factory Act need to be carried out and cover needs to be extended to temporary workers as well.

15. *West Pakistan Camp Rules (1960)* provides guidelines for the provision of basic amenities in labour camps. The specifications seem to be copied from legislation from a western country and incorporated as they were. While the law is the only legislation designed exclusively for construction workers, it needs to reflect ground realities and the actual construction process.
16. *Social Security Ordinance 1965* was designed to provide protection against contingencies such as sickness, maternity, work related injury etc. The scheme is paid for by employers, and given the informal nature of work relations, inapplicable for the sector at hand.
17. *Industrial and Commercial Employment 1968* entitles all workers to a written contract. The minimum requirement of 20 workers for an establishment however has the tendency to exclude many workers
18. *Employees Old Age Benefit Institute (EOBI), 1976* provides pensions to employees of formal establishments employing 10 or more workers. The latter requirement as well as the meager pension precludes its application to the road sector.
19. *Wages Ordinance 2001* provides wage floors for all types of workers. However, no work has been done to estimate and legalize a minimum wage for daily wage earners. This has caused a de facto exclusion of such workers from this benefit. That said, the implantation of the law leaves much to be desired.
20. *Industrial Relations Ordinance 2002* provides the basis for collective action. The procedural intricacies in registering a union however rules out any practical application to the road construction sector.
21. In short, of the seven laws applicable to the construction sector, hardly any fits the glove, and existing statutes need to be modified before the legal environment can be deemed conducive to the maintenance of core labour standards.
22. *Enforcement Mechanism:* The enforcement of laws is weak. The primary body, Labour Welfare Directorate of the provincial labour department is plagued with corruption. A more innovative approach – one that focuses on incentive capability rather than bureaucratic conduct – will have to be sought.
23. Apart from legislative works, the International Federation of Consulting Engineers (FIDIC) and the Association of Consulting Engineers in Pakistan also provide a framework of ethics. While their potential role in conforming to labour standards should not be underestimated, both have been found lacking.

### **Chapter 3: Road Construction Processes, and their Organisation.**

24. In terms of labour intensity, roads can be differentiated by their size and their wearing surface. Larger roads preclude intensive use of labour while wearing surfaces determine labour use intrinsically. Triple Surface Treatment (TST) procedures are labour intensive, while asphalt paving is capital intensive.
25. Often, farm to market roads are TST, and highways are asphalt paved.
26. The main difference between ADB and non-ADB roads is that the former requires a consultant to monitor construction irrespective of project size. This third party monitoring has potential for monitoring labour standards as well, but will require to be costed separately.
27. From the viewpoint of labour standards, the petty contractor for labour is a critical person, for he is the main person in contact with the workers, and is often a worker himself. The petty heads a group of workers numbering usually 10-20. While he himself is hired at a piece rate, he pays the rest of the group on daily basis. Depending on the contract, the petty may be hired to manage the entire spectrum of tasks from clearing the site to the wearing surface, or some particular task such as stone spreading.
28. Besides managing the work, the petty is also responsible for dispute resolution within worker groups. These groups often consist of 15-20 workers, but can go up to 75 workers in the case of large projects.
29. The consultant is potentially the second most important person from the view of labour standards maintenance. He provides third party monitoring and work cannot proceed without the consultant's approval of the quality of the road (and potentially, approval of labour standards).

#### *Contractual Arrangements and Conditions of Employment*

30. Labour working in the construction industry can be divided into skilled/permanent and unskilled/temporary workers. The former receive monthly wages, proper camp at work site, and usually fringe benefits such as health care and meals. The latter however receive daily wages only for the days they work and no camp or other facilities.
31. Interestingly, within the bounds of unskilled work, there has developed a consensus on what may be called semi skilled activities. These activities yield a higher remuneration and more often than not, the petty contractor enjoys monopoly rights over these positions.

#### **Chapter 4: Violations of Core labour Standards**

32. The sector is conspicuously void of unionization or collective bargaining. This is mainly due to the fluid nature of the market. Workers do not stay together long enough to organize themselves. Also they seem to be wage takers and there is hardly any negotiation on wages or any other benefit for that matter. This is partly a manifestation of a surplus labour pool and lack of alternative employment in other sectors as well.
33. Workers do however tend to form groups based on some relationship, either kinship or geographic, but group membership is fairly fluid and while the basis of group formation remain the same, the members keep changing.
34. The report explored discrimination on lines of gender, caste religion and region. Discriminatory remuneration on the basis of gender was indeed found, but it was not very wide spread. Where it did exist, male and female workers' wages could differ by around 20 percent.
35. Advance wages cum credit arrangements are fairly common but there is no evidence of any conditions that could preclude timely repayment and thus suggest debt bondage.
36. While 40 percent of the respondents reported that child labour does take place, witnessed incidents were much less: 6 out of 71 workers in Punjab and 3 out of 45 workers interviewed in Sindh were minors.
37. Usually children were unpaid family workers, and incidence was highly correlated with Kolhi, Bheels and Meghwars in Sindh and Muslim Shaikhs, Oads and Baluchs in Punjab.
38. There is no concept of a minimum wage for the construction sector. At a legal level, while minimum monthly wages have been calculated at Rs. 2470, no such standard has been fixed for daily wage earners.
39. The average daily wage of a worker is Rs. 100. If the worker is engaged for the entire month, the stipulated minimum monthly wage may be exceeded, but if workers work for lesser days, the minimum is not met. And it is often not met. For on average, a worker may be expected to work 7-8 months in the whole year.
40. No precautionary health and safety measures were found to have been taken by any of the sampled contractors. Even Bitumen spraying was carried out without proper shoes, and often spray pipes were found to be leaking.
41. In case of emergencies, the contractor often paid the first visit to the doctor, while subsequent visits were paid by the injured worker.

42. No wages were provided for injured workers for days not worked.
43. Workers were not aware of the insurance scheme that ADB insists contractors undertake. In some cases, the contractor did not undertake this insurance policy in the first place.
44. While permanent workers were provided with some semblance of a labour camp, no such provision existed for temporary, daily-wage workers. Such workers often slept in the open, and access to water and other basic facilities was usually very limited.

## **Chapter 5: Recommendations: Labour Standards Compliance and Issues in Monitoring**

### *Rights of Association – Unskilled Workers*

45. An appropriate amendment in the IRO 2002, allowing temporary workers the right to unionization needs to be made.
46. The nature of road construction precludes enterprise level labour unions. Sector based unions will however serve the purpose.
47. There is evidence of informal collective action in the road construction sector.
48. However, for this informal collective action to bargain on wages and working conditions, it is necessary that formal third party enforceable contracts be provided.

### *Rights of Association – Skilled Workers*

49. None of the skilled workers interviewed had a formal letter of employment; unionization is not possible unless the legal status of a worker is well defined.
50. The WPICE, West Pakistan Industrial and Commercial Employment (Standing Orders) 1968 need to be made applicable to the road construction sector by removing the restriction stipulating minimum number of workers.
51. The WPICE also needs to be modified to allow seasonal and temporary workers to access their right of a formal contract. This modification could be on the patterns of the Indian Law on Contract Employees (1976).
52. The IRO 2002 needs to explicitly mention the road construction sector.

### *Equal Remuneration*

53. There is no legislation on equal remuneration. The Wages Act needs to incorporate such a provision.
54. Employment contracts for workers need to be made individually, rather than on a group/family basis. This condition needs to be incorporated in the Tender Document, the Loan agreement, the RRP, the PAM and the PPR.

### *Child Labour*

55. Imposing a ban on child labour in the road construction sector will only lead to increased child labour in other sectors. A more practical possibility is to prevent children working in hazardous work such as bitumen spraying.
56. Contractors allowing hazardous child labour should be penalized. Appropriate penal structures should be clarified at the pre-qualification stage.
57. Verifiable indicators should be designed and incorporated in the PPR and followed up by the ADB monitoring teams.

### *Minimum Wages*

58. The Minimum Wage Law does not envisage a benchmark for piece rate work or for daily or weekly wages. An amendment reflecting this consideration needs to be enacted.
59. The ADB will have to specify such a minimum wage explicitly in its Tender Documents as well as in the PPR for monitoring.

### *Occupational Health and Safety*

60. A technical committee needs to be set up by the ADB that will prescribe technical standards to be met by potentially hazardous equipment/processes such as bitumen spraying.
61. The ADB needs to stipulate first party insurance contracts in the Tender documents to ensure that all workers are adequately insured.
62. An amendment in the West Pakistan Labour Camp Law (1960) needs to be made. This should ensure basic amenities such as a roof and potable water to be provided to workers.
63. The main contractor, rather than the petty contractor needs to be made responsible for provision of camp facilities.
64. The ADB should make it mandatory for all contractors to have a trained first aid provider at the work site at all times.

### *Labour Welfare and EOBI*

65. There is no legislation on sexual harassment in the workplace. Such legislation should be advocated.
66. Given the mobility of road construction workers, the EOBI and the ESSI cannot service these workers. A welfare system financed by fiscal contributions, and access based on citizenship rights is the only possible solution to provide social security to road construction workers.

### *Collusion*

67. The command chain in road construction consists of the ADB, government, the consultant, the contractor and the petty contractor in that order.
68. All agents have an incentive to collude because an increased budget follows CLS implementation as a corollary.
69. The petty contractor has the incentive to collude with the contractor; the contractor can also collude with the government and the consultant to share the rents.
70. The focal point of monitoring will have to be the contractor since most of the services to be provided under CLS will be through the contractor.

### *Proposed Monitoring Mechanism*

71. Traditional monitoring through the labour departments has to be by-passed because, as explained in chapter 2, the existing monitoring mechanism is not incentive-compatible and is prone to rent seeking.
72. Responsibility of monitoring the contractor will be on a local government committee on one hand and on the consultant and the ADB on the other.
73. The local government committee, constituting of three elected representatives can provide regular third party monitoring. The consultant can clear the contractors' bills viz CLS implementation only on the recommendation of the committee.
74. The ADB will also have to monitor CLS along with its regular monitoring of construction quality. This can be done by incorporating verifiable indicators in its Project Performance Review.

# Annex I: Status of Compliance with Core Labour Standards: Issues, Options and Consultant Proposals

## 1. Right of Association

<i>Unskilled and Casual Workers</i>					
Field Findings	Key Issue	Proposals/Options	Feasibility	Recommended Options	Cross-Cutting Themes
No formal unions	There is no legal basis for sub-contracted and seasonal workers to form unions.	<ul style="list-style-type: none"> <li>Amendment in IRO 2002 to allow for unionization of sub-contracted workers.</li> </ul>	<ul style="list-style-type: none"> <li>Space Available for Dialogue Based on the Constitution (article 17) and ILO conventions 87 and 98</li> <li>Process of consolidation of labour laws is in process</li> <li>Resistance on the part of the Contracting firms and support in this resistance from their representative bodies.</li> <li>Implicit support by government against unionization also.</li> <li></li> </ul>	<ul style="list-style-type: none"> <li>Amendment in IRO 2002 to allow sub-contracted workers to be counted as employees. This should be done by making an explicit change in the definitional clause of the IRO.</li> <li>Allow sector based labour unions.</li> </ul>	Creation of Appropriate Monitoring Mechanisms
<p>Parochially based implicit collective action.</p> <p>Implicit collective action, however, does not bargain on wages/ conditions of work, but ensures contract compliance</p>	No formal employment contract that can form the basis of bargaining on wages and working conditions that is third party enforceable.	<ul style="list-style-type: none"> <li>Provide for a written contract for temporary workers</li> <li>The tender documents should explicitly require workers to be hired on an employment contract.</li> </ul>	<ul style="list-style-type: none"> <li>Doable as nothing in the law prevents it.</li> <li>Doable also as ADB has greater room to maneuver on this</li> </ul>	<ul style="list-style-type: none"> <li>Condition of written contracts in tender documents.</li> </ul>	

<i>Skilled and Permanent Workers</i>					
<i>Field Findings</i>	<i>Key Issue</i>	<i>Proposals/Options</i>	<i>Feasibility</i>	<i>Recommended Options</i>	<i>Cross Cutting Themes</i>
None of the skilled workers employed by the contractor had a formal letter of employment, although a large number of them considered themselves to be permanently employed.	<ul style="list-style-type: none"> <li>The West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance 1968 governs the Construction Sector where the condition of 20 or 50 employees applies allows all legal terms and conditions of employment to apply.</li> <li>The distinction between permanent, seasonal and contract employees creates a loophole for the employer not to provide legal benefits to workers.</li> </ul>	<ul style="list-style-type: none"> <li>Restriction of minimum number of workers should be removed from the construction industry.</li> <li>The distinction between permanent, seasonal and contracted employees with respect to terms and conditions of employment be removed with the appropriate amendment in the law.</li> </ul>	<ul style="list-style-type: none"> <li>No change in law is required as provincial governments are empowered to decide on the applicability of the Standing Orders Ordinance, in full or part, to any industry regardless of the number of employees.</li> <li>Firms might understate the number of employees.</li> <li>Consolidation of laws is already underway. The 1976 Indian Law on Contract Employment, where the principal employer is responsible for observance of legal protections, can be used as a benchmark.</li> <li>Resistance for above changes on the part of Contractors and their representative bodies.</li> </ul>	<ul style="list-style-type: none"> <li>Provincial Governments should make appropriate procedural modifications to allow for construction sector workers to rights enshrined under the Standing Orders 1968.</li> <li>Amendment/consolidation of the law in line with the 1976 Law on Contract Employees in India.</li> </ul>	<ul style="list-style-type: none"> <li>Appropriate Monitoring</li> </ul>
No formal or informal unions	<ul style="list-style-type: none"> <li>IRO 2002 applies to all industrial, commercial and service establishments unless exempted by the Government.</li> <li>The IRO should mention the construction industry explicitly</li> <li>Unions can only be formed if workers are permanently employed.</li> </ul>	<ul style="list-style-type: none"> <li>Amendment in the IRO 2002</li> </ul>	<ul style="list-style-type: none"> <li>The IRO 2002 is in the process of being amended. This provides an opportunity to lobby for explicitly mentioning the construction industry as one where unionization is applicable.</li> </ul>	<ul style="list-style-type: none"> <li>Appropriate amendment in the IRO 2002 should be made to explicitly include the construction activity</li> </ul>	

## 2. Equal Remuneration

Field Observations	Key-Issues	Proposal/Options	Feasibility	Recommended Options	Cross-cutting Themes
<ul style="list-style-type: none"> <li>Women's wages are 20 % less than men's wages in Sindh whereas wages were equal in the Punjab.</li> </ul>	<ul style="list-style-type: none"> <li>There is no legal provision to prevent such discrimination.</li> </ul>	<ul style="list-style-type: none"> <li>Legislate on equal remuneration, i.e. on the basis of ILO Conventions 100 and 111, to which Pakistan is a signatory.</li> </ul>	<ul style="list-style-type: none"> <li>The Wages act is in the process of formulation; intervene to incorporate ILO conventions 100 and 111 in the law.</li> </ul>	<ul style="list-style-type: none"> <li>Legislation</li> </ul>	
	<ul style="list-style-type: none"> <li>There are no formal contracts and therefore no mechanism to verify remuneration.</li> <li>Implicit contracts are often with heads of households, who are often men.</li> </ul>	<ul style="list-style-type: none"> <li>Explicitly require formal contracts, and maintenance of wage records in the tender document (Contract provision)</li> <li>Explicitly require formal contracts to be individual and not household based.</li> </ul>	<ul style="list-style-type: none"> <li>These provisions should be part of the loan agreement, the RRP, the PAM and the Tender Document.</li> <li>Enforcement through ADB and Tender document.</li> </ul>	<ul style="list-style-type: none"> <li>Appropriate changes in loan agreements, project design and monitoring indicators (through the PAM and the PPR) on the part of ADB.</li> </ul>	

### 3. Child Labour

Field Observations	Key-Issues	Proposal/Options	Feasibility	Recommended Options	Cross-cutting Themes
<p>5-6% of the labour force is under-age</p> <p>Most child workers are involved with light work</p>	<ul style="list-style-type: none"> <li>Road construction workers are often composed of nomadic family workers. Children often assist their parents.</li> </ul>	<ul style="list-style-type: none"> <li>Individual contracts have been suggested earlier. Contracts with under-aged workers can be banned and the edict made part of the loan agreement and subsequent documents.</li> </ul>	<ul style="list-style-type: none"> <li>National and International experience has shown that child labour cannot be simply banned in a few sectors of the economy. In such cases, child labour simply moves from one sector to the other.</li> <li>A ban on child labour in the road construction sector can potentially create under-supply of labour in some geographical locations as families with children will tend to go towards other sectors.</li> </ul>		<ul style="list-style-type: none"> <li>Monitoring</li> </ul>
		<ul style="list-style-type: none"> <li>Schooling may be provided to worker's children by employing primary teachers as part of the contractor's permanent employees</li> </ul>	<ul style="list-style-type: none"> <li>Children will be provided schooling for the duration of ADB projects, after which they will again be working. It will be difficult to come up with a workable plan in the face of such discontinuous education.</li> <li>Difficult to monitor as teachers and workers can be substituted.</li> </ul>		
<p>Some children, however, are involved in work that can be termed hazardous. For instance, bitumen spraying.</p>	<ul style="list-style-type: none"> <li>The Employment of Children Act, 1991 has a list of hazardous workers in which the construction activities are not mentioned.</li> </ul>	<ul style="list-style-type: none"> <li>Amend the Employment of Children Act, 1991 to include road construction, and make a provision in the Child Labour Rules of 1995.</li> </ul>	<ul style="list-style-type: none"> <li>Incorporation of hazardous areas of work in construction is doable.</li> </ul>	<ul style="list-style-type: none"> <li>Ban hazardous work for children</li> </ul>	
		<ul style="list-style-type: none"> <li>Penalties for hazardous employment: Points from firms in the pre-qualification stage be cut if hazardous child employment is found.</li> </ul>	<ul style="list-style-type: none"> <li>Incorporation in pre-bidding document of the ADB such as the RRP as well as the Project Administration Manual.</li> <li>Monitoring by consultant and ADB on hazardous child work.</li> </ul>		

#### 4. Minimum Wages

Field Observations	Key-Issues	Proposal/Options	Feasibility	Recommended Options	Cross-cutting Themes
<p>Monthly Wages in the sector come out to be less than the minimum wage for unskilled workers– Rs. 2200 in the Punjab and Rs. 1800 in Sindh.</p> <p>The prevalent minimum wage is Rs. 2500.</p>	<ul style="list-style-type: none"> <li>• <u>Daily</u> wage conforms to the minimum wage statute. However, the nature of the work is such that the frequency of work comes to 18-22 days a month, The monthly wage is therefore below the minimum wage level.</li> <li>• Currently, the tender document specifies that market wages should be paid, based on data provided by the Federal Bureau of Statistics (FBS).</li> </ul>	<ul style="list-style-type: none"> <li>• Minimum wage should be formally determined on a daily, hourly and piece rate basis.</li> <li>• Appropriate and explicit Documentation in Project Design, the RRP, the PAM so that outcomes can be monitored.</li> <li>• The tender document should also explicitly specify that the minimum wage rather than the market wage will be paid to workers.</li> </ul>	<ul style="list-style-type: none"> <li>• The Amendment in the Minimum Wage Law can be made part of the on-going process of consolidation of labour laws.</li> <li>• No potential hurdle to incorporation of compliance with the minimum wage law in project documents.</li> <li>• Little possibility of decreased employment, since the labour market is segmented.</li> <li>• Increase in project cost will need to be addressed. There is incentive for ADB to push for it as loan size increases, but government will resist as loan burden increases. It is however a non-recurring cost.</li> <li>• Existing Monitoring Mechanism cannot be relied upon and need to be done by Consultant/ADB</li> </ul>	<ul style="list-style-type: none"> <li>• Amendment in the Minimum Wage Law</li> <li>• Explicit Incorporation of compliance with Minimum Wage statute in tender and ADB project documents.</li> </ul>	<ul style="list-style-type: none"> <li>• Monitoring</li> </ul>

## 5. Occupational Health and Safety

Field Observations	Key-Issues	Proposal/Options	Feasibility	Recommended Options	Cross-cutting Themes
Bitumen spraying machines (for TST <sup>1</sup> procedures) were often leaking; posing a health hazard to workers	<ul style="list-style-type: none"> <li>There are no prescribed standards in the Tender Document that equipment must comply with.</li> </ul>	<ul style="list-style-type: none"> <li>This condition could be explicitly included in the loan agreement and included in the key indicators monitored by ADB-consultant staff</li> <li>Need for a change in safe bitumen spraying methods.</li> </ul>	<ul style="list-style-type: none"> <li>The loan agreement and other documents can be modified.</li> <li>A technical committee would have to decide any amendments in the process.</li> </ul>	<ul style="list-style-type: none"> <li>Safety Standards to be incorporated in project design and monitoring.</li> <li>Based on the technical appraisal of the problem, safety standards should be specified.</li> <li>These specifications should be made part of tender documents</li> <li>Safety Indicators should be decided upon and made part of the ADB 's PPR</li> </ul>	<ul style="list-style-type: none"> <li>Monitoring by ADB/Consultant.</li> <li>Who Bears the Cost?</li> </ul>
On rural/farm to market roads, the process of transporting 'boiling' bitumen (during TST) is potentially hazardous	<ul style="list-style-type: none"> <li>Mechanization of the process of bitumen boiling</li> </ul>	<ul style="list-style-type: none"> <li>Appropriate mechanized equipment for boiling should be part of the contractor's pre-bidding qualification.</li> </ul>	<ul style="list-style-type: none"> <li>Archaic methods of construction are cost-efficient and there is no incentive for change.</li> </ul>		

<sup>1</sup> TST: Triple Surface Treatment is a method of constructing a road's wearing surface. It is usually done on smaller roads. The more capital intensive method which does not involve such hazards is Asphalt paving, usually carried out on highways and bigger roads.

Field Observations	Key-Issues	Proposal/Options	Feasibility	Recommended Options	Cross-cutting Themes
Workers do not have a proper medical Insurance	<ul style="list-style-type: none"> <li>• Provisions only for a third party insurance exist presently. This does not cover the individual worker directly against work related health contingencies.</li> </ul>	<ul style="list-style-type: none"> <li>• Provide first party insurance and monitor properly.</li> </ul>	<ul style="list-style-type: none"> <li>• Will increase project cost.</li> </ul>	<ul style="list-style-type: none"> <li>• First party insurance should be made part of the tender document.</li> </ul>	<ul style="list-style-type: none"> <li>• Monitoring by ADB/Consultant.</li> <li>• Who Bears the Cost?</li> </ul>
No camp facilities are provided for unskilled workers	<ul style="list-style-type: none"> <li>• The relevant law is too ambitious and unpractical.</li> <li>• Basic Camp facilities needed are:</li> <li>• Temporary Roof</li> <li>• Potable Water</li> <li>• Lighting</li> <li>• Toilets and Waste Disposal</li> <li>• First Aid Facilities</li> </ul>	<ul style="list-style-type: none"> <li>• The law should be amended to reflect ground realities and economic feasibility.</li> <li>• The main contractor should be made responsible for providing camp facilities for <i>all</i> workers.</li> </ul>	<ul style="list-style-type: none"> <li>• The Contractor will have to be adequately compensated for these provisions.</li> <li>• These provisions can be incorporated into the project documents.</li> </ul>	<ul style="list-style-type: none"> <li>• Simplification of the law.</li> <li>• Incorporation in the RRP, the project administration (PAM) manual and the Project Performance Review (PPR).</li> </ul>	<ul style="list-style-type: none"> <li>• Monitoring by ADB/Consultant.</li> <li>• Who Bears the Cost?</li> </ul>

<p>There is no trained professional to administer first aid</p>	<ul style="list-style-type: none"> <li>• The petty contractor is responsible for dealing with unskilled labour, and camp provisions are not part of his contract with the main contractor.</li> <li>• The tender documents do not require this facility</li> </ul>	<p>The tender document should explicitly require a trained person to be available at site</p>	<ul style="list-style-type: none"> <li>• The contractor will be adequately compensated</li> <li>• Changes can be easily made in the tender documents</li> </ul>	<ul style="list-style-type: none"> <li>• Provision through the contractor and monitoring by the Consultant. Incorporation of these conditions in the RRP, the PAM and the PPR.</li> <li>• Requirement of a trained first aid person to be incorporated into the tender documents</li> </ul>	<ul style="list-style-type: none"> <li>• Who will bear the Cost?</li> <li>• Monitoring by ADB and Consultant</li> </ul>
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## 6. Labour Welfare and EOBI

Field Observations	Key-Issues	Proposal/Options	Feasibility	Recommended Options	Cross-cutting Themes
<ul style="list-style-type: none"> <li>Few cases of sexual abuse were detected during field work (details in Chapter 4)</li> </ul>	<ul style="list-style-type: none"> <li>No legislation on the issue</li> <li>While there exists a tacit code of conduct that exists with respect to sexual abuse, it needs to be formalized at the contractor level</li> </ul>	<ul style="list-style-type: none"> <li>Legislation on sexual abuse at the work place.</li> </ul>	<ul style="list-style-type: none"> <li>Can be made part of gender reform Programme of ADB?</li> </ul>	<ul style="list-style-type: none"> <li>Legislate</li> </ul>	<ul style="list-style-type: none"> <li>Monitoring</li> </ul>
<ul style="list-style-type: none"> <li>None of the sampled workers were participating in EOBI or Social Security (ESSI) Schemes</li> </ul>	<ul style="list-style-type: none"> <li>unskilled workers are temporary, so employers cannot contribute for them regularly</li> </ul>	<ul style="list-style-type: none"> <li>Change in Legislation to allow for all workers to become part of EOBI and ESSIs.</li> </ul>	<ul style="list-style-type: none"> <li>Both EOBI and ESSIs work on employer contributions. It is thus applicable on formal sector permanent employees. Without the creation of a National Social Security Fund which is financed by fiscal resources and is based on voluntary registration as a citizenship right, these provisions cannot be extended to workers in the road construction sector.</li> </ul>		



**Annex II: Monitoring and Labour Standards, Collusion and Incentive Compatibility**

	<b>Petty Labour Contractor</b>	<b>Contractor</b>	<b>Consultant</b>	<b>Government</b>	<b>Local Government</b>	<b>ADB</b>
Field Observations	The Petty contractor is the repository of all information pertaining to labour. Mobilizing and transporting the team, providing for whatever camp facilities there are, monitoring the labour process and resolving labour related problems are his responsibilities	The contractor makes a lump sum payment to the petty contractor for labour cost. There is a site in-charge of the contractor but his responsibility is to coordinate material supplies and monitor work quality.	Supervises the qualitative aspects of construction. Has to approve all bills for payments to the contractor. Consultant representatives are present on site and are facilitated by the contractor's site in charge	The Foreign Aid office of the C&W department of the provincial Government awards contracts and also selects consultants. Payments to both consultants as well as contractors takes place through this department. With reference to CLS, the tender places the responsibility of monitoring on the government engineer. However, our field observations suggest that there was no knowledge on the part of the concerned department about this responsibility let alone active monitoring		The ADB representatives pay periodic visits to the work site. Any objections can delay the ADB tranches to the client government But their present mandate is to monitor road quality rather than the labour aspects of the work. The list of indicators they monitor is derived from the ADB Project Administration Manual.
Nature of Collusion	Possible collusion with the contractor.	Colludes with both government and consultant. The site in charge can also potentially collude with the petty contractor	Possibility of collusion with the contractor and the government because the contractor facilitates the consultant. Social pressure may also play a role.  Collusion with the government is possible because the latter pays the consultant.	Collusion with both contractor and consultant		
Incentive Structure	Gets a lump sum payment from the contractor and extracts a rent by paying labour less than that amount. Partially this goes	CLS compliance will mean that the remuneration to the contractor will go up. This provides an incentive for the contractor to extract	The incentive to earn rent from the supervisory fee is there, especially in collusion with both government and contractor. If there is collusion between the	There is no incentive on the part of government to enforce labour standards is not there. Increased cost for CLS will create an incentive for increased rent.		Given ADB's commitment to CLS based on the MOU signed with ILO, it has an incentive to monitor CLS compliance.

	to cover for his other expenditures – such as transportation, etc. Incentive compatibility will also entail that the petty contractor is explicitly compensated for these tasks.	this amount as rent by not complying by CLS and colluding with different points in the chain for this purpose.	contractor and government, it creates an incentive e for the consultant to go by their wishes as he is beholden to the contractor for facilitating his visits and on government as payments are made from the government.			
Monitoring Issues	Will have to be monitored by both consultant and contractor with respect to wage payments that are in line with CLS.	The Consultant and ADB will have to take over monitoring responsibilities.	The ADB will have to oversee monitoring.	Direct Monitoring from ADB is required.	The creation of a committee of 3 elected councilors can be facilitated by the consultant. The committee can monitor compliance with CLS. The consultant may pass CLS specific bills (of the contractor) only if the committee so recommends.	CLS monitoring to be established in conjunction with already existing road quality monitoring mechanisms.