

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.

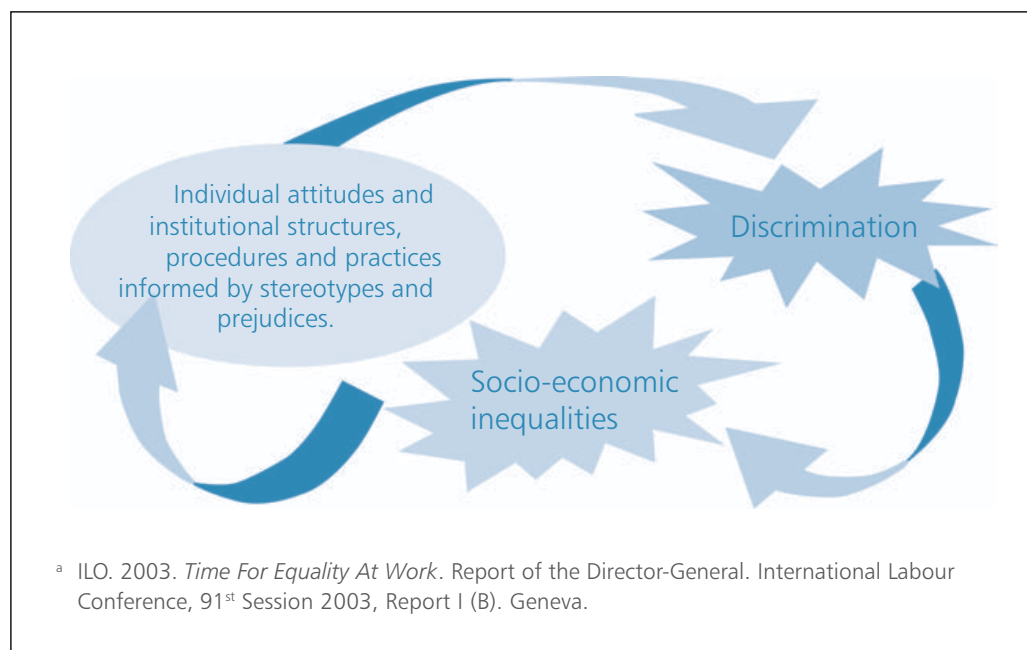
This is also a basic aim of the ILO, whose International Program for the Elimination of Child Labor (IPEC) is active in many countries in Asia and the Pacific. This is ILO's largest and most widespread technical assistance program, and there are significant advantages to ensuring ILO and ADB cooperate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



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 Perspective²³

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 report²⁴ 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.

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 Labor³²

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 activities³⁹ 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.