

September 18, 2015

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**Re: Additional information on IFC's investment in Tata Tea / Amalgamated Plantations Private Limited**

Dear Mr. Adler,

We, the undersigned civil society organizations, submit this letter in support of our complaint to the Compliance Advisor / Ombudsman ("CAO") regarding IFC's investment in Tata Tea / Amalgamated Plantations Private Limited ("APPL") in Assam, India.

In our original 2013 complaint and in our 2014 supplement, we outlined IFC's policy and legal violations with respect to its decision to invest in and oversee the activities of APPL. In this letter and accompanying enclosures, we submit additional information for the CAO's ongoing investigation in relation to IFC's failures to meet its due diligence and supervisory obligations.<sup>1</sup>

This letter has six parts. First, it demonstrates that both prior to and during IFC's investment in APPL, there was an abundance of publicly available material indicating current and potential violations of IFC Performance Standards. Second, it establishes that IFC's reliance on certification and monitoring programs, in place of its own direct due diligence and monitoring, was misplaced. Third, it highlights that serious deficiencies in working and living conditions were found on APPL plantations by an audit commissioned by APPL itself. Fourth, it demonstrates that there has been little improvement in the living conditions of workers on the three plantations at the center of the complaint in over two years since it was filed, despite clear and repeated evidence of violations. Fifth, it outlines APPL's continued failure to give correct and adequate information to workers about the risks of owning APPL shares. Sixth, it provides an update of the present wage situation for tea workers in Assam following wage negotiations and the state government's proposed revision of minimum wages in 2015. Finally, it describes intimidation experienced by APPL workers and the complainant organizations as a result of participating in the CAO process.

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<sup>1</sup> This letter was prepared with assistance from Accountability Counsel, a US-based civil society organization supporting the complainants. Information for this document was provided by workers on APPL plantations, the complainant organizations, and supporting organization Nazdeek.

## **I. ABUNDANT PUBLIC MATERIAL DEMONSTRATES VIOLATIONS OF IFC PERFORMANCE STANDARDS**

Violations of IFC Performance Standards on tea plantations in Assam were readily discernable both prior to and during IFC's investment in APPL. A comprehensive, though not exhaustive, set of media articles reporting on tea plantations in Assam from 1999 – 2015 is attached to this letter in Enclosure 1. The articles are divided into four thematic folders: i) historical context and general overview; ii) plantation living and working conditions; iii) wages and freedom of association; and iv) indigenous identity.<sup>2</sup>

The articles on plantation conditions and wages describe high levels of poverty on tea plantations, poor sanitation and housing, lack of health and education facilities, and various labor rights violations, including non-compliance with the Plantations Labour Act, 1951 ("PLA"). They also refer to the low wages paid to tea workers and numerous demands for pay increases. This material should have put IFC on notice that violations of IFC Performance Standard 2, which requires protection of workers' basic rights, were occurring on APPL's tea plantations.

There was also ample information to put IFC on notice of violations of Performance Standard 7 regarding protections for indigenous groups affected by IFC investments. Historically, a majority of workers on the plantations come from indigenous *adivasi* communities from central India, including the states of Jharkhand, Odisha, and Chhattisgarh, where they are recognized as members of Scheduled Tribes ("ST") under the Indian Constitution. Though many *adivasis* were forced or coerced to move to tea plantations in Assam and West Bengal under British colonial rule, the local and state authorities do not recognize these workers as indigenous or give them ST status. Without ST status, *adivasi* workers are not eligible for numerous benefits programs and a system of reservation quotas in education and government employment. The articles within the folders on historical context and indigenous identity document this history and the struggle of tea workers in Assam for ST status over many years.

With the abundance of publicly available information indicating past and potential violations of IFC Performance Standards on tea plantations in Assam, IFC should have been on notice, diligently investigated all shortcomings, and taken the necessary steps to address problems and mitigate harm. Given that working and living conditions have not improved since IFC's investment in APPL, discussed in greater detail below, it is evident that IFC failed to take heed of this information and undertake adequate actions to address violations.

## **II. IFC MISTAKENLY RELIED ON CERTIFICATION AND MONITORING PROGRAMS**

Rather than conducting its own direct monitoring of APPL's plantations, IFC's pre-investment due diligence relied heavily on the fact that APPL's plantations were Social Accountability 8000 ("SA8000") certified and that APPL was a member of the Ethical Tea Partnership's ("ETP") monitoring program.<sup>3</sup> In fact, IFC only conducted one site visit in

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<sup>2</sup> While some Assamese language articles are included to highlight the breadth of coverage, the majority of articles are in English. Enclosure 1 is not an exhaustive collection of media articles on these issues, and represents only a small representation of tea plantation issues in the Assamese media.

<sup>3</sup> Amalgamated Plantations Private Ltd., "Certifications," available at <http://amalgamatedplantations.co.in/about/at-a-glance/certifications/>.

2006 to three of APPL's twenty-four plantations, providing only a glimpse of plantations that were tightly controlled by management.<sup>4</sup> In its Environment & Social Review Summary assessment of labor management practices in Tata Tea and supply chain, IFC relies only on the promise of external certification and monitoring, and the reputation of Tata Group, Tata Tea's parent company, without independent verification of the actual practices on Tata Tea plantations.<sup>5</sup>

In terms of its supervision of the project, IFC has also relied on third-party oversight, including audits by the SA8000 and ETP programs.<sup>6</sup> Even its more recent undertakings to improve conditions on APPL's plantations rely on the oversight processes of these programs.<sup>7</sup>

IFC's excessive reliance on these certification and monitoring programs was misplaced for the following reasons.

- 1) *The SA8000 certification and ETP monitoring program have major shortcomings in ensuring social and environmental compliance*

There is little empirical evidence supporting the effectiveness of the SA8000.<sup>8</sup> The literature instead suggests that the effectiveness of private and voluntary standards like the SA8000 varies significantly depending on the surrounding context.<sup>9</sup>

First, the SA8000 process has wide tolerance for non-compliance. For instance, signs of possible improvement are sufficient to justify upholding certification despite repeat instances

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<sup>4</sup> CAO, Case of Appraisal Initiated by CAO Vice President. Amalgamated Plantations Private Limited, January 8, 2013, p. 6, *available at* [http://www.cao-ombudsman.org/cases/document-links/documents/CAOAppraisalReport\\_TataTea\\_Jan082013.pdf](http://www.cao-ombudsman.org/cases/document-links/documents/CAOAppraisalReport_TataTea_Jan082013.pdf) ("The E&S review process was completed in May and August 2006. As documented in ESRS (dated September 2006) this involved an appraisal of technical, environmental, employment terms and social information submitted by the client, a site visit to the company's offices in Guwahati, and visits to three of the 24 tea estates that comprise TTL's North India plantation operations over three days in May 2006.") [hereinafter "CAO Appraisal Report"]. Furthermore, IFC does not appear to have conducted any other site visit in the two and a half years between the date IFC agreed to invest, and its actual investment in April 2009. Columbia Law School Human Rights Institute, "The More Things Change...: The World Bank, Tata and Enduring Abuses on India's Tea Plantations," January 2014, p. 94 [hereinafter "Columbia Report"].

<sup>5</sup> IFC, "Environmental & Social Review Summary," *available at* <http://ifcext.ifc.org/ifcext/spiwebsite1.nsf/78e3b305216fcd8a85257a8b0075079d/d9b8fcaf9bd62224852576ba00e28ef?opendocument>.

<sup>6</sup> CAO Appraisal Report, p. 9.

<sup>7</sup> IFC, "Information on IFC's Work with APPL to Improve Living and Working Conditions," *available at* [http://www.ifc.org/wps/wcm/connect/REGION\\_EXT\\_Content/Regions/South+Asia/Countries/IFC\\_Response\\_Working\\_Living\\_Conditions](http://www.ifc.org/wps/wcm/connect/REGION_EXT_Content/Regions/South+Asia/Countries/IFC_Response_Working_Living_Conditions).

<sup>8</sup> Andreas Rasche and Dirk Ulrich Gilbert, "Social Accountability 8000 and socioeconomic development," in *Business Regulation and Non-State Actors: Whose Standards? Whose Development?* (United Nations Research Institute for Social Development, 2012), p. 68 ("Although there is a growing body of literature that refers to SA8000, there is little systemic empirical evidence regarding the effectiveness of the standard.") [hereinafter "Rasche Chapter"].

<sup>9</sup> See, e.g., International Trade Centre, "When do Private Standards Work?" *Literature Review Series on the Impact of Private Standards – Part IV* (Geneva, 2012), p. 5, *available at* [http://www.intracen.org/uploadedFiles/intracenorg/Content/Policy\\_Makers/Articles/When%20do%20Private%20Standards%20Work%20-%20Part%20IV%20for%20web.pdf](http://www.intracen.org/uploadedFiles/intracenorg/Content/Policy_Makers/Articles/When%20do%20Private%20Standards%20Work%20-%20Part%20IV%20for%20web.pdf) ("A key assumption behind the growth of private standards and the support they received from the corporate and donor communities is that they do indeed result in a positive social, economic and environmental impact... The evidence reviewed ... suggests that ... this has not always been the case and results have varied significantly in different contexts.").

of non-compliance.<sup>10</sup> In addition, withdrawal of certification is usually reserved for the most extreme circumstances, and certification may be reinstated.<sup>11</sup> Consequently, the system has little leverage to compel corrective action.

Second, SA8000's structure, as a private self-regulating system, inherently lacks independence. A large part of Social Accountability International's ("SAI") revenue comes from fees paid by organizations to be accredited as certification bodies, giving it an incentive to favor accreditation. The certification bodies similarly lack independence due to the relationship with the corporations they certify and audit. Close relationships between SAI and its client corporations may foster complacency in the regulation of these corporations by SA8000 certification bodies.<sup>12</sup>

Third, the system lacks transparency. Whether audit findings will be disclosed seems to be at the company's discretion.<sup>13</sup> Moreover, certification bodies may enter into confidentiality agreements with their client, obliging them not to divulge any information relating to the certification without their client's consent. This was the case between APPL and its certification body, Det Norske Veritas.<sup>14</sup>

Fourth, the competence of the auditors sanctioned with monitoring corporate compliance with the SA8000 has been called into question.<sup>15</sup>

Much like the SA8000, relying on the ETP as evidence of compliance is patently inappropriate. The ETP is not a certification program but a monitoring one, which aims to

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<sup>10</sup> For example, even though a company's minor non-conformances should ordinarily be addressed within six months, auditors may grant consecutive six-month periods if the client is still not compliant, as long as the client shows some progress; even where there is a major non-conformance that goes unaddressed, the guidance given to auditors is that the client will lose certification if it "cannot improve." Social Accountability International, *SA8000 Guidance – 2008 Standard*, June 2013, p. 97, available at [http://sa-intl.org/\\_data/n\\_0001/resources/live/SA8000ConsolidatedGuidance2013.pdf](http://sa-intl.org/_data/n_0001/resources/live/SA8000ConsolidatedGuidance2013.pdf) [hereinafter "SA8000 Guidance"]. There are also SA8000 requirements for certification bodies. For certification bodies that are not compliant with these requirements, Social Accountability Accreditation Services may extend the time periods granted for correcting non-conformances, and "reserves the right to undertake additional activities in response to corrective action follow up, or based upon performance." Social Accountability Accreditation Services, *SAAS Global Procedure 200. Requirements for gaining and maintaining accreditation*, December 7, 2007, para. 6.3, available at <http://www.saasaccreditation.org/sites/default/files/u7/Procedure%20200,%20December.2007.pdf>.

<sup>11</sup> Sarah Saadoun, "Private and Voluntary: Are Social Certification Standards A Form of Backdoor Self-Regulation?" 45 Colum. Human Rights L. Rev. 281, pp. 311-312 [hereinafter "Saadoun Article"].

<sup>12</sup> Columbia Report, p. 102. Notably, representatives on SAI's Advisory Board and Founders Committee are employees of the Tata group of companies, "SAI Advisory Board," available at <http://www.sa-intl.org/index.cfm?fuseaction=Page.ViewPage&PageID=494>.

<sup>13</sup> Although the SA8000 requires companies to "establish and maintain procedures to communicate regularly to all interested parties data and other information regarding compliance," there are no requirements on what data and other information need to be communicated. SA8000 Standard (2008) §9.13 [hereinafter "SA8000"]. See also Rasche Chapter, p. 76 ("... audit reports are not available to the public making it impossible to assess... what level of compliance was achieved by a certified production facility...").

<sup>14</sup> Columbia Report, p. 103.

<sup>15</sup> See, e.g., Asia Monitor Resource Center, "No Illusions: Against the Global Cosmetic SA 8000," in *Labour Rights in China* (Hong Kong, 1999). See also Stirling Smith, "One year after Pakistan's Baldia factory fire," <http://www.ethicaltrade.org/news-and-events/blog/stirling-smith/one-year-after-Pakistans-baldia-factory-fire> (describing a fire in the Ali Enterprises factory that killed 250 workers, notes that "the real shocker is that the factory had been awarded SA8000 Certification just one month earlier - which should only have been given if the factory reached a high standard of social compliance. Quite how this happened has not yet been explained.").

assess compliance with the ETP Global Standard.<sup>16</sup> This monitoring program helps producers achieve third-party certification to Fairtrade, Rainforest Alliance, and Utz Certified, and is granted on the *promise* of compliance, not actual compliance, with all the rules of the ETP Global Standard.<sup>17</sup> Therefore, participation in the ETP is not evidence of compliance. Membership is “open to any company involved in the sourcing, trading or packing of tea sold in Europe, North America, Australia and New Zealand.”<sup>18</sup> The ETP’s monitoring program “is based on continuous improvement” and it “work[s] with all producers ... no matter what their current level of sustainability.”<sup>19</sup> Moreover, the ETP’s primary monitoring tool is simply an annual self-assessment submitted by participating tea companies.<sup>20</sup> Companies have little incentive to voluntarily disclose instances of non-compliance in their self-assessments.

2) *The SA8000 certification and the ETP monitoring program have not resulted in improvements for APPL workers*

Although all of APPL’s estates are SA8000 certified and APPL is a member of the ETP,<sup>21</sup> APPL continues to be in violation of the overwhelming majority of the provisions of the SA8000 Standard and ETP Standard (collectively, “Certification Standards”). In fact, egregious violations can be found with respect to every category of the Certification Standards. This continuing non-compliance calls into question how APPL could have obtained and maintained its SA8000 certification. SA8000 auditors have also not properly conducted audits and APPL has attempted to conceal the reality from auditors. Faulty or non-existent verification and monitoring processes indicated that these voluntary programs have not resulted in improved conditions for APPL workers. While the evidence of APPL’s non-compliance with the Certification Standards is summarily set out below, two spreadsheets comprehensively setting out evidence of these violations are attached to this letter in Enclosure 2.<sup>22</sup> APPL violations of the Certification Standards include:

a) APPL restricts workers’ freedom of association

The Certification Standards require employers to uphold workers’ right to freedom of association and collective bargaining; they expressly prohibit employers from interfering with the establishment, functioning, and administration of workers’ organizations. They also require employers to inform workers of these rights and that their exercise of these rights will not result in any retaliation from the employer.<sup>23</sup>

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<sup>16</sup> Ethical Tea Partnership, “Monitoring & Certification,” <http://www.ethicalteapartnership.org/tea-sustainability-programmes/monitoring-cert/>. See also Columbia Report, p. 104 (“The Ethical Tea Partnership (ETP)... is mischaracterized by IFC as a certification mechanism”).

<sup>17</sup> *Id.*

<sup>18</sup> Ethical Tea Partnership, “10 Reasons to Join ETP,” <http://www.ethicalteapartnership.org/members/>.

<sup>19</sup> Ethical Tea Partnership, “Monitoring Process,” <http://www.ethicalteapartnership.org/tea-sustainability-programmes/monitoring-cert/monitoring-process/>.

<sup>20</sup> *Id.*

<sup>21</sup> Amalgamated Plantations Private Ltd., “Certifications,” <http://amalgamatedplantations.co.in/about/at-a-glance/certifications/>.

<sup>22</sup> These focus on violations specific to the three tea plantations named in the CAO complaint, i.e. Naharoni, Hattigor, and Majuli. Complaint Letter to CAO re:Hattigor, Naharoni, and Majuli APPL Plantations, February 2, 2013 [hereinafter “Complaint”].

<sup>23</sup> SA8000 §4.1; ETP §§2.1, 2.2.

However, APPL's procedures compel workers to be members of Assam Chah Mazdoor Sangha ("ACMS"). APPL management automatically deducts union dues from workers' wages, funds that are then transferred to ACMS.<sup>24</sup> Workers have not been informed of how to opt out of this system, and most believe that they have no choice in the matter. In practice, APPL management has influenced the selection of workers' representatives, and workers fear retaliation from plantation management if they join other unions.<sup>25</sup> In addition, APPL imposes restrictions on access by non-residents and non-workers to plantation housing areas, in violation of the PLA requirements for open access, hindering the ability of workers and workers' representatives to organize.

b) APPL does not provide workers with clear information about their wages

The Certification Standards require employers to provide clear information to workers on the details of their wages for each pay period.<sup>26</sup> The paystubs provided by APPL are often written in English and use undefined abbreviations. Workers do not understand what deductions have been made and on what basis. This breach could have been easily spotted and rectified during audits.

c) APPL does not pay workers a living wage or the state minimum wage

The Certification Standards require employers to pay workers the legally mandated minimum wage, and a wage sufficient to meet the basic needs of workers and their families, including discretionary income.<sup>27</sup> In addition, the SA8000 Guidance Document recommends that employers in breach of the living wage requirement be required by auditors to elaborate and demonstrate commitment to an action plan to achieve and maintain compliance.<sup>28</sup>

However, APPL pays tea workers a daily wage of only Indian Rupees (Rs.) 115. This amount is not only insufficient for the subsistence of workers and their families, but is also below the statutory minimum wage of Rs.177 for unskilled laborers in Assam.<sup>29</sup>

d) APPL violates prohibitions on wage penalties and compelling overtime

The Certification Standards prohibit deductions for disciplinary purposes and deductions that are not allowed by national law.<sup>30</sup> APPL has, however, adopted a systematic policy across its estates of imposing wage deductions should workers fail to meet onerous daily plucking and pruning quotas. This policy is recorded in a 2010 agreement between tea union ACMS and the tea industry.<sup>31</sup> According to this agreement, wage deductions are made when workers pluck less than the daily quota, which is now twenty-four kilograms of tealeaf. Workers

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<sup>24</sup> This is done in all APPL gardens except Naharoni.

<sup>25</sup> May 2014 CAO investigation visit.

<sup>26</sup> SA8000 §8.3; ETP §5.3.

<sup>27</sup> SA8000 §8.1; ETP §5.1.

<sup>28</sup> SA8000 Guidance, p. 67.

<sup>29</sup> Minimum wage is mandated under the Minimum Wages Act, 1948, and wage levels are set by state governments. The minimum wages by industry in Assam can be found at: <http://www.paycheck.in/main/salary/minimumwages/assam>. For further discussion of the minimum wage issue, see Supplement to Complaint Letter to CAO re:Hattigor, Naharoni, and Majuli APPL Plantations, February 14, 2014, pp. 6-9 [hereinafter "Supplement to Complaint"].

<sup>30</sup> SA8000 §8.2; ETP §5.4.

<sup>31</sup> Memorandum of Settlement between the Tea Industry of Assam Valley and ACMS, April 9, 2010, available at <http://www.assamchahmazdoorsangha.org/sig/10a.html>.

report that they have had to work overtime as well as ask family members for assistance in order to fulfill the quota, though the additional man-hours are not compensated.

When workers are unable to fulfill the quota, APPL's imposition of wage penalties is inconsistent. Most workers report that managers threaten to halve their wages for not meeting quotas.<sup>32</sup> Some workers report that managers refuse to record their work until the quota is met, instructing them to complete their quota the following day, resulting in one day's wage for two day's work.<sup>33</sup> The paystubs of some workers indicate that one rupee has been deducted for every kilogram of leaf plucked below the quota (for examples of paystubs, see Enclosure 7).

Quotas and deductions also apply in practice to other tasks such as pruning and cleaning gutters. Such wage deductions are in substance deductions for disciplinary purposes. In addition to breaching the Certification Standards, these penalties are not allowed under Indian law.<sup>34</sup> Yet, APPL continues to stand by this policy.

Under the Certification Standards, all overtime work shall be voluntary, irregular, and paid at a premium; workers should not be obligated to work overtime in order to receive their basic needs wage.<sup>35</sup> However, in order to fulfill the high daily work quotas imposed by APPL and receive their minimum daily wage, workers are compelled to work more than nine hours a day for six or seven days a week. They are not given overtime pay. Such overtime work is hence involuntary, a regular occurrence, and unpaid, and therefore a breach of the Certification Standards.

e) APPL uses temporary work arrangements to avoid fulfilling statutory obligations

The Certification Standards prohibit the use of labor-only contracting arrangements and consecutive short-term contracts to avoid labor and social security laws and regulations applicable to regular employment relationships.<sup>36</sup> However, when permanent workers have ceased working with APPL, it has increasingly replaced them with "temporary" workers from tea garden families. Although temporary workers are paid the same daily wage as permanent workers, APPL does not provide them the full range of benefits that permanent workers receive under the PLA. This is despite the fact that they may have been working for APPL for more than six months, and their work is the same as that of permanent workers.<sup>37</sup> For example, APPL's intent to avoid welfare obligations under the guise of "temporary" hiring is

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<sup>32</sup> Interviews with workers from Naharoni, June 28, 2015, and interviews with workers from Hattigor and Majuli, June 29, 2015.

<sup>33</sup> Interviews with AASAA members, August 22, 2015.

<sup>34</sup> Supplement to Complaint, p. 10.

<sup>35</sup> The Certification Standards require that the normal work week shall not exceed 48 hours, notwithstanding what the law requires: SA8000 §7.1; ETP §6.1.

<sup>36</sup> SA8000 §8.5; ETP §5.5.

<sup>37</sup> The standing orders applicable to the Assam tea industry define a permanent worker as "one who resides upon the tea estate roll of workers and includes any person who has completed a probationary period of six month on the same or any other occupation in the industrial establishment, including breaks due to sickness, accident, leave, involuntary closure of the establishment (*sic*).” The standing orders for the Assam tea industry define a temporary worker as one who “has been engaged for a work which is of an essentially temporary nature likely to be finished within a limited period.” Standing Orders For Tea Estate In Assam Valley in The Membership Of The Tea Association Of India, Assam Branch, July 9, 1966, *available at* <http://www.assamchahmazdoorsangha.org/bilater1/23.html> (last known standing order).

demonstrated in a letter from APPL to a tea worker in the Naharoni estate promising him “temporary regular employment in perpetuity.”<sup>38</sup>

- f) APPL’s grievance mechanism is not responsive to worker complaints and may lead to retaliation

The Certification Standards require employers to establish grievance mechanisms or complaints procedures for workers to report problems and abuse.<sup>39</sup> The SA8000 prohibits employers from taking retaliatory action against employees for providing information concerning the employers’ non-compliance.<sup>40</sup> The ETP Standard also requires plantations to have “disciplinary measures to deal with incidents of harsh or inhuman treatment.”<sup>41</sup>

However, APPL’s grievance mechanism, the Welfare Office, is not functional. Workers’ complaints about living conditions are regularly not addressed for extended periods of time or are not addressed at all.<sup>42</sup> A cause of the dysfunction is APPL management’s unwillingness to invest resources and take corrective action. During the CAO’s investigation visit in May 2014, a former APPL welfare officer stated that when welfare officers attempted to obtain senior management’s approval for repairs, senior management refused and ultimately did not spend most of the allocated budget for repairs despite a multi-year backlog of cases. As a result, workers have little or no faith in APPL’s grievance mechanism. In addition, welfare officers have been told by senior management to record deaths from malnutrition and water-borne diseases due to poor living conditions as deaths due to old age.<sup>43</sup>

Instead of taking remedial action in response to complaints, it was reported that in some cases APPL took retaliatory action against workers who attempted to raise grievances. For years, when workers protested their oppressive working and housing conditions, APPL responded with lockouts or threats of lockouts; it has also threatened, terminated, or suspended workers involved in complaints or protests.<sup>44</sup> There is no record of any disciplinary measures taken by APPL to address multiple instances of “harsh or inhumane treatment,” including threats, physical assaults, demotions, and intimidation by management against the workers.<sup>45</sup> These practices are continuing. Throughout the CAO process, APPL has been using intimidation to deter workers’ support for the CAO complaint, such as intimidating or retaliating against those who meet with local groups or the CAO.<sup>46</sup>

- g) APPL breaches requirements to minimize the hazards of pesticide spraying

The Certification Standards require employers to take effective steps to minimize hazards inherent in the workplace that could cause accidents or injury to workers; they require employers to regularly provide effective health and safety instructions and training to

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<sup>38</sup> This was done in return for the worker’s agreement to APPL using land he was residing on to build a fishery. Columbia Report, pp. 91-92.

<sup>39</sup> SA8000 §9.11; The Ethical Tea Partnership Global Standard, §9.1, *available at* <http://www.ethicalteapartnership.org/download/6497/> [hereinafter “ETP”].

<sup>40</sup> SA8000 §9.11.

<sup>41</sup> ETP §9.2

<sup>42</sup> Columbia Report, p. 36; Complaint.

<sup>43</sup> Columbia Report, p. 55.

<sup>44</sup> Columbia Report, pp. 52-54; Supplement to Complaint, pp. 23-24.

<sup>45</sup> Supplement to Complaint, p. 24.

<sup>46</sup> Section VII below discusses ongoing retaliation and intimidation in greater detail. *See also* Supplement to Complaint, p. 24.



workers, adequate protective equipment and medical assistance for injuries, and to regularly monitor the health of workers who come into contact with hazardous chemicals.<sup>47</sup>

However, pesticide sprayers are suffering from APPL's egregious violations of these requirements. APPL does not rotate pesticide sprayers – some workers have been primarily engaged in spraying work year-round, some for as long as five years.<sup>48</sup> As APPL has not provided water or bathing facilities in work areas, workers are unable to wash off chemicals promptly. A bathing structure for spray workers is reportedly now under construction in Naharoni, but is not yet functional.<sup>49</sup> Spray workers reported that APPL does not conduct safety training for pesticide sprayers or provide adequate essential protective gear on all plantations to prevent exposure to hazardous chemicals.<sup>50</sup> According to workers from Hattigor and Majuli, APPL gives sprayers protective equipment only during visits by high-level management, government representatives, or external auditors.<sup>51</sup>

An external doctor subjects spray workers to a medical test every three months, however APPL does not provide test results to the worker. In Naharoni, testing involves blood and urine samples. When workers have requested their test results, they were told that only management has access to the reports and can order their release.<sup>52</sup>

- h) APPL breaches requirements for safe, clean, and healthy facilities, in compliance with national law

The Certification Standards require employers to ensure that benefits are rendered to employees in full compliance with applicable laws.<sup>53</sup> The PLA requires APPL to provide adequate housing, medical and educational facilities. In addition, the Certification Standards require employers to provide a safe, clean and healthy workplace, and specifically require adequate washing facilities, access to potable water and, if provided, housing facilities.<sup>54</sup>

APPL is in breach of these obligations. In work areas on APPL plantations, there are no latrines or water supplied. Workers are therefore compelled to urinate and defecate in open spaces on the plantations, resulting in poor sanitation and hygiene.<sup>55</sup> Women also report hygiene issues during menstruation resulting from lack of access to latrines and water.<sup>56</sup>

In worker housing areas, water, sewage and sanitation conditions are abysmal. Medical facilities are poorly stocked, medical staff are often not present or do not provide adequate care, and in some cases have discriminated against workers, including pregnant women and children.<sup>57</sup> Schools lack teachers and facilities, and crèche services are inadequate.<sup>58</sup> In

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<sup>47</sup> SA8000 §§ 3.1, 3.3, 3.4, 3.5; ETP §§ 3.2, 3.3, 3.4, 3.5, 3.7.

<sup>48</sup> Interviews with workers from Hattigor and Majuli, June 29, 2015.

<sup>49</sup> Interviews with workers from Naharoni, June 28, 2015.

<sup>50</sup> Interviews with workers from Naharoni, June 28, 2015, and interviews with workers from Hattigor, June 29, 2015.

<sup>51</sup> Interviews with workers from Hattigor and Majuli, June 29, 2015.

<sup>52</sup> Interviews with workers from Naharoni, June 28, 2015.

<sup>53</sup> SA8000 §8.3; ETP §5.5.

<sup>54</sup> SA8000 §§ 3.1, 3.7, 3.8 and ETP §§ 3.1, 3.9, 3.10.

<sup>55</sup> Interviews with workers from Naharoni, June 28, 2015, and interviews with workers from Hattigor and Majuli, June 29, 2015.

<sup>56</sup> Interviews with workers from Naharoni, August 21, 2015.

<sup>57</sup> Supplement to Complaint, p.16.

<sup>58</sup> Interviews with workers from Hattigor and Majuli, June 29, 2015.

addition, APPL is deliberately denying workers their statutory entitlements. For example, under the PLA, workers and their families are entitled to medical facilities and services. However, APPL is denying medical benefits to dependents of female workers, parents of male and female workers, and children above the age of six, even though these dependents are entitled to medical benefits under the PLA.<sup>59</sup>

i) APPL subjects new and expectant mothers to harsh working conditions

The SA8000 standard requires employers to take effective steps to prevent injury to new and expectant mothers arising from their work activity.<sup>60</sup> The ETP standard requires employers to provide welfare and social services to meet the needs of these women.<sup>61</sup> National law also requires employers to ensure less arduous work for pregnant women.<sup>62</sup> However, APPL has required pregnant women to work in the gardens for long hours until their delivery date.<sup>63</sup> Further, there are no facilities in the work areas for new mothers to feed their babies. New mothers report not being given sufficient time or the facilities to breastfeed during the workday.<sup>64</sup>

j) APPL has in the past supported child labor on its plantations

The Certification Standards prohibit employers from using and supporting child labor, and require them to support the education of child laborers as part of a remediation process.<sup>65</sup> Yet, on APPL plantations, line supervisors have in the past knowingly assigned tasks to children. During the CAO investigation visit to Assam in May 2014, the CAO team heard that line supervisors encouraged tea workers to enlist their children to work on the gardens.

The onerous daily work quotas imposed by APPL directly contributed to the occurrence of child labor. Adult workers enlisted their children to help them meet quotas in order to receive their daily wage.

3) *SA8000 audits have been ineffective*

SA8000 auditors have not exercised due diligence as required by SA8000 standards. Auditors are required to use at least 30% of on-site audit time to conduct worker interviews for all audits, including both individual and group audits.<sup>66</sup> In addition, the SA8000 Guidance Document states that auditors must inspect dormitories or residences provided by the employer to workers.<sup>67</sup> Certification bodies must conduct at least one unannounced audit in any three-year certification.<sup>68</sup>

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<sup>59</sup> Columbia Report, pp. 46-49.

<sup>60</sup> SA8000 §3.6.

<sup>61</sup> ETP §3.13.

<sup>62</sup> Maternity Benefit Act, 1961, Section 4(3).

<sup>63</sup> Columbia Report, p.55.

<sup>64</sup> Supplement to Complaint, p.16.

<sup>65</sup> SA8000 §§1.1, 1.2; ETP §§4.1, 4.2.

<sup>66</sup> SAAS Global Procedure 200, para. 2.12, *available at* <http://www.saasaccreditation.org/sites/default/files/u7/Procedure%20200%2C%20December.2007.pdf> [hereinafter "SAAS Procedure 200"].

<sup>67</sup> SA8000 Guidance, p.32.

<sup>68</sup> SAAS Procedure 200, para. 2.21.

These requirements are all the more important for companies like APPL who seek to conceal violations from auditors.<sup>69</sup> For example, just before audits, workers report that management provides sprayers with protective gear and ensures more hospital staff is present.<sup>70</sup> Facilities that were previously inadequate, such as hospitals, medical supplies, and crèches, are similarly improved.<sup>71</sup> These improvements are usually maintained only for the duration of the audit. Workers are often informed of auditors' visits in advance, and told to act in a manner that would leave a positive impression of APPL on auditors.<sup>72</sup> Meanwhile, some workers have been instructed not to speak with auditors. According to workers' reports, auditors are unable or not permitted to freely visit the housing areas and cannot question workers.<sup>73</sup> During visits, management constantly accompanies auditors. There have also been no reports of findings from unannounced audits. APPL has allegedly been informing auditors that unannounced audits are not advisable for safety reasons.<sup>74</sup>

*4) Neither the Certification Standards nor IFC's remedial measures have resulted in improved working and living conditions on APPL plantations*

Despite APPL participating in the SA8000 and ETP programs for several years, this has not resulted in meaningful improvement in living and working conditions for APPL workers.<sup>75</sup> The Columbia Report, the Complaint to the CAO, and this letter document the continued poor conditions on the tea gardens, as well as APPL's attempts to workers who raise complaints through threats and intimidation.

Some matters have become worse in this time despite participation in SA8000 and ETP programs. Workers are receiving less take-home pay due to increasing daily work quotas, and greater pay deductions for services, such as arbitrary electricity bills. Some workers have also lost access to food and income sources due to the appropriation of land by APPL for the construction of fisheries.<sup>76</sup> Furthermore, APPL is categorizing greater numbers of workers as temporary workers as a pretext to avoid providing benefits under the PLA.

IFC has failed to clearly acknowledge APPL's past and continuing violations of IFC Performance Standards. After the Columbia Report was issued, IFC issued a statement setting out the measures it was taking to improve working and living conditions on APPL gardens.<sup>77</sup> These measures relate exclusively to improving APPL's environmental and social management system, including the SA8000 certified management system. No mention has

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<sup>69</sup> Columbia Report, pp. 67-68.

<sup>70</sup> Interviews with workers from Hattigor and Majuli, June 29, 2015.

<sup>71</sup> Interviews with workers from Naharoni, August 21, 2015.

<sup>72</sup> *Id.*

<sup>73</sup> Columbia Report, pp. 67-68.

<sup>74</sup> Columbia Report, p. 70.

<sup>75</sup> Improvements made by APPL seem to stem from bad publicity following the Columbia Report and the investigation by the CAO into the Complaint, rather than attempted compliance with the SA8000 and ETP standards. For instance, it was only in the weeks leading up to the scheduled dates for the CAO's investigation visit in May 2014 and August 2015 that APPL undertook intensive housing repairs along a few labor lines in the three tea estates that are the subject of the complaint. In addition, Tata Global Beverages Ltd issued an action plan in November 2014 after commissioning an audit in response to the Columbia Report and Complaint. According to workers, the action taken by APPL in response to the Columbia Report and the Complaint has been merely cosmetic.

<sup>76</sup> Columbia Report, pp.88-91.

<sup>77</sup> IFC, "Information on IFC's Work with APPL to Improve Living and Working Conditions," available at [http://www.ifc.org/wps/wcm/connect/REGION\\_\\_EXT\\_Content/Regions/South+Asia/Countries/IFC\\_Response\\_Working\\_Living\\_Conditions](http://www.ifc.org/wps/wcm/connect/REGION__EXT_Content/Regions/South+Asia/Countries/IFC_Response_Working_Living_Conditions).

been made of concrete actions to address specific violations identified by the Columbia Report and the Complaint. IFC instead proposes measures that continue to rely on APPL's internal procedures and SA8000 audits to identify non-compliance and corrective action needed, without indication of how those faulty processes will be improved.

Although improving APPL's environmental and social management system is important, this alone is inadequate. As shown by its numerous and persistent breaches of the Certification Standards, APPL's environmental and social management system is dysfunctional and the SA8000 audit system is ineffective. Any remedial action needs to be robust in order to ensure that the violations of workers' rights are brought to an end as soon as possible.

### **III. APPL-COMMISSIONED SOCIAL AUDIT FINDS POOR LIVING AND WORKING CONDITIONS**

IFC's supervisory failures in this case are further demonstrated by an audit commissioned by APPL in 2013, which found serious deficiencies in working and living conditions, and made comprehensive recommendations for improvement.

In 2013, APPL commissioned the Guwahati branch of the Tata Institute of Social Sciences ("TISS") to conduct a social audit of APPL tea plantations. Established in 1936 by the Sir Dorabji Tata Trust, TISS is a premier Indian educational institution in the field of social work. After an initial visit to APPL's Kellyden plantation in November 2013, TISS selected five APPL plantations due to their geographic diversity: Rungamuttee in West Bengal, Hattigor in lower Assam, Kellyden in central Assam, and Borhat and Powai from upper Assam.<sup>78</sup> The TISS team conducted site visits to these plantations from February to May 2014 and submitted their audit report to APPL in late 2014, also attached to this letter as Enclosure 3.

Notably, the authors highlight as a limitation of their study that they "were always accompanied by the managers or welfare officers during the audit."<sup>79</sup> They further note "according to workers themselves, they were forced by management to conceal their actual conditions from auditors."<sup>80</sup>

The report focuses on the following issues: factory and garden working conditions; housing conditions; conditions of schools, hospitals, crèches; access to basic amenities; wage structure and consumption patterns; recreation; trade unions; record-keeping; worker shortage; and grievance mechanism. The report finds conditions on the five plantations to be severely deficient and makes recommendations for improvement. Some of the key recommendations to APPL follow:

- Encourage unions free from political party ideology that enhance workers' voices and address grievances;
- Adjust the wage structure to reflect food price inflation;
- Revamp the entire model of water supply to ensure clean drinking water to households, hospitals, crèches and schools;

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<sup>78</sup> Debdulal Saha and Rajdeep Singha, "Social Audit on Welfare Measures of Tea Plantation Workers: Cases of Five Tea Estates under Amalgamated Plantation Pvt. Ltd.," Tata Institute of Social Sciences, p. 3 [hereinafter "TISS Study"].

<sup>79</sup> TISS Study, p. 20.

<sup>80</sup> *Id.*

- Increase expenditure on health and education in light of poor infrastructure and a shortage of good quality teachers and doctors;
- Appoint well-trained welfare officers who are aware of different social welfare measures and issues pertaining to the industry;
- Increase female representation in committees such as the welfare and health and safety committees;
- Maintain an active grievance cell that is free from management interference; and
- Increase staff across the plantation, including additional doctors, teachers, welfare officers, qualified nutritionist, in addition to the number of plantation workers.<sup>81</sup>

IFC should have been aware of this report and its recommendations, as it was their client who commissioned it. Moreover, IFC should have supported APPL to address the problems identified and implement the recommendations.

#### **IV. NO SIGNIFICANT IMPROVEMENTS MADE TO WORKERS' LIVING CONDITIONS AND COMMUNITY FACILITIES**

While APPL has taken some steps to change conditions in Hattigor, Majuli, and Naharoni, the improvements are largely superficial in nature. For instance, it was only in the weeks leading up to the scheduled dates for the CAO's investigation visit in May 2014 and August 2015 that APPL began intensive housing repairs along a few labor lines in the three complaint plantations. These renovations were limited in scope, of poor quality, and largely suspended by December 2014. APPL resumed some repair work in a few labor lines in the weeks leading up to the CAO's investigation visit in August 2015. These efforts were also extremely limited in nature and scope.

Three attached documents to this letter record the living conditions of workers at three points in time (Enclosures 4, 5, and 6).<sup>82</sup> The first is a documentation report of a visit that took place from December 8 – 15, 2014. It outlines the changes implemented by APPL since the CAO complaint and assesses whether APPL's "Action Plan and Progress Update" accurately depict conditions on the ground.<sup>83</sup> The second document is based on a visit from June 25 – 30, 2015 and seeks to provide an update of conditions on the ground since the first documentation report. The third document contains photographs of labor lines that were not renovated taken during the CAO's visit in August 2015.

These documents reveal that APPL has failed to significantly improve living conditions for workers in Hattigor, Majuli, and Naharoni. While some housing renovations took place in 2014 and again in the weeks leading up to the CAO's investigation visit in August 2015, workers say they are superficial and inadequate to address their complaints. First, the renovations were limited to selected housing clusters, termed "model lines." These model lines are located near main roads and entrances to the gardens; renovations do not extend deeper into the labor lines. Secondly, these renovations have been focused on a few houses

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<sup>81</sup> TISS Study, pp. 17-20.

<sup>82</sup> It is important to note that there were difficulties in accessing some of the gardens due to management interference or fears by workers of retaliation should they be seen by management speaking with outsiders. Accordingly, in addressing distinct issues, while the reports may indicate which plantation the issue applies to, this does not mean the issue is not occurring on other gardens.

<sup>83</sup> "Action Plan and Progress Update", Tata Global Beverages website: <http://www.tataglobalbeverages.com/docs/document-manager/action-plan-and-progress-update.pdf?sfvrsn=2> [hereinafter "APPL action plan"].

in each model line, leaving the majority of houses in the model lines with unfinished latrines, dirt floors, and shoddy roofs. Significant funds have been spent on a small number of “model houses” with amenities that other renovated houses do not have, such as rain gutters and a tiled latrine unit. The model houses are located near entrances and roads, allowing APPL management to display them to plantation visitors, including government representatives and external auditors.

In addition to their limited scope, housing renovations have been undertaken unilaterally and without consulting workers, depriving workers the opportunity to prioritize issues that may be a better use of funds. The quality of the renovations is proving to be poor, with significant cracking of walls, roofs and concrete paths.

In Majuli, APPL constructed mud and straw homes for temporary workers, which are of poor quality and durability. Enclosure 6 contains photographs of houses in Line 13, depicting the extremely poor standard of housing provided for temporary workers.

APPL has also not taken adequate steps to ensure workers ready access to safe drinking water and electricity. In Hattigor, there is a water point for every two to three homes, but water is supplied only three times a day for approximately thirty minutes at a stretch. In Majuli, while electricity has now been connected to all labor lines since November 2014, there have been extended power cuts, with only four to five hours of electricity daily. Meanwhile, workers continue to complain of high deductions for arbitrary amounts, not corresponding to actual consumption of power. Houses in some gardens may have separate meters but workers say that they do not work. Workers from Majuli reported electricity deductions in the range of Rs.50 – 160 per week.<sup>84</sup>

Workers continue to complain about much-needed housing repairs. Management often tells workers that the repairs will be completed at a later time, and workers finding that they are rarely addressed, if at all. None of the workers interviewed from the CAO-complaint plantations had seen or heard of the new complaint redress system, which APPL purports to have implemented. According to an APPL Welfare Officer, the only new system in place is the provision of a docket number for housing-related complaints. Rather than addressing complaints in order of docket number, however, he gives priority to the most vocal or “troublesome” complainants.<sup>85</sup>

The community facilities on the plantations are also problematic. Plantation hospitals have been renovated but continue to deliver sub-standard care. Workers continue to find that medication provided by the plantation hospitals is ineffective, prompting them to purchase medication with their own funds from private pharmacies. In Hattigor, workers allege the doctor continues to treat them in a discriminatory fashion, refusing to touch them in some cases. In Naharoni, workers complain that the doctor is retired and elderly, and unable to keep up with his duties. While crèches have been renovated, timing remains a key problem: they are only open from around 8am to 2pm, so children are left alone until their parents return from the fields usually after 5pm. The schools are generally in a state of disrepair: latrines are yet to be completed in Hattigor, and Majuli’s company-run school has only one latrine, which boys and girls must share. There is no provision for drinking water in these

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<sup>84</sup> This deduction is reflected in some workers’ paystubs (see Enclosure 7).

<sup>85</sup> Interview with APPL Welfare Officer, June 27, 2015.

schools so children have to bring their own. There is also a serious shortage of teachers across the plantations.

## V. EMPLOYEE SHARE OWNERSHIP PROGRAM REMAINS FLAWED

A primary goal of IFC's investment in APPL was to create a "worker-shareholder" plantation, in which management and employees held significant shares in the company and participate actively in its direction. APPL's implementation of the Employee Stock Ownership Program, however, has had the effect of disenfranchising workers from the program. APPL has failed to provide workers with adequate information about owning APPL shares, particularly risks associated with investing in the stock market, in contravention of IFC Performance Standard 2 requiring workers to be informed about wages and benefits.

The Columbia Report adduced evidence that APPL misrepresented, through act or omission, the financial consequences of owning the shares.<sup>86</sup> In Hattigor and Majuli, an initial meeting was held to explain the shareholder program to workers. During this meeting, management reportedly described the benefits of the program, including substantial payoffs each year, but failed to make mention of the risks.<sup>87</sup>

In Naharoni, no meetings were held about the shareholder program. Instead, a Welfare Officer conducted a door-to-door campaign, and was expected to achieve a quota of 40% subscription.<sup>88</sup> The Welfare Officer informed workers that the company was providing them an interest free loan of Rs.8000 (comprising 800 shares at Rs.10 each). Workers were told that if the stock market and company did well, the value of the shares would increase substantially, and that they would receive a guaranteed dividend of 6% for 7 years. No mention was made of the risks of this form of investment.<sup>89</sup>

As of August 2015, workers say they either do not understand the concept of shares or believe that their initial investment is protected, with the value guaranteed to increase.<sup>90</sup> They state that there have been no subsequent meetings about the share program or about APPL's financial performance. Workers do not know where they can get more information. Once a year, worker-shareholders receive a letter and annual report from APPL in English or Hindi (see Enclosure 7), which most of the workers are not able to read.<sup>91</sup> Accompanying the annual report is an invitation to attend APPL's Annual General Meeting. In 2015, however, workers received the invitation letter in mid-August, at least a week after the meeting had taken place on August 7, 2015.

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<sup>86</sup> Columbia Report, pp. 79-81.

<sup>87</sup> Interviews with workers from Hattigor and Majuli, June 29, 2015.

<sup>88</sup> Interview with APPL Welfare Officer, June 27, 2015.

<sup>89</sup> *Id.*

<sup>90</sup> Although the shares first issued in the form of Compulsorily Convertible Participatory Preference Shares (CCPPS) were capital-guaranteed, many have been converted into ordinary equity shares that rise and fall in value according to the market. A notice dated February 1, 2014, sent to workers about the conversion of the CCPPS to ordinary equity shares is written in highly technical English, and does not explain what the conversion means for the risks of owning the shares. The notice is attached in Enclosure 7.

<sup>91</sup> Interviews with workers from Hattigor and Majuli, June 29, 2015, and interviews with workers from Naharoni, June 28, 2015.

## VI. STATE-LEVEL CHANGES MADE TO TEA WORKER WAGES

In the past year, there have been a number of developments in relation to the wages paid to tea workers in Assam. In early 2014, tea plantation workers from across the state, supported by the All Adivasi Students' Association of Assam ("AASAA"), launched a campaign demanding an increase in daily wages from Rs.94 to Rs.330, asserting this was a living wage that would allow workers to meet their basic daily needs. In February 2015, a new wage agreement was reached following negotiations between ACMS and Assam's tea industry association. Under the agreement, the daily wage for tea workers is Rs.115 in 2015, Rs.126 in 2016, and Rs.137 in 2017.<sup>92</sup>

Although the wage rate increased by Rs.20 per day, the current wage is still below the statutory minimum of Rs.177.84 for non-skilled workers in Assam, as set by the Government of Assam and governed by the Minimum Wages Act, 1948.<sup>93</sup> In part due to workers' demands for a living wage, the Government of Assam constituted a State Minimum Wage Advisory Board in late 2014.<sup>94</sup> On July 29, 2015, the Government of Assam, in consultation with the Advisory Board, issued a draft notification proposing an increase of the daily minimum wage for tea plantation workers to Rs.177.19 (see Enclosure 8).<sup>95</sup> A sixty-day comment period to solicit suggestions and objections to the proposed wage precedes a final approval of the higher wage rate. While it does not yet meet the living wage standard, approval of the proposed wage would be a significant improvement for tea plantation workers.

## VII. WORKERS CONTINUE TO FEAR INTIMIDATION AND RETALIATION

Throughout the CAO process, APPL has been using intimidation to deter workers' support for the CAO complaint, such as retaliating against those workers who meet with complainant organizations or the CAO.<sup>96</sup> Soon after the CAO process began in 2013, ACMS representatives and APPL management told workers not to speak to outsiders. Workers who have met with outsiders have been questioned and some threatened or punished with higher workloads. For example, after the complainant organizations conducted interviews in Majuli in June 2015, an AASAA member reported being called by an APPL assistant manager and questioned about the visit.

ACMS has played a critical role in this intimidation, with ACMS members closely monitoring the whereabouts of workers and informing management of any meetings with outsiders. For instance, a worker from Naharoni noticed that whenever she had visitors or left her home during her day off, she would be questioned by her neighbor whose spouse is a known ACMS supporter.<sup>97</sup>

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<sup>92</sup> To curb absenteeism, a daily attendance allowance of Rs.1 was agreed for those who work for five or more days in a week.

<sup>93</sup> The state governments set the minimum wage levels. Assam minimum wage requirements by industry sector can be found at: <http://www.paycheck.in/main/salary/minimumwages/assam>.

<sup>94</sup> "Assam govt forms Minimum Wages Advisory Board for tea sector," *Business Standard*, December 23, 2014, available at: [http://www.business-standard.com/article/pti-stories/assam-govt-forms-minimum-wages-advisory-board-for-tea-sector-114122300823\\_1.html](http://www.business-standard.com/article/pti-stories/assam-govt-forms-minimum-wages-advisory-board-for-tea-sector-114122300823_1.html).

<sup>95</sup> The proposed wage of Rs.177.19 breaks down to Rs.143.50 in cash, and the remainder Rs.33.69 in benefits, including concessional rates for food, dry tea, firewood, earned leave, and festivals (Enclosure 8).

<sup>96</sup> Supplement to Complaint, p. 24.

<sup>97</sup> Interviews with workers from Naharoni, June 28, 2015.



The restrictions imposed by APPL on access to the plantations have hindered the ability of workers and workers' representatives to meet freely. During documentation visits in December 2014 and June 2015, AASAA experienced difficulties accessing some of the gardens due to either actual management interference or fears by workers of retaliation should they be seen by management speaking with outsiders. This intimidation was particularly palpable in Naharoni. In June 2015 workers met with complainant organizations away from the plantations because Naharoni management had allegedly instructed guards in the workers' housing areas not to allow any outsiders to enter or meet with workers.

The complainants are also concerned about potential intimidation and retaliation by government authorities, such as monitoring and questioning of activities, as a result of their role in the CAO complaint.

The workers and complainant organizations hope the CAO investigation will ensure IFC and APPL take the necessary actions to improve conditions on the tea plantations, meeting the standards prescribed by IFC's Sustainability Framework and under Indian law.

We appreciate your attention to these matters. Please do not hesitate to contact us if you have questions or require additional information.

Sincerely,

Stephen Ekka, Promotion & Advancement of Justice Harmony and Rights of Adivasis (PAJHRA)

Wilfred Topno, People's Action for Development (PAD)

Israel Sanga, Diocesan Board of Social Services (DBSS)

**Enclosures:**

- 1. Media articles**
- 2. Two Spreadsheets on Certification**
- 3. TISS Social Audit of Five APPL Tea Estates**
- 4. December 2014 Documentation Report, and Annexures**
- 5. June 2015 Documentation Report, and Annexure**
- 6. August 2015 Photos**
- 7. Documents Received by Workers, Shareholder Program and Paystubs**
- 8. Minimum Wage Draft Notification, July 29, 2015**