



Peoples' Action for Development (PAD)

Mission Baligaon, P.O. Gogamukh
Dist. Dhemaji (Assam)

(An Organisation for Social Development)

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Ref No.....

Date

To,
Compliance Advisor Ombudsman
2121 Pennsylvania Avenue
Washington, DC 20433
United States
cao-complaint@ifc.org

Date: 02-02-2013

Dear Sir,

We are Adivasi NGOs working to support the Adivasi communities in the North Bank of Assam, including in areas where Amalgamated Plantations Private Limited (APPL) plantations are located. We are submitting this complaint on our own behalf and on behalf of the workers and their families on three APPL specific plantations: Nahorani, Majuli, Hattigor.

We are not including individual names of these workers because the issues in this complaint are near universal to the workers. We are also concerned, based on our understanding of what happened when individual workers raised issues about an APPL garden, Powai, in relation to the death of a spray worker. Temporary workers who spoke up have since been denied work, permanent workers have been terminated, and several families at the core of the complaint were bribed with substantial amounts of money. The authors of this complaint are aware of extreme cases where management has personally physically assaulted a worker who complained on one of the gardens that is the subject of this complaint.

We request confidentiality at this stage also for our organizations because our organizations are also subject to pressure from the company.

APPL is an active IFC project. A \$7 800 000 equity investment to Tata Tea Limited facilitated the transfer of ownership of 24 plantations to APPL, including an employee share plan that sold workers shares in the company. Additionally, the project included diversification from tea for the stated purpose of creating more permanent jobs.

Share Plan

When the company converted to APPL it put in place a share plan to offer 800 shares to workers at 10 rupees a share. The management organized a series of informal meetings with staff and the union so that they would convince the workers to buy the shares. They also held one formal meeting at each plantation (in the crèche) where workers were told about the plan as though they were required to buy the shares. The management only explained the potential advantages of the shares and did not explain the risks. The workers were confused; they did

not understand what the shares meant. At the Hattigor meeting, the workers were so confused and angry that they disrupted the meeting and the company stopped any further explanation. The cost of the shares, which is deducted from their wages over a period of seven years, amounts to 10% or more of their total income.

Over the next two years, the company and the union put considerable pressure on the workers to buy the shares. One tactic was to provide money to staff (Jamadar Babu) and ACMS that was specifically intended to buy alcohol to use to convince workers to buy shares. They also used individual threats. We heard many stories of threats from workers. In a typical case pluckers were told they would not weight their leaves to get paid. One woman at Majuli told us that management threatened not to respond to her complaints in the future if she did not buy shares.

Management and staff also made false promises and exaggerated claims about what workers would receive. They were told that the shares would be worth ten, or even a hundred times more when they matured in seven years. There was continued confusion about how the workers would pay. Most workers on all three gardens told us that the money from the shares would be a loan from their Provident Fund, which is not the case.

Management also promised that workers would have monthly meetings to explain the progress of the company and the value of their shares. Since the sale of the shares three years ago there has not been a single meeting and workers have no idea what their shares are worth. Many workers say that they received no documentation about their shares. There was confusion among many workers about the dividends. In all cases, to receive the dividends workers have to take the day off work and travel to an offsite bank. The travel alone costs 200 rupees and, along with the lost wages, amounts to almost as much as the dividend itself.

Diversification

The IFC project also included plans for diversification at its tea gardens. At Nahorani, the company built a fishery on the paddy land of sixteen families. When workers protested, the company said it's our land and then promises them one job per family. Later, it became clear that the terms of these jobs, which the company calls "regular temporary employment in perpetuity," include no benefits, except for basic medical facilities and "labour tea." A photograph of such a contract is attached to this complaint. These workers work seven days a week with no sick leave or day off. They receive virtually the same wages as tea workers, without the rations and receive no pay slips. By law, if they are doing regular temporary work for more than 240 days they should be made permanent.

In Hattigor, workers were operating a fishery for their own consumption for four years, which the company shut down, saying that it was company land. No compensation was offered. Workers now must buy the fish from the company fishery at full price.

Working Conditions

We are also concerned that the living and working conditions on the tea estates do not comply with IFC social safeguard policies. The conditions are also not in compliance with Indian domestic law, and particularly the Plantation Labour Act.

Wages are currently 89 rupees a day. Workers said it is impossible to properly feed themselves and their families with this amount of money. As a result, many workers suffer from malnutrition. Many tea workers' family members are migrating to other parts of the country to find better paid work to supplement the family income. The task rates have also been increasing for all types of tea plantation work, including plucking, pruning and maintaining the drains on the garden. If they don't meet the target, their wages are halved. To complete the task, they hire other family members, including children, to receive a single wage.

The pay slips are in English and workers cannot understand them or the deductions. At Nahorani, workers are forced to return their pay slips in order to get rations. When we asked them basic questions about the deductions, they were unable to answer them.

The casualization of the workforce is also a problem. The number of permanent workers has not been increased on all three of the estates. Instead, the company is using more temporary worker to replace resigning permanent workers. Even in the case of diversification, it hasn't created new jobs; the fishery case above is an example of how permanent jobs are avoided.

One of the biggest workplace health problems is insufficient and poor quality protective equipment and medical care for sprayers. Sprayers informed us that only an arbitrary proportion received gear. The gear provided includes either of only a cloth mask, plastic or cloth shoes, and flimsy plastic goggles. Only workers who mix chemicals were given gloves. They receive no training and no medical check-up. They are not rotated, and whenever spraying work is necessary they are required to do it. On Hattigor and Nahorani, spray workers and others connected to spray work told us they use Endosulphan.

Workers who try to claim their entitlement of sick leave have to report to the clinic three times a day. In some cases, the clinic is more than 2 kilometers away from workers' homes. Workers admitted to hospital are often forced to leave after 2 or 3 days and return to work. Women workers reported that they were forced to continue regular, heavy work through eight months of pregnancy. When they requested light work, they were told no such work is available.

Another problem on the gardens is freedom of association. On all but one plantation, workers are forced to pay dues to ACMS whether or not they wish to, what is referred to as "tablecut." The union does not represent worker interests. It is described by workers as being "in league with management" to suppress worker protests.

Living Conditions

In terms of the social benefits provided for by the PLA, there are gross violations of all the requirements. The law requires that housing is provided and maintained by the company. However, there are stretches of years where the company makes no repairs. The roofs have so many cracks and holes that it leaks when it rains. Doors and windows are missing or broken. There are also an insufficient number of quarters for workers. Many families live two or three together in only two rooms. Workers are forced to make extensions at their own cost. In some cases the company has even torn down the extensions and issued charge sheets since workers are not allowed to make repairs on their own.

For years and a time, the labour lines, including the latrines and the water drains, are not cleaned. There are open and overflowing sewers. The latrines are often broken or unusable; some families don't have them at all. The water in the drain stagnates. All of these problems contaminates the water supply and leads to frequent cases of waterborne diseases, including dysentery, typhoid, diarrhea, cholera, and malnutrition. When resulting in death, the actual cause of death is recorded in such a way to hide the actual cause of death.

Compounding the problem is insufficient access to clean water. One pump at times serves four or five families. At all three plantations, workers had to dig their own tube wells or ring wells. At Hattigor, workers complained that the tank ran dry. When the pump doesn't function, which happens 2 or 3 times a year, the company uses water tanks which are used to mix pesticides to supply drinking water to the labour lines. At Majuli, workers told us that a dead cow was found in the water tank, which decomposed and workers continued to drink from the tank.

There is also inadequate access to quality medical care. The number of doctors has been reduced. For a population of four or five thousand there is one doctor and two nurses. The doctors refuse to touch the patients, diagnosing them without properly checking them. Many complained that the same medication is prescribed for every kind of medicine. Male spouses of women workers are denied dependency benefits, including for medical care. The cost of care is deducted from the women's wages. If a patient is referred to a government hospital, the initial expense is borne by the workers. Despite the PLA requirement that the company pay medical expenses, this expenditure is only partially reimbursed.

Food rations, which are required to be provided under the PLA, are deducted from wages when workers are admitted to the clinic. This means that the entire household can go hungry.

The majority of workers at these plantations rely on the company for electricity, forcing them to pay an industrial rate. Generally, electricity is only provided at night, except on holidays. At Hattigor, we saw deductions for electricity of well over 100 rupees per week. The total cost is divided among worker families, so that workers are not paying for individual consumption. Staff and management get free electricity, so workers don't know if they're subsidizing the cost. At Majuli, workers were even forced to sign for deductions from their individual Provident Fund accounts of up to 4000 rupees to cover back dues.

Education at the plantations is extremely inadequate for the number of students. At Hattigor, there is a small room with one teacher for 200 – 300 students between first and fourth standard. One worker told us that each standard gets one hour of instruction a day. The bus for older students is not available for those who have completed 10th standard. Those students either have to drop out or spend 40 rupees per day for transportation alone.

Provision of firewood has been an important benefit under the PLA. The company doesn't provide enough wood, and after working a full day the women must go and collect to supplement the company provision.

Other Information

Workers uniformly accused management of manipulating all audits. They all described how audits were prepared for in advance. Hospitals were cleaned, in some cases patients were removed from the hospitals. The factory was cleaned. Some sprayers on one plantation

reported getting gear. On audit days, two people would report for work where there normally is only one. They all insisted that auditors never even tried to come to the labour lines and management made sure that they were kept far from auditors.

Workers attempt to secure remedies

Workers and their families told us that complaints to the Welfare Officer were routinely ignored. Some told us that the complaint papers just pile up on the Welfare Officer's desk. At Hattigor, even the union, ACMS, said that there was nothing that they could do in terms of negotiating with management. ACMS members there also said that the Branch Secretary of the union blocks any attempts to raise issues. Workers have said that after massive, spontaneous protests, management sometimes makes promises of change to pacify them, but these are never implemented, or are only implemented in part. Workers expressed fear of raising issues because of the constant threat of lockouts and being starved into submission.

Request from the CAO

We would like the CAO to conduct a full, independent audit of Hattigor, Majuli and Nahorani, by neutral parties able to speak to workers in their own language. The visit should not be announced to management beforehand, and the auditors should not be accompanied by management. The audit should include a visit on a holiday so that auditors can meet with workers in their own homes, in the labor lines.

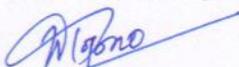
The search for solutions should involve broad consultation, especially with workers. The CAO should not take the ACMS to be an adequate and genuine representative of workers. The CAO should also reach out to local experts to assess living and working conditions, as well as the fairness of the share plan.

This complaint has been prepared and submitted in collaboration with Human Rights Institute Personnel, Columbia University, USA who carried out independent study in collaboration with local Adivasi NGO personnel. Out of 24 tea plantations of APPL, this survey and physical verification of facts were done with the plantation workers in 23 tea plantations in Assam, India.

On behalf of the Workers of three APPL gardens: Hattigor, Majuli & Nahorani

Requesting your kind attention,

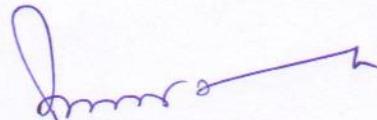
Yours sincerely,



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