“The More Things Change ...”

The World Bank, Tata and Enduring Abuses on India’s Tea Plantations

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Cover photo: Woman pruning tea bushes at Nahorani estate, Assam.
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EXECUTIVE SUMMARY

Tea plantations in India employ more than a million permanent workers, and perhaps twice as many seasonal laborers. This makes the industry the largest private-sector employer in the country. But workers depend on plantations for more than just employment: millions of workers and their families live on the plantations, and rely on them for basic services, including food supplies, health care and education. Indian law has required plantation owners to provide these since the adoption of the Plantations Labour Act (PLA), soon after independence.

The Tata Group, one of India's most powerful corporate entities, is also one of the most significant forces in the tea sector. Until recently, Tata operated a vertically integrated tea business, owning dozens of plantations, processing and packaging facilities, and major retail brands. In the mid-2000s, Tata reached out to the World Bank's private investment arm, the International Finance Corporation (IFC), and devised a complicated plan that would create a separate company to operate its extensive plantation operations in the states of Assam and West Bengal. The plan for the new company, Amalgamated Plantations Private Ltd. (APPL), included employee share ownership and diversification “beyond tea”. Under the plan, Tata would continue to support APPL for a period of “hand-holding,” after which it would be spun off into a publicly traded company, allowing Tata to focus on marketing its existing retail brands and developing new ones.

This is a case study of APPL. It documents the conditions for APPL’s workers and their families on the plantations, evaluating them in the context of Indian law and international commitments. It is a detailed account of the persistence of abusive practices, and the failure to comply with the basic requirements of the PLA, 60 years after its passage. It is also a critical analysis of the transition from Tata Tea to APPL, and of the role played in that transition by the IFC and private organizations intended to promote decent labor standards.
This report focuses on APPL because of the significance of Tata in the sector, its outspoken commitment to corporate social responsibility and its engagement with the IFC. By partnering with the IFC, Tata committed itself to the development goals of the World Bank, taking APPL beyond a mere private business deal. Through its investment in APPL, the IFC has also assumed responsibility. Decades of activism from inside and outside the World Bank led the IFC to adopt elaborate rules, known as Performance Standards, which are intended to ensure that IFC projects are implemented in compliance with its social and development goals. APPL is a test of the IFC’s will and capacity to enforce its standards when faced with a real world investment.

As the report shows, the IFC’s rules should have led it to scrutinize Tata’s compliance with Indian law. Instead, it took that compliance for granted, relying largely on Tata’s reputation. In agreeing to support dramatic changes in the structure of the plantation operations, the IFC overlooked problems that should have been considered in advance and then ignored them as they occurred. Key elements of the transition which have obvious appeal on paper – the sale of shares to workers, and economic diversification into commodities other than tea – have actually exacerbated the hardship of workers.

This report is based on more than two years of research, which included visits to 17 of the 24 APPL plantations, many on multiple occasions. Researchers for the Columbia Human Rights Institute interviewed hundreds of workers as well as APPL management, IFC staff, government officials, and experts on plantation labor. As summarized below, the report covers four areas: (1) history and context, (2) living and working conditions on the plantations, (3) the transition to APPL and (4) the role of the IFC and private certification bodies in reaching its conclusions.

**HISTORY AND CONTEXT**

The abusive conditions for APPL workers are consistent with conditions in the sector as a whole. They are rooted in the colonial origins of plantation life which continue to define the extremely hierarchical social structure, the compensation scheme, and the excessive power exercised by management.

The tea workers of Assam and the adjacent area of West Bengal come from two marginalized communities – Adivasis (indigenous people) and Dalits (the so-called “untouchable” caste) – whose ancestors were brought from central India by British planters. They remain trapped in the lowest employment positions on the plantation, where they are routinely treated as social inferiors.

The compensation scheme originally developed for the colonial plantations and their migrant workers – low cash wages, supplemented with housing and social benefits – has remained unchanged. As in the colonial period, the plantations function as a parallel governance structure, with little active involvement by the state, whether in setting wages or in monitoring working and living conditions. This places workers and their families in a relationship of total dependence on the plantation.

Independent India’s response to the plight of the plantation workers was not to unravel the system in place but to formalize it, adopting legislation that obligated the plantations to provide social benefits, including housing, health care, subsidized food, crèches, sanitation and education. The Plantations Labour Act of 1951 – with occasional amendments – continues to define the employment relationship in this sector. In addition to detailing the benefits employers must provide, the PLA tries to set limits on employer control over workers, for example, prohibiting management from interfering with public access to the “labor lines” where workers live.

But, as is widely known to those who study the tea sector, the PLA was never aggressively
enforced. Scholars like Virginius Xaxa, who grew up on what is now an APPL plantation, describe vast gaps in compliance, many of which have only grown larger over time.

A visitor to any “labor line” on an Indian tea plantation will immediately identify flagrant non-compliance with the PLA. Dilapidated and overcrowded houses are common, as are overflowing latrines, poorly stocked medical facilities, and abandoned crèches. Some of the most damning evidence about the implementation of the PLA, however, comes not from observations on specific plantations, but from governmental surveys of the sector. Presumably, after 60 years of guaranteed health care, housing, sanitation and food support in a stable population, social indicators should be positive. But the opposite is true: the surveys reveal that tea plantation workers are an impoverished community living on the margins. Malnutrition is widespread, along with illiteracy. Tea plantation workers succumb to “diseases of poverty” such as tuberculosis and typhoid at much higher rates than the rural poor in the villages around them.

LIVING AND WORKING CONDITIONS ON THE PLANTATIONS

The conditions on APPL plantations bear out the known history and surveys of the sector. There are vast and visible gaps in the implementation of the PLA in addition to abusive practices that exploit and exacerbate the disempowered state of workers.

Violations of the PLA in relation to health care, housing and sanitation are widespread. Workers live crowded together in cramped quarters with cracked walls and broken roofs. The failure to maintain latrines has turned some living areas into a network of cesspools. APPL is failing to provide adequate health care, both in respect of quality and access. Medical staff are poorly-trained and frequently absent. Callous and inadequate medical care were cited by workers as the trigger for violent labor disputes on at least three plantations in recent years. Even where it had not erupted in violence, workers consistently described doctors who made cursory diagnoses, while taking great pains to avoid physical contact.

Furthermore, health care – along with other social benefits – is arbitrarily denied to many of those who are explicitly entitled to receive it under the PLA: temporary workers, retired workers, and the dependents of women workers at APPL have no access to free treatment. As a result, many older and infirm residents on plantations described foregoing treatment they could not afford, while, in other cases, healthy workers are paying up to a quarter of their take-home pay over multiple years to cover the health expenses of dependents.

These explicit violations of the PLA tell only a part of the story. There are other abuses that fall outside the scope of the legislation but highlight the unchecked power of management and absence of recourse for workers. This is true, for example, of work quotas and salary deductions. While APPL cannot be held directly responsible for low wages – since wage levels are set regionally through negotiation between the employers and the union – APPL is complicit in keeping wages low. Management offsets any small raises by assigning higher daily work quotas, and taking substantial and arguably unjust deductions from workers’ paychecks. For most jobs on the plantations, there are quotas or “task rates” that set a threshold for the daily wage; workers who fail to meet this quota face pay deductions of up to half the day’s wages. From 2007 to 2013, the quota for plucking tea-leaf, which is set by employers across the region, has increased by 40%. There has been no corresponding improvement in technology to enable workers to pick faster: workers must pick as they have always done, by hand or with shears. The task rates for pruning the tea bushes,
which is fixed at the plantation level, have also increased at APPL without any explanation. On many plantations, workers said that they were no longer able to complete the task on their own, and had to take on helpers whom they compensated out of their own pockets.

Besides eroding wages through high task rates, APPL also deducts substantial amounts from workers’ paychecks. The overall impact of the paycheck deductions, as analyzed in the report, is a loss of at least 30% from an already low daily wage of ₹89 (US$1.62) in Assam, and ₹91 (US$1.65) in West Bengal. While a couple of the paycheck deductions are set by law (such as compulsory contributions to a statutory retirement account, known as the Provident Fund), the most burdensome are controlled by the company. On some APPL plantations, the fee charged for electricity alone amounted to nearly 50% of the workers’ net pay. In almost all cases, all workers pay the same rate, regardless of individual consumption, for only a few hours of electricity per day.

APPL management has responded defensively to questions about working and living conditions on the plantations, insisting that any problems on the estates are promptly and appropriately addressed through government enforcement and trade unions. In reality – as the company knows and, at times, helps to maintain – both mechanisms are demonstrably dysfunctional. Even the government’s own statistics show that inspections are infrequent and fines are nonexistent. Almost no worker interviewed had ever even seen a government inspector.

With regard to unions, there are important differences emerging between Assam and West Bengal. In Assam, plantation managers have helped to maintain the monopoly of the Assam Chah Mazdoor Sangha (ACMS), a largely discredited union. The global union federation for plantations and agriculture, the International Union of Foodworkers, does not recognize the ACMS as an affiliate, and in fact, has characterized the ACMS as being “in league with management.” According to workers and experts in the field, the ACMS functions largely to implement management policy and discourage workers’ complaints. In return for this role, APPL deducts union dues from all workers at its plantations, without regard to individual choice, and passes them on to the ACMS. It refuses to negotiate with any other union.

In West Bengal, however, plantation managers have been forced to accept union diversity, including the presence of more vocal, representative unions, in part as a result of the rise of newly active separatist movements in the state. Although it is too early to be certain of the long-term impact of these new forms of unionism, it does appear that the last two years have shifted certain dynamics within the plantations. For example, union mobilization
in West Bengal forced tea plantations to raise daily wages by more than a third, which in turn forced plantations in neighboring Assam to raise wages as well.

As a general matter, however, it is clear that there are no meaningful avenues for APPL workers to articulate concerns and seek remedies. Beyond government inspectors and unions, management can typically count on the isolation of the plantations to ensure against visits by concerned journalists or NGOs. If visitors do come, management invariably intercedes, either directly with the visitors or with the workers, to bring an end to the encounter. APPL management obliquely accused the authors of this report – who experienced such interference – of trespassing, even though the Plantations Labour Act affirms the right of public access to and from workers’ homes.

In describing the endemic problems of the sector and the particular issues at APPL plantations, including violations of the Plantations Labour Act, this report does not idealize the regime created by the PLA. Many advocates have argued that plantation workers may be better off without the “protection” of the PLA in the long term. For instance, many of the “services” that the PLA requires the employer to provide, including water, healthcare and subsidized food, are available to the poor directly from the Indian state. But, even though plantation workers’ incomes are low enough for them to qualify as “below poverty line,” the legal and geographic framework of the plantation system makes it almost impossible for them to gain access to the benefits they are entitled to receive from the state.

Furthermore, the system of benefits provided to workers under the PLA – rather than higher wages – keeps them bound to the plantations, preventing them from building savings and seeking new opportunities. In the view of many advocates, even a well-implemented PLA would sustain this dependency. This is particularly clear when it comes to housing: though multiple generations of workers may have lived in a house, without any other family home, they have no rights over it at all, even to make their own repairs. This may not be an ideal situation for employers, either, but, as one APPL manager acknowledged, they are unwilling to contemplate an alternative. The planters recognize that control over housing is the major factor enabling them to exercise control over workers.

**THE TRANSITION TO APPL**

The transition from Tata to APPL was premised on building “greater land and labor productivity” for a more sustainable plantation model. Central elements of the plan included the sale of up to 30% of the shares to employees, and diversification “beyond tea” into other agricultural commodities and fisheries. Although most of the employee shares would go to staff and management, the credibility of the plan required that workers also buy in. The IFC treated the sale of shares to workers as a critical feature of its decision to invest.

Whatever the merits of the plan, its implementation has been extremely problematic. After desultory efforts to explain the complicated “no-interest loan” – which would involve seven years of paycheck deductions – for the purchase of shares, management gave up explaining anything to workers, and simply set about convincing them to buy. Workers did buy, in relatively large numbers, marking their thumb prints on largely incomprehensible documents written in English. The company and the IFC treated the high subscription rates as *ipso facto* proof of good communication and worker enthusiasm for the scheme. But at every plantation, workers recounted stories of deception, threats and exaggerations – by unions and by management – in order to convince or compel them to buy the shares. Managers and security guards visited the homes of reluctant workers; staff refused to pay them for the day’s work unless they signed up. A few workers did refuse, but on a number of plantations subscription rates were nearly 100%.
Now, more than three years after APPL workers signed on to the share plan, there is still widespread confusion among them about what the shares represent, and what their rights may be as shareholders. The company has utterly failed to communicate with this subset of its shareholders: across the APPL plantations, workers stated categorically that there had been no meeting called or newsletter distributed about the shares or the financial condition of the company since they signed up for shares. They have not even been provided access to the company’s annual reports, which in any event are not public documents and are only in English.

From a purely economic perspective, the benefits to the workers are uncertain, despite the optimistic claims of APPL and the IFC. Now that paycheck deductions have begun, workers are losing an additional 6-8% of their meager wages each pay period. For four years, workers are locked in, and during this time, the value of the investment is guaranteed, along with a rate of 6% interest. Although the interest rate is high by western standards, it barely tracks inflation in India, where commercial interest rates are currently more than 50% higher, on long-term savings accounts. After four years, workers’ shares vest, and the value of the investment will rise or fall based on market conditions. In other words, underpaid workers face the risk of the market without other benefits of share ownership.

One of the other “innovations” in the transition to APPL – diversification beyond tea – has had the perverse consequence of dispossessing workers of agricultural land they had cultivated for generations. APPL announced in 2010 that it had built “the largest corporate fish farming business across north and east India,” and claimed that it had done so using “fallow” land within the plantation area. However, worker interviews revealed that the plots of land in question had actually been allocated to workers’ families in colonial times for the cultivation of subsistence crops. This land had been offered as part of the compensation package to induce workers to uproot their families and move to the plantations. APPL management claimed that workers would receive “benefit” from the fisheries, but none are immediately apparent: the fish is sold at market value, with no concessional rate for workers, and no new permanent jobs.

THE ROLE AND RESPONSIBILITY OF THE IFC AND PRIVATE CERTIFICATION

The IFC proclaimed that its reason for approving this project was because it promised to “create opportunities for people to escape poverty and improve their lives.” In APPL, the IFC saw an opportunity to preserve and expand jobs, creating a model for the industry. From this perspective, the share plan and diversification were central. Worker ownership would change the incentive structure, leading to higher earnings and more job security. Diversification would reduce the company’s exposure to fluctuating prices of tea leaf, and would also reduce the environmental harms associated with the monoculture of tea.

From APPL’s perspective, the IFC investment of nearly $8 million may have been relatively small in dollar amounts, but it brought critical legitimacy and a necessary infusion of capital to a corporate restructuring project that had lost other outside investors.

The IFC’s elaborate Performance Standards and rules for implementation are intended to ensure the promotion of the World Bank’s goals for social and economic development. They include labor standards, as well as benchmarks for community health and safety, all of which are relevant to the APPL investment. The IFC’s rules require the IFC to exercise due diligence in advance of its engagement, in order to identify and mitigate potential problems, and require the company to comply with social and environmental standards throughout the project. In other words, APPL voluntarily
supplemented its statutory obligations under the PLA with additional contractual obligations to the World Bank.

There is little to show for the due diligence phase of the IFC's work. From all appearances, its enthusiasm about partnering with Tata – portrayed in project documents as an innovator in worker empowerment, and a leader in social responsibility and workplace safety – led it to curtail appropriate scrutiny prior to approval. On the basis of a thin record that included visits to only three plantations in three days, its assessment was "positive without reservation," as noted in an Appraisal undertaken by the IFC's own Compliance Advisor/Ombudsman (CAO). The IFC failed even to identify the well-known problems related to living and working conditions that plague tea plantations as a whole. The CAO, which launched its own inquiry into this project in 2012, noted some of the problems which appropriate due diligence would have exposed, and raised serious concerns as to whether the IFC had "sufficient evidence" for its earlier conclusions.

With regard to the share plan, the IFC's role has been particularly problematic. In early project documents, the IFC proposed to play the role of "honest neutral broker" in the sale of shares. This would have been an extremely valuable role for it to play, given the power dynamics at work on the plantations, and the difficulties associated with ensuring workers' informed consent through the process. The IFC even identified gaps in the APPL plan that it could help to fill, such as the absence of any role for employees in corporate governance. The IFC proposed that it would help develop an "employee empowerment program" to address this. But none of this materialized. In fact, there is evidence that the IFC abandoned its neutrality and actively promoted the shares, even putting its name on promotional literature that depicted workers receiving unrealistically high dividends from the shares – enough to buy a car or a house – without mentioning risks.

As an ongoing matter, there is little clarity regarding the IFC's supervisory role in this project. The IFC has declined to exercise its option to appoint a member to the APPL board, and has responded defensively to reports of problems from a wide range of sources.

Beyond its obligations under the PLA and to the IFC, APPL further committed itself to meeting the labor and environmental standards of two private organizations, Social Accountability International (SAI) and the Ethical Tea Partnership (ETP). SAI's "SA8000" standard, in particular, includes important labor protections, which APPL fails to meet. The glaring gap between conditions on the APPL estates and the standards on paper highlights serious problems in the certification and monitoring process. Auditors responsible for certifying compliance are paid by
management, and are, to all appearances, more protective of management’s interests than those of workers. Audits are scheduled in advance with management, allowing facilities to be spruced up. The visits are subsequently carefully choreographed by management, excluding the possibility of any visits to the “labor lines” or unsupervised worker interviews.

As the report suggests, the proliferation of new standards, while offering the promise of multiple avenues for achieving social responsibility goals, seems, at least in this case, to serve as a diversion. The private standards provide the impression of compliance with labor standards, in defiance of reality.

SUMMARY CONCLUSIONS AND RECOMMENDATIONS

It is beyond the purview of this report to provide comprehensive recommendations to correct the problems on APPL plantations. In order to address the concerns legitimately, Tata, APPL, and the IFC must engage in a process that is transparent and genuinely participatory. Many of these problems are sector-wide, and will require sector-wide solutions.

At the same time, there are certain violations of law and policy at the 24 APPL tea estates that are entirely within the company’s power to remedy, and could be ended immediately. For example:

- **The discriminatory denial of benefits to plantation workers and their dependents.** Temporary workers, the dependents of female workers, and the parents of all workers are entitled to these benefits by law and should receive them.

- **Interference with workers’ rights of free movement, and their right to receive visitors in their own homes.** The law guarantees public access to the “labor lines,” and this right must be respected. This applies not only to workers’ friends and family seeking to visit them, but also more generally: anyone should be able to enter the labor lines, and enter workers’ homes if workers invite them to do so, without having to notify management. The direct or indirect surveillance of workers must also cease.

- **Restrictions on workers’ right to form and join a union of their choice.** APPL is currently complicit in maintaining the monopoly the ACMS, in the state of Assam. Management must allow workers to be represented by the union of their choice in any negotiation or dispute, and must end the practice of deducting dues from all workers at source to give to ACMS. Until such a time as there is a legitimate election, workers should be free to pay dues to the union of their choice, after receipt of their wages.

- **Erosion of wages through unfair deductions and high task rates.** Among the many factors that contribute to the impoverishment of workers at APPL, there are two that should be corrected immediately: electricity costs, and high task rates that require workers to perform unpaid overtime and/or share their wage with helpers. In the immediate term, the plantations must ensure that workers do not have to pay industrial rates for residential electricity connections, and should place no obstacles in the way of workers seeking to obtain subsidized “Below Poverty Line” electricity connections through the government. For tasks such as pruning and clearing drains, management must ensure that the work can be completed by a single worker within the eight-hour workday. There should be no wage deduction for workers unable to complete the task, and no uncompensated overtime.

- **Sale of APPL shares to workers through deception and coercion.** The plantations
must act immediately to enable workers to opt-out of the share ownership scheme, and return to the status quo ante. Failing a meaningful opt out mechanism, APPL must immediately convert the “share sale” plan to a share grant, refunding all paycheck deductions to date and ceasing any further deductions, given that most workers are ill able to afford them.

➢ **Seizure of workers’ agricultural land.** It will be difficult to reverse the confiscation of land, given that it has, for the most part, already been converted to fisheries. However, compensation should be paid at once, equivalent to the fair market value of the land, in order to enable those workers to purchase plots elsewhere if they desire.

The chronic violations of the Plantations Labour Act, related to housing, sanitation, medical care, education, occupational health and safety, and other entitlements for workers and their families, will require a thorough, objective and transparent review of compliance, and a clear timetable for implementing solutions.

Many violations associated with the share ownership plan will also require longer-term remedies. Worker participation in the governance of APPL, through proportional representation on the Board, must be put in place, along with a system of communicating with worker-shareholders, in local languages, about the performance of the company.

The IFC has an important role to play in developing long-term remedies and ensuring their implementation. While it would be hard to deny that the IFC failed to exercise due diligence prior to approving the project, this should not become an excuse for it to “cut and run” at this critical stage, and pull out its investment. Until the original stated goals of the project are achieved, in compliance with the Performance Standards, the IFC must maintain its investment level and stay fully engaged in resolving violations.

Finally, the IFC must act immediately to ensure that workers understand that they have a right to bring complaints before the Compliance Advisor/ Ombudsman (CAO), as well as other complaints mechanisms and grievance procedures. In particular, the IFC must acknowledge that there has been management surveillance of, and retaliation against, workers who have attempted to reach out to auditors and inspectors, including the CAO, and it must intervene promptly to ensure workers’ safety.
Amalgamated Plantations Private Ltd (APPL) is the second largest producer of tea in India, which, in turn, is the world’s largest producer and consumer of black tea. APPL operates 24 plantations with nearly 31,000 full time workers in Assam and the Dooars, the region of West Bengal that abuts the state of Assam. Little known outside the industry, APPL came into existence in 2007 when the well-known Tata Group decided to divest from tea-growing operations in order to focus on packaging, branding and marketing tea sourced in the open market. The divestment and restructuring process is ongoing: at this company through Tata Global Beverages. But the divestment is intended ultimately to lead to an independently run and operated company, with an as-yet undefined role for Tata.

The creation of APPL was billed as more than simply a spin-off or divestiture. Rather, the move was widely described by Tata as an effort to infuse economic vitality and sustainability into the industry. The restructuring was to enable the new company, APPL, to diversify into other agricultural commodities, exploring new sites of revenue and challenging the environmental consequences of the monoculture of tea. The restructuring aspired to major development impacts, including the generation of new, higher-quality jobs in the isolated and economically depressed regions where the plantations are located. Moreover, it would offer workers a meaningful stake in the business through an innovative employee share purchasing scheme.

For the restructuring, Tata turned to the International Finance Corporation (IFC), the private lending arm of the World Bank. In doing so, Tata explicitly endorsed the development goals and obligations of the World Bank and committed itself to fulfilling the IFC’s Performance Standards. Tata also committed to the increasingly common path of private certification. In addition to the Ethical Tea Partnership, which it had already joined, it agreed to certification by Social Accountability International (SAI), a non-profit organization that monitors and certifies companies on the basis of their compliance with labor and environmental standards. In these ways, APPL exemplifies a global, branded business aspiring to promote its social responsibility by subjecting itself to accountability under an array of private standards. On their face, these private standards supplement the requirements of national law and signal the company’s higher level of commitment.

The project is also an experiment in a kind of restructuring that is familiar in manufacturing, but relatively new in agriculture: Tata Tea was a vertically-integrated enterprise, but made the decision to dissociate itself from the production side of its business. Similar changes occurred over the past decades in consumer goods and apparel when brands divested themselves of factories. The new corporate entity, Tata Global Beverages, is focused on branding and retail, which are the more profitable and predictable elements of the tea sector.

For these reasons alone, the APPL initiative merits closer analysis. There are several additional factors that call for scrutiny. Tea plantations constitute India’s largest private, organized sector, employing more than one million workers directly and sustaining the lives of many millions more. However, the future of...
the tea plantations is uncertain. Tata's decision to withdraw from plantation operations came against a backdrop of a precipitous drop in producer prices for processed leaf, which led to the closure of plantations and the starvation deaths of workers and their families. The biggest owner of plantations in India at that time, Hindustan Unilever, sold all of its plantations.

Though the immediate crisis is past, economic conditions remain precarious, with many plantations seeking ways to reduce their expenditures. The conditions are exacerbated by industrial unrest, where employers are quick to respond by declaring lockouts of workers. With each such closure, workers are deprived not only of wages, but also of food rations and medical care. In light of pressures on land use, workers' frustrations with wages and conditions, and the cyclical volatility of producer prices, the long-term sustainability of the plantation model is not clear.

For the nearly 31,000 permanent workers of APPL and their families, and the tens of thousands of temporary workers equally dependent on the APPL plantations, the stakes are extraordinarily high.

This case study is addressed to those who work with or study the tea sector, as well as those engaged with the broader issues of agricultural labor, public investment in private industry, and what is sometimes referred to as corporate social responsibility. In particular, we have in mind private and public investors, advocacy organizations, and trade unions, all of whom figure in the story of APPL and were interviewed in the course of the research. Within that group, we are especially concerned about the IFC and the organizations that monitor and certify corporate social practices. The report is also addressed directly to the Tata Group, a set of companies with a profound investment in both the economic and the social development of India.

The case study assesses Tata's APPL initiative against the framework of Indian law and the additional layer of private standards espoused by the company, particularly the standards of the IFC and Social Accountability International. As a private company with an expansive rhetoric and reputation of social accountability, and one moreover that has chosen to infuse its investment with public purpose by partnering with the World Bank, Tata has opened itself up to analysis. The parameters of this case study correspond to the standards that Tata has set itself, through these internal and external commitments. On the other hand, by singling out Tata and the APPL plantations, we do not mean to suggest that their practices are worse than others in the industry. In many cases, we describe widespread industry practice or well-known industry-wide failings.

We hope this report serves to refocus attention on the problems of workers and families on tea plantations, in an effort to improve on current efforts and enable new ones. We appreciate the extensive cooperation of individuals at the IFC, as well as at APPL, in the process of our research.
METHODOLOGY

This report was undertaken by the Human Rights Institute of Columbia Law School, using discretionary research funds and student support from Columbia’s Human Rights Clinic. It was directed by Professor Peter Rosenblum in partnership with Ashwini Sukthankar, a lawyer based in New York City, and Sarmishtha Biswas, a consultant based in Birpara, India. Five students participated in fieldwork and engaged actively in the project: Amanda Barnett, Barbara Bijelic, Zoe Hutchinson, Sarah Mechlovitz Saadoun, and Erica Selig.

The primary authors of this report are Peter Rosenblum and Ashwini Sukthankar. Peter Rosenblum was, until July 2013, the Lieff Cabraser Clinical Professor of Human Rights and Faculty Co-director of the Human Rights Institute at Columbia Law School. He is currently Professor of International Law and Human Rights at Bard College. Ashwini Sukthankar was, until June 2013, an independent consultant on international labor standards and transnational labor regulation. She currently works for the North American trade union UNITE HERE in international affairs. The field research and most of the writing were completed before July 2013, and current affiliations are for identification purposes only.

The research extended over three years, from May 2010 to May 2013. From May 2010 to December 2011, the Institute was involved in scoping research and preliminary visits to a selected few of the plantations, contacts with local institutions, and outreach to the company through the IFC. On the basis of the initial problems we identified, and the response of APPL and the IFC, we determined to undertake large-scale field research.

Field research began in January 2012 and continued through January 2013. The full team visited plantations in January and April 2012 and in January 2013. Sarmishtha Biswas undertook additional visits and interim research, sometimes accompanied by Debasis Chakraborty. Over the course of a year, the research team together visited 15 plantations. Including the two additional APPL plantations visited by individual members of the team, researchers visited all but seven APPL plantations at some point in the research. Several plantations were visited on multiple occasions.

Research team visits to plantations were undertaken as follows:

- Achadam - January 10, 2012
- Batabari - May 19, 2010; April 14, 2012
- Borhat - January 7, 2012
- Borjan - April 18, 2012
- Hathikuli - January 13, 2012; April 19, 2012; January 24, 2013
- Chubwa - January 11, 2012
- Dam Dim - July 17, 2010; April 15, 2012; January 18, 2013
- Kakajan - January 12, 2012; January 25, 2013
- Nahorkutia - January 9, 2012
- Namroop - January 8, 2012; April 17, 2012
- Nowera Nuddy - July 17, 2010; April 14, 2012; January 17, 2013
- Rungamuttee - May 19, 2010; April 15, 2012; January 18, 2013
- Hattigor - January 21, 2013
- Majuli - January 21, 2013
- Nahorani - January 22, 2013

At the plantations, the team interviewed hundreds of workers in different settings, including small group, large group and individual meetings. All interviews were conducted in local languages in the company of team members who had at least conversational understanding of the language.

See infra, “Restricted Access” in Part II.
Worker interviews were conducted primarily in the living area of the plantations, known as the “labor lines.” In order to ensure the maximum independence for worker interviews, we did not inform management before entering the labor lines. Under the terms of the Plantations Labour Act in Assam and West Bengal, the labor lines are open to the public, though, in practice, visitors are monitored or reported on, and free movement is regulated. As a result, workers continued to experience some constraint in what they could say and, in many cases, were concerned about retaliation. Many workers willingly offered us their names and personal information that would identify them, but given general fears and specific instances of management retaliation against workers, we have excluded all names of individual workers and all identifying details in this report.

On each plantation, we sought to make ourselves available to anyone who wished to speak with us. Workers and their families were welcoming and interested in sharing their experiences. We systematically met with representatives of major trade unions in the Dooars, as well as the sole recognized union in Assam, the ACMS. In Assam, we also met with representatives and workers identified with other unions. Many workers offered us pay slips, pass books and documents related to the APPL share plan in an effort to help us understand the conditions of their lives. We analyzed pay slips from more than 60 workers on 11 different plantations.

We have interviewed and corresponded with current and former management of APPL on multiple occasions. We met with then-Managing Director of APPL, Hardeep Singh, in New York on October 9, 2010 and again in New Delhi on January 14, 2013. On January 4, 2012, we met with the IFC and the current CEO, Deepak Atal, in New Delhi. APPL also arranged for us to meet the general managers of three of its estates, Namroop, Hathikuli and Borjan, in April 2012. While visiting the labor lines, we also met with management at Kakajan and Achabam, at their initiative. In Washington D.C., the researchers spoke with IFC staff and staff of the Compliance Advisor/Ombudsman (CAO), the IFC’s internal body for handling complaints from communities affected by IFC projects. We are grateful for their cooperation in this report.

The researchers have interviewed and consulted widely with organizations and individuals, both local and international, including trade unions, student organizations, women’s groups, political parties, and academics. Many are not named in this report, at their request. Our efforts to reach employers’ organizations, particularly the Assam and Dooars branches of the Indian Tea Association, were unsuccessful. Some government officials agreed to be interviewed, off the record, while the majority did not respond to requests for a meeting. Government staff at the National Rural Health Mission and the Indian Council for Medical Research were generous with their time and expertise.

We are especially aware of the debt owed to the workers at APPL, hundreds of whom were willing to participate in open-ended interviews about their lives without any expectation of compensation or redress.

Note: The report frequently references or quotes monetary amounts in Indian rupees (₹), and sometimes converts them into U.S. dollars ($). The Indian rupee fluctuated substantially against the U.S. dollar during the period of the research and so, for the sake of consistency, we have used an approximate median exchange rate of ₹55 to $1 throughout.
Tata and the IFC insisted that the restructuring of the tea plantations would yield new economic opportunities for workers, and lead to greater development across the region. However, conditions for workers remain extremely harsh. (Rungamutte estate)
THE CRISIS IN TEA LEAF AND THE CORPORATE RESTRUCTURING OF TATA TEA

The tea sector is the largest formal, private sector employer in India, and the largest employer after the Indian railways. It provides more than one million permanent, full-time jobs and, perhaps, twice as many temporary positions, particularly in high season when extra labor is required for plucking leaf. This has significant implications in a country that has confronted the stubborn dominance of informality and underemployment for decades. In West Bengal and Assam, where APPL’s plantations are located, the tea economy is even more significant because of the isolation of these regions and the dearth of alternative employment. There, tea is a central feature of the economy and ecology.

As a result of the size and centrality of the sector, any disruptions have immediate and profound consequences. In the late 1990s, tea leaf prices dropped precipitously, leading many owners to cut wages, diminish investment and, in more than a hundred cases over the following years, abandon their plantations. The result was destitution for tens of thousands of workers and starvation death for many hundreds. For a brief period, the crisis focused attention on the fragile existence of tea plantation workers, whose isolation and dependency had remained largely unchanged since the plantations were established beginning in the late 1800s.

The crisis in tea leaf, as it is known, never reached the retail level. In fact, the price paid by consumers for “made tea” – packaged blends and bags – not only held steady, but rose consistently throughout this period, both in India and abroad. At that time, the two largest companies in the retail trade, Tata Tea and Hindustan Lever (now Hindustan Unilever), were vertically integrated operations with vast plantation holdings throughout the country, but especially in the states of West Bengal and Assam. Together, they represented more than 60% of consumer tea sales.

While they remained profitable throughout, both Tata and Hindustan Unilever made the decision in the mid-2000s to leave the plantation sector in India and focus on branded retail. By divesting themselves of the long-term risk and responsibility of managing production, they followed a pattern established decades before in other branded consumer goods, most notably apparel and footwear. Hindustan

4 As of 31 December 2004, the total number of tea workers was estimated at 1,257,610 and the number of dependents of resident workers was estimated at 1,229,730. Dependents of temporary workers are not included in this calculation. Tea Board of India, Tea Statistics 2003-04. Action Aid, an NGO that has conducted research on the tea sector, estimates that 10 million people in India depend on the tea industry. Action Aid, *Tea Break: A Crisis Brewing in India* 3 (2005).
5 “At least 19 plantations in Kerala, over 30 plantations in West Bengal, about 70 plantations in Assam and three or more plantations in Tamil Nadu have closed down since the late 1990s.” Action Aid, *supra* note 4, at 4.
6 According to Action Aid, OneWorld Asia reported that there were 800 starvation deaths in West Bengal alone. Id.
7 Id.
8 Id. at 8.
Unilever, a subsidiary of Unilever, sold all of its plantations, primarily to McLeod Russel, making the latter the largest producer of tea leaf in India, but with no retail operation.\(^9\)

According to industry insiders who asked not to be identified, Tata viewed Hindustan Unilever’s sudden and disordered departure from its plantations as an embarrassment. While Tata also decided to leave the plantation sector, its reputational stake in India would not permit it to “cut and run” as it perceived Hindustan Unilever to have done. Thus, Tata began to explore other options, in particular, a “voluntary retirement scheme” that would grant early retirement to some plantation workers, and then a transfer of ownership to the remainder of workers, through a sale of shares. This process was to be accompanied by a period of “hand holding” during which Tata would have preferential buying arrangements with its former plantations.

Tata owned two sets of plantations, one in the southern state of Kerala and the other in the northeast regions, in the states of Assam and West Bengal. In 2005, Tata put its plan into place in Kerala, transferring its southern Indian estates to the Kanan Devan Hills Plantation Company. According to newspaper reports, more than a quarter of workers at the South Indian plantations were retired. Employees took over most of the company, while Tata retained the Kanan Devan brand and 19% of shares (later increased to 28.52%).\(^10\) But for the north Indian estates, which were more expansive

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and profitable, Tata required outside investors in order for the restructuring to be viable. Those estates would become Amalgamated Plantations Private Ltd (APPL).  

In 2005, before APPL was created, Tata had already begun to seek other investors for the north Indian plantations, and to vet the idea of an employee share ownership plan. In 2006, it reached an agreement with the International Finance Corporation of the World Bank (IFC) to invest in what the IFC termed a “sustainable employee-owned plantation.” The plan that was eventually launched in 2007 involved a staged transition to turn the North Indian Plantations Operations of Tata Tea Limited (now Tata Global Beverages Limited, or TGBL) into APPL. Tata committed APPL to selling shares to workers, diversifying the plantations and expanding secure employment opportunities. It incorporated APPL in January 2007 and transferred control of the plantations to the new entity in April 2008. Under the plan, after a period of transition, APPL would become a publicly traded corporation with substantial employee share ownership. During the transition phase, Tata would start as the main purchaser of tea leaf from APPL, but would wean the company slowly onto the open market.

In April 2009, the IFC’s formal engagement was launched with an almost $8 million investment for a 19% equity stake. By that time, other proposed investors had dropped out, making the IFC the only outside investor in the project. Under the terms of the investment, the IFC has the right to withdraw if, by seven years after the date of investment, APPL has not gone through an initial public offering.

ORIGINS OF THE PLANTATION SYSTEM: WORK, WAGES, AND SOCIAL BENEFITS

The current struggles of APPL tea workers and their communities are deeply anchored in the history of plantations in India and the struggles to regulate them. This history is characterized by powerful plantations controlling the lives of thousands of workers, alongside the weak and poorly enforced laws intended to protect them.

The development of tea in India was a government project implemented by private investors. With the backing of the state, British planters were given vast control over people and land in order, first, to break the Chinese monopoly on tea and then to expand it into a world-wide industry. When the project began in Assam in the mid-19th century, British planters were immediately confronted with a massive “shortage” of willing and available local labor. The need to create a stable work force available for the seasonal demands of the plantation was and remains a central issue.


The Kanan Devan Hills Plantations Company, located in the Idukki district of Kerala, was formed on April 1, 2005. It consists of 7 gardens and 12,000 permanent employees, compared with APPL’s 24 gardens and 30,000 permanent employees. See Kanan Devan Hills Plantations Company Private Limited, “Corporate Profile,” available at www.kdhptea.com.

See infra note 368.


See infra, Part III: The Economic Impact of Restructuring – “Employee Ownership” and Diversification. The exact proportion of employee owned shares is not certain but appears to be between 20% and 34%.
communities hundreds of miles away, initially from the region of Chotanagpur, in what covers parts of the modern-day states of Jharkhand, Odisha, West Bengal and Bihar. The migrants, recruited with their families, lived on plantations in housing provided by the employer, isolated not only by language and culture, but also by laws and employer practices that prevented them from leaving the property.\textsuperscript{17}

The coercive elements of maintaining the labor supply remained in effect for many years. As described by the 1929 Royal Commission on Labour, which investigated employer excesses and abuses on the plantations, the framework for this captivity included contracts of indenture, with criminal penalties for breach, enforced through the Workmen’s Breach of Contract Act.\textsuperscript{18}

The Act was repealed in 1926, but as the Royal Commission noted, even after the end of penal contracts, employers allowed workers to believe that breach of contract would result in arrest and imprisonment.\textsuperscript{19} In the opinion of the Royal Commission, employers’ control over workers was compounded by the isolation of the plantations, and the fact that outsiders had no right of access to the “lines” where workers were housed.\textsuperscript{20}

The system of compensation for workers was also calibrated to enable subsistence for the workers without creating opportunities to leave. It involved a mix of cash and “social benefits,” including housing, health care, land for cultivation, firewood, and subsidized food. As the Royal Commission noted, the system was explicitly intended to provide for the workers while limiting their ability to generate savings or develop an independent source of income.\textsuperscript{21}

The cash wages did not vary among the plantations. From early on, the planters’ association enforced sector- and region-wide wage agreements, in order “to secure, as far as practicable, uniformity in the matter of wages and to prevent one employer from paying substantially higher wages than his neighbor.”\textsuperscript{22}

Moreover, from the beginning, planters resisted the involvement of the state in statutory wage setting.\textsuperscript{23}

Though reports of abuses of workers excited public outrage, the colonial state resisted calls to regulate the plantations, instead urging planters to develop and implement better forms of self-regulation. This tended to take a paternalistic form, with the planters agreeing among themselves on basic norms and provisions for the workers and their families, including those related to food, housing, and medical treatment. Planter resistance and political expediency continued to limit the reach of reform efforts, even after Indian independence and the shift to Indian ownership of the plantations.

**EVOLUTION OF CONDITIONS ON PLANTATIONS**

**PRESERVATION OF SOCIAL HIERARCHIES**

The enduring impact of the colonial system is visible in all aspects of plantation life and work. The workers, who were initially migrants, lost contact with their communities of origin while remaining isolated within their new locations. Though active recruitment of new workers

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16 See infra, Section II.B.3: Casualization and Worker “Shortage.”
17 “Chapter XIX: The Plantations – Migrations,” Royal Commission on Labour in India (1931).
18 “Chapter XX: Recruitment in Assam - Principle of Indenture,” Royal Commission on Labour in India (1931).
19 “Chapter XX: Recruitment in Assam - Contracts and the Worker,” Royal Commission on Labour in India (1931).
20 “Chapter XX: Recruitment in Assam - Restrictions on Workers’ Movements,” Royal Commission on Labour in India (1931).
21 “Chapter XXI: Wages on Plantations - System of Wage Payment in Assam,” Royal Commission on Labour in India (1931).
22 “Chapter XXI: Wages on Plantations - Other Factors,” Royal Commission on Labour in India (1931).
23 “Chapter XXI: Wages on Plantations - Objections to Statutory Wage Regulation,” Royal Commission on Labour in India (1931).
stopped in the 1950s, workers continued to live much as they did on arrival, entirely dependent on the plantation for their basic needs, and limited in their mobility by the absence of other employment opportunities. Even government services available to others in India are delivered by the plantation, when they are available at all. The main features of the colonial compensation scheme – including a low sector-wide wage supplemented by “social benefits” – have been maintained through the continuing failure to implement a statutory minimum wage and the progressive, though paternalistic operation of the Plantations Labour Act.

One of the striking features of plantations is the strict hierarchy that tracks ethnic, linguistic and caste differences that date from colonial times. In Assam, for example, where the majority of APPL estates are located, workers are almost invariably Adivasi (indigenous) or Dalit (traditionally designated “untouchable” caste), and the descendants of migrants, speaking Sadri. Sub-staff and staff are Ahom (upper caste) locals, speaking Assamese, and managers come from outside the region, often from the states of West Bengal or Punjab.

The quality of housing, health care and other plantation facilities tracks the same rigid hierarchies. As a result, managers and staff do not interact with each other, or with Sadri speaking workers, in social spaces, in schools or when getting medical treatment. This is apparent not only from worker interviews, but from the most casual survey of the health care facilities, the location and quality of the respective living quarters, and the condition of educational facilities, all of which are set up to maintain hierarchical distinctions and minimize informal contact.

The separation and hierarchy are inscribed in the language of the plantation and all interactions between workers and management. Even when speaking to the research team, some APPL managers referred to the workers as if they were inferior humans, or even animals. At Achabam, after intervening in an unannounced visit, the management warned the team not to trust what workers said because they were “just like cattle,” unintelligent and prone to mob mentality. At Namroop, the plantation’s doctor said we had to understand that the workers had “lower IQs.” At Hathikuli, the General Manager and his wife matter-of-factly commented that their own children were “completely alone,” as if the thousands of other families around them did not exist.

24 Sadri is a lingua franca of the Adivasi community that enables mutual understanding with Hindi speakers.
25 Interview with General Manager, Achabam Tea Estate, Assam, January 10, 2012.
26 Interview with clinic doctor, Namroop Tea Estate, Assam, April 17, 2012.
COMPENSATION AND WAGES

The colonial system of low cash wages supplemented by “social benefits” has also been sustained. In West Bengal and Assam, there is no statutory minimum wage for tea plantation work. (This is not true for other sectors of the economy or for other tea-growing regions, such as Kerala and Tamil Nadu, which are ironically less profitable.) Instead, wages are fixed in “triptite” negotiations involving employers’ associations, trade unions and the state. To the extent that state representatives participate, they apply a special calculus that assesses the needs of plantation workers at 50% of other workers in the economy. (According to the accepted Indian formula, the “need-based minimum wage” should be sufficient to support at least two adults and two children. However, planters have successfully argued that it should be halved for the tea sector, on the logic that men and women both work on the plantations, and therefore all households have two earners.)

As in colonial times, there is still no wage competition among plantations, or even within a single plantation. The “negotiated” wage does not serve as a floor or a minimum wage, but is the only wage paid to workers. This inhibits the appropriate functioning of a labor market for the sector, eliminating a major incentive for both workers and employers. Rooted in the desire to prevent labor mobility, the system is antithetical to the idea that workers should be able to “vote with their feet” and reward better-run plantations which are able to pay a higher wage.

THE PLANTATIONS LABOUR ACT OF 1951

The Plantations Labour Act (PLA), adopted soon after independence, created a formal legal structure for the system that existed on the plantations. The law sought to harmonize the “social benefits” put in place through employer practice and custom, as well as to correct glaring problems. Thus, it set forth minimum standards for employer-provided clinics, crèches, schools, and housing. It also made small inroads into the historic control that planters exercised over the private lives of workers, for example, by prohibiting employers from interfering with public access to living areas, known as the “labor lines.” Formally, at least, this was a major change for planters, who heavily restricted workers’ mobility within the plantation, as well as all entry and exit.

But the PLA also created dilemmas and difficulties, particularly when combined with the peculiar workings of tripartite wage negotiations. Employers’ associations treat the costs of compliance with the PLA as costs to be factored into the wage calculation, to offset the cash wage. Meanwhile, calculations of social costs are highly contentious, as detailed below. Finally, as some advocates and scholars note, the benefits ultimately reinforce the dependency of the workers: even if the law were fully enforced, the workers would still never be in a position to own their own houses or land, or accumulate savings with which to leave the plantation.

The “social cost” calculations are contentious for several reasons. Most significantly, there is no serious verification. The amounts claimed by planters are several times higher than those estimated by the government or worker advocates. In addition, there are many costs that may be real, but that “benefit” the state rather than the workers. On the plantation, workers have a difficult – or impossible – time accessing

27 Interview with General Manager and wife, Hathikuli Tea Estate, Assam, April 19, 2012.
29 The public right of access to the labor lines is provided for in Section 16F of the PLA, and secured by State Rules prohibiting any interference. For further detail, see infra, Restricted Access in Part II.
30 Interview with Professor Virginius Xaxa, Deputy Director of the Tata Institute of Social Sciences, January 19, 2013.
significant state programs that provide benefits including free hospitals, water purification and sewage treatment, public education, and housing subsidies for poor and marginalized communities. To this extent, even where the expenses are real, companies are merely replacing expenditure that is the responsibility of the government, rather than going beyond.

But the companies, including APPL, are also benefiting from a substantial number of subsidies and programs that displace costs for services they are obligated to provide. This is obvious in some cases such as latrines: according to workers, the only new latrine construction on APPL plantations has been funded by UNICEF. The extent of some other subsidies and support is harder to quantify. For example, the National Rural Health Mission, a government agency, funded the construction of a part of the clinic at the Nahorani estate and pays for a pharmacist to work there, but it is unclear whether this arrangement extends to other APPL estates as well. At another estate, casual workers complained that they were being charged for medicine they received in the garden clinic, even though the National Rural Health Mission had supplied that medicine to the clinic without cost in the first place. UNICEF is also involved in other health care programs – addressing malaria, tuberculosis and anemia – that would otherwise be the responsibility of the employer under the PLA.

COMPLIANCE WITH THE PLA

APPL relies on the existence of the PLA and the government’s enforcement machinery as evidence of its compliance with labor and social obligations. “There is law, and this is a democracy,” said Deepak Atal, the managing director of APPL, in an interview. In dismissing reports of problems on the plantations, Atal said to the press, “The working conditions are governed by the Plantations Labour Act and other acts which are closely monitored by the state government machinery.” In fact, the implementation of the PLA has been hobbled by inadequate, understaffed and weak state enforcement, on the one hand, and politically compromised company unions, on the other.

Many studies over a period of decades have demonstrated the tea industry’s lack of compliance with basic elements of the PLA, including housing, water, sanitation, education and health care. As Virginius Xaxa, a leading scholar of labor on tea plantations, wrote about the PLA in 1996: “Yet till today it has not been fully enforced. Even the basic requirement like housing remains neglected.” Sharit Bhowmick, who has also conducted extensive research on tea plantations, wrote at the same time, “[T]he main problem before the workers is of ensuring that these Acts are enforced properly.” Xaxa and Bhowmick documented massive gaps in enforcement of the PLA in Assam and West Bengal.

31 Most recently, the employers’ association in the state of West Bengal claimed that their expenditure on social costs was even more than they paid to workers in cash wages. The government of West Bengal, however, calculated the non-wage component of compensation at less than 20% of the cash wage. Other analysts have also challenged the owners’ calculations. (Interview with J. John and Pallavi Mansingh, Centre for Education and Communication, February 1, 2011)
32 See infra. Box: “Under plantation rule, worse off than other citizens of India?”
33 Nahorani Tea Estate, Assam, January 22, 2013.
34 Hattigor Tea Estate, Assam, January 21, 2013.
35 Scholars, advocates and workers noted several other ways in which plantations are benefiting from state subsidies, including, for example the National Rural Employment Guarantee Act (NREGA). The use of direct government funding to subsidize employers’ payroll through NREGA has been negotiated for some formerly closed plantations. On those plantations, the government pays workers directly for 100 days of work per year. But APPL workers reported that NREGA labor was also being used on several APPL plantations for infrastructure. More difficult to determine is the extent to which the company is using supplies of free food intended for the poor under the government’s Public Distribution System to meet its obligation to provide rations, as claimed by a number of advocates.
36 Interview with Deepal Atal, January 4, 2012
In a recent interview, Professor Xaxa affirmed that the situation had not improved. According to him, there has not been a serious effort, by either employers or the state, to improve compliance with the PLA since the 1960s.\(^\text{40}\)

Even the government’s very limited public statistics on PLA compliance hint at the scale of the violations. For 2008, the report indicates that plantations in West Bengal had provided only 60.93% of the worker housing necessary, and that Assam had provided only 80.70%. The 2009 report also states that plantations in Assam lack nearly one third of the latrines required.\(^\text{41}\)

But one of the most significant statistics concerns enforcement. Even the bare numbers show an absence of serious enforcement by the state labor commissioners: In 2009, labor commissioners’ offices claimed to have conducted 1135 inspections at the 829 registered plantations in India. But the same report puts the quality and impact of the inspections in doubt. For 2008 and 2009, in Assam, there were no convictions for violations and no fines levied. In West Bengal, there were reportedly some convictions – 106 for two years – but no meaningful sanctions. Even if the inspectors had done no more than confirm the gaps in compliance with housing and sanitation reported by the companies themselves in the same document, it would have required serious remedial investment and payment of fines. But, according to the government’s own statistics, over two years, in the two largest tea-growing states of India, with more than 600,000 daily permanent workers, government fines for violations of the PLA amounted to ₹54,000, or less than US$1,000.\(^\text{42}\)

Finally, with respect to the failure of plantations to implement the PLA, some of the most critical evidence – albeit circumstantial – comes from health surveys of conditions on plantations. Presumably, after 60 years of guaranteed health care, housing, sanitation and food support in a stable population, health indicators should be positive. But the opposite is true: the conditions reflect an impoverished community living on the margins. In a 2006 survey conducted on tea plantations in the Dibrugarh district – a major center of tea, where five APPL gardens are located\(^\text{43}\) – malnutrition was widespread:

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40 Interview with Virginius Xaxa, January 19, 2013.
41 Labour Bureau, “Report on the working of the Plantations Labour Act, 1951, during the year 2008” and “Report on the working of the Plantations Labour Act, 1951, during the year 2009.” These reports are based on self-reporting by plantations, which varies from year to year. Thus, while 2009 statistics suggest that the situation has improved, with 65.57% of required housing provided in West Bengal and 87.30% in Assam, the discrepancy is likely to be a result of which plantations reported that year or how the government recorded the information, given consistent reports from advocates and workers that there has been no new housing construction at all in these tea-growing regions in recent years.
42 Id.
43 Achabam, Chubwa, Nahorkutia, Nahortoli and Namroop Estates are all located in the district.
59.9% of preschool children were underweight, as were 73.1% of women and 65.7% of men. Anemia was at nearly 72%. At the time of the survey, in 2006, nearly 13% of children under five were suffering from respiratory ailments. The prevalence of tuberculosis was higher than the overall prevalence in Assam.44

Recent studies show results that are as bad, or worse. A 2013 study of permanent tea plantation workers in Dibrugarh showed extraordinarily low indicators for health, nutrition and education. The average caloric intake for men engaged in hard physical labor was 50% of the recommended amount, and for women, 66%.45 According to this study, 96.1% of those surveyed defecated in the open air, and nearly 100% were functionally illiterate.46 To dispel any sense that the conditions were remarkable, the primary researcher noted that she had visited over 100 plantations at the time of writing, and that the situation was similar everywhere.47

Not surprisingly, given the problems throughout the sector, the gaps in compliance with the PLA at APPL plantations are obvious and widespread, notwithstanding APPL claims – and the startling affirmations of the IFC – to the contrary. Those violations are documented below, in detail.

46 Id. at 23. In the 2006 survey, researchers found 65% illiteracy and determined that 63% of individuals had access to a household toilet; they didn’t evaluate the quality or actual use of the toilets. Medhi, supra note 44, at 499.
47 Email exchange with primary author, May 15, 2013.
Workers line up at one of the divisions of the sprawling Kakajan estate hoping for a supply of firewood. Even today, firewood remains the primary source of fuel for workers and their families.

PART II
THE REALITY FOR WORKERS AT APPL
Conditions for workers and their families vary across APPL plantations, but only by degree, not by kind: at every plantation visited by the research team, workers and their families described conditions of work and life that were harsh and degrading. Their stories are supported by documents, photographs, and the corroborating claims of multiple workers at different plantations. Analyzed separately, many of these conditions constitute violations of the PLA or international norms applicable to APPL, including the IFC’s Performance Standards. In some cases, the problems are both violations in their own right, and also serve as obstacles to broader solutions. This is true, for example, of the strict regulation of visitors to the labor lines, or management efforts to undermine genuine worker representation. These are, of course, violations of domestic law and international standards, but they are also factors that reinforce the isolation and marginalization of tea plantation workers.

PLA violations at APPL include housing, water, sanitation, medical care, education, and childcare. There are festering cases, like the sanitation problems at the Borhat plantation, near Dibrugarh in Assam, where overflowing latrines have created a vast network of cesspools throughout the labor lines. And there are chronic problems that are so common that workers will not even remark on them unless explicitly questioned: insufficient housing for permanent workers, the crumbling walls and broken roofs.
in the houses that do exist, the unrepaired latrines, the inconsistent supply of water, or the abusive treatment by medical personnel, all of which are a feature of daily life. Some of the violations of the PLA are strikingly brazen, like the systematic denial of dependent benefits to the husbands of female workers, even though the law is explicitly gender-neutral.

While these known violations have been largely ignored over the past decade, the lack of protections for workers spraying pesticides has received considerable attention. The PLA was amended in 2010 to include sprayer safety. Yet, the results at APPL are extraordinarily inconsistent. On some APPL estates, workers described some pieces of new gear for some sprayers, but nothing for others. On other estates, they described no changes whatsoever. As a general matter, across the estates, we found that personal protective equipment was inadequate and inconsistently available, medical checks were nonexistent, and procedures were haphazard. Whenever the issue of protective gear for sprayers arose, management was particularly defensive, refusing to acknowledge any problems, including past problems, even while describing new protocols. At one plantation, while the manager lauded the old and new mechanisms in place to ensure that pesticide spraying happened safely, and stressed the absence of any gaps, the research team watched a group of sprayers walk past his window with chemical tanks on their backs and no protective gear at all on their bodies.

Some of the other concerns highlighted by workers pertained to arbitrary and extreme sanctions exercised by management and/or the lack of consistently enforced company policy. On many plantations, for example, workers sought to repair or extend their own living quarters in the "labor lines," when management failed to attend to complaints regarding housing conditions. On some plantations, they were able to do so without incident; on others the workers faced severe disciplinary measures, including indefinite suspension without pay.

Other problems relate to wages, increasing work pressures and unwarranted deductions from pay. Wages on plantations have remained intractably low. But even incremental changes have been offset by increasing task rates and high deductions for any benefits and services provided to workers. Deductions for electricity, for example, varied tremendously across plantations, and usually without regard to individual usage. Some workers are paying nearly half of their take-home pay for electricity that is only made available for a few hours a day. Workers have even had to take money out of their statutory retirement accounts, the Provident Fund, in order to pay outstanding electricity bills which the company claimed that they owed. Meanwhile, households outside the boundaries of the plantation, with earning levels similar to plantation workers, qualify for subsidized electricity available to those "below the poverty line." They pay a fraction of the amount paid by APPL workers, and receive 24 hours of uninterrupted electricity service per day.

The violations are exacerbated by the absence of any credible monitoring or enforcement, whether by the state or private actors. From among hundreds of interviews with workers, only one acknowledged ever having met a labor inspector. According to the worker, "He asked if everything was OK, from inside his car, when he was outside the factory." Elias Kujur, who worked as a Welfare Officer at Nahorani estate from 2000 to 2004, said that not a single labor inspector had visited the estate during his four years of service. Private auditors, on the other hand, visit frequently, according to workers – as frequently as three or four times a year. While workers report that many cosmetic changes take place in the factory and in the fields in preparation for audits, no efforts are made

48 Interview with Amos James Pariat, General Manager, Borjan Tea Estate, Assam, April 18, 2012.
49 Batabari Tea Estate, West Bengal, May 19, 2010.
50 Kujur added that, to his knowledge, no other official from the Labour Commissioner’s office had visited the plantation during those years. Interview with Elias Kujur, Guwahati, Assam, April 2012.
to clean the labor lines or to repair workers’ houses, since auditors never venture into these areas. Without exception, workers said, they had never encountered or heard of an auditor who sought information about labor conditions and living conditions on the plantation by actually interviewing workers.

Evidence of these conditions is detailed in the following sections.

LIVING CONDITIONS

HOUSING

*It shall be the duty of every employer to provide and maintain necessary housing accommodation for every worker (including his family) residing in the plantation...*

*Plantations Labour Act, Section 15*

Worker housing is a persistent problem at APPL plantations. On all of the plantations visited, workers insisted that there is a significant shortfall in required housing. There were very few indications of new housing construction by the management, and in the one case where the plantation had agreed under pressure to undertake new construction, the quality was visibly deficient. Besides the gap in housing for permanent workers, upkeep and repair of housing is, perhaps, the most pressing issue, and one which elicited the most frustration from workers. Leaky roofs, cracked walls and crumbling infrastructure were visible throughout the labor lines. According to workers, complaints went unanswered and their efforts to correct problems on their own were often frustrated by management, or met with disciplinary action.

The provision and maintenance of housing is a cost that is borne by all of the workers, in the sense that the imputed expense is explicitly factored into wage calculations. In Assam, the employer’s association calculated that their expenditure on worker housing is ₹7.15 per worker per day, and while it would be impossible to assert conclusively that they are not paying this, the dearth of new construction and the lack of upkeep raise serious questions. Moreover, employers do not provide the ₹7.15 per day as a credit to the many workers who do not have housing.

The PLA requires that housing be provided for all workers. Under the state rules, plantations were allowed to meet the goal progressively by constructing housing for 8% of workers each year. If the goal had been met – which it never was – full housing would have been achieved by 1970. The shortfall at APPL varied among the plantations, but workers raised the issue at every plantation visited by the research team. Some of the specific examples cited by workers include:

- At Achabam, one worker told us that there were 852 permanent workers, but only 400 houses.
- At Batabari, workers said there were 446 quarters for 602 permanent workers.
- At Nowera Nuddy, workers claimed that no new houses had been built since 1994.

52 Under the Assam Rules, plantations are required to construct housing for “8% of the workers annually.” Assam Rules, Section 58. 1956 According to Professor Xaxa, the intention was to reach full housing by 1970. Interview with Virginius Xaxa, January 9, 2013.
54 Batabari Tea Estate, West Bengal, May 19, 2010.
55 Nowera Nuddy Tea Estate, West Bengal, April 14, 2012.
At Hathikuli, even the representative of the ACMS trade union, who otherwise staunchly defended management, admitted that the last time a new house was built, or an old house repaired, was 12 years ago.56

At Kakajan, we visited some houses where four or five “nuclear families” were crowded together, into two small rooms. “When we ask for our own house, we are told, ‘You people are used to living together in one house, so that is what you should do,’” described one worker.57

At Hattigor, we spoke to several individuals who claimed that they were living in one-room dwellings with seven or eight other adults, including up to four permanent workers.58

At Dam Dim, in the Dooars region of West Bengal, workers mobilized in 2012 to obtain adequate housing. A group of 20 families began sleeping on the veranda of the factory building, as several of them explained in an interview, in order to seek shelter from the rain.59 Management responded with a harsh written notice dismissing their complaints: “It is a well-known fact that this garden maintains a level of welfare facilities which are far above industry average.”60 Management threatened workers that if they did not vacate the veranda, there would be a lockout, “the consequences of which are well known to all concerned.”61 The notice acknowledged that some homes were not suitable, but claimed these were “discarded by the management” in 2000 and 2001 and that 20 new “quarters” were

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56 Interview with ACMS representative, Hathikuli Tea Estate, Assam, January 24, 2013.
57 Kakajan Tea Estate, Assam, January 12, 2012.
58 Hattigor Tea Estate, Assam, January 21, 2013.
59 Dam Dim Tea Estate, West Bengal, April 15, 2012.
60 Letter in English from Dam Dim management, dated April 14, 2012; copy on file. Provided by workers at Dam Dim Tea Estate, West Bengal, April 15, 2012. The consequences of a lockout would include loss of wages in addition to a suspension in health care and rations.
61 Id.
constructed.\textsuperscript{62} The workers disputed the claim, insisting that only six “double quarters” – 6 buildings with two single-room dwellings each – had been constructed at that time.\textsuperscript{63} In response to the action, management claimed that they would repair leaks in the roofs of the houses, but workers continued their protest.\textsuperscript{64}

During a subsequent visit to the plantation, the research team spoke with workers and visited the labor lines. According to those interviewed, the workers involved in the protest had continued to camp on the veranda for more than three months, until the monsoon rains subsided. Management eventually agreed to build quarters to replace their broken houses; five months later, construction began. In January 2013, when the research team returned to Dam Dim, construction was underway, but it was already clear that the quality was extremely poor. Workers complained that materials were so obviously inferior that the housing would never survive the monsoons. While no one in the research team had expertise in construction, some of the problems were immediately visible. Bricks literally crumbled in the hands of workers, and when dropped on the ground, they dissolved into dust.\textsuperscript{65}

Many workers have tried to cope with the lack of housing by building extensions to existing dwellings. Their efforts lead to a cat and mouse game where management tolerates some structures and sanctions workers for others. On multiple estates, workers complained that they had been suspended from work for several months for trying to extend their own living quarters.\textsuperscript{66}

For example:

- At Batabari, we were told that several workers had been suspended for adding a small thatched extension to their quarters. Management ordered the workers to demolish the “illegal constructions.”\textsuperscript{67}

- At Nowera Nuddy, workers have built extensions to many houses, largely without incident. However, according to workers, if anyone builds in concrete or other permanent materials, management suspends the workers and orders demolition. They recounted several recent occurrences.\textsuperscript{68}

Many of the houses that do exist are in desperate condition. Workers complained that repairs were rare and shoddy when actually dealt with. Some of the most systematic complaints across all APPL plantations relate to the failure of management to respond to requests for repairs. Much of their frustration is directed at the Welfare Officers, who receive the complaints and then fail to follow up.\textsuperscript{69}

\textsuperscript{62} Id.
\textsuperscript{63} Dam Dim Tea Estate, West Bengal, April 15, 2012.
\textsuperscript{64} Letter, supra note 60 and interviews with workers, Dam Dim Tea Estate, West Bengal, April 15, 2012.
\textsuperscript{65} Research visit to Dam Dim Tea Estate, West Bengal, January 18, 2013.
\textsuperscript{66} Batabari Tea Estate, West Bengal, April 14, 2012; Dam Dim Tea Estate, West Bengal, April 15, 2012; Hathikuli Tea Estate, Assam, January 24, 2013.
\textsuperscript{67} Batabari Tea Estate, West Bengal, May 19, 2010.
\textsuperscript{68} Nowera Nuddy Tea Estate, West Bengal, January 17, 2013.
At Nowera Nuddy, workers estimated recently that well over half of the houses on the estate needed urgent repairs. At Rungamuttee, we were told, “There is a pile of complaints on the Welfare Officer’s desk. When we go to complain about repairs needed to the houses, they just add it to the pile.”

The research team viewed and entered many houses in dismal condition at each of the plantations that it visited. Many houses had holes in the roof that allowed rain to pour in during the monsoon. At one such home on the Achabam estate, the worker who lived there said that she had been asking for two years for someone to come and fix the roof. She was finally just given three small pieces of tin to place over the holes.

“When we complain about repairs that are needed, no one comes. If we try to do it ourselves, we are disciplined,” said the wife of a permanent worker at Batabari, who claimed that she had been suspended for two months for repairing their house without management permission.

When visiting Namroop, an impromptu group of workers and families gathered to describe conditions on the plantation. A woman in the crowd asked someone from the team to visit her house, which was nearby. Nine people lived in three small rooms, one of which was a self-constructed extension to the company house. She showed us a hole in the roof, which was directly above the beds. For two years, she claimed, she had complained about the leak, but no one from management had come even to inspect it.

APPL does not entirely deny that there are problems related to housing but it does downplay the severity of the situation. While the General Manager of Borjan did admit that there was “a slight shortfall” in houses (he described 815 families living in about 400 single-room dwellings), he claimed that 44 new houses had been built in the previous year. At our meeting with the Managing Director of APPL, Deepak Atal in January 2012, he admitted that there were “a few” houses with broken roofs and windows, but denied workers’ allegations that critically needed repairs had gone unattended for years at a stretch.

At Namroop, the Welfare Officer agreed that many requests came in for repairs – problems with roofs, doors and walls – but insisted that they were dealt with in “seven to ten days,” a claim which elicited derision from workers when it was later raised in interviews with them.

SANITATION

(1) There shall be provided separately for males and females in every plantation sufficient number of latrines and urinals of prescribed types so situated as to be convenient and accessible to workers employed therein.

(2) All latrines and urinals provided under sub-section (1) shall be maintained in a clean and sanitary condition.

Plantsations Labour Act, Section 9

69 Under Section 18 of the PLA, plantations with more than 300 workers must have a Welfare Officer to oversee the provisions of the PLA. Although the duties are set out in the law, in practice, the position is a low-level management position with little actual implementation power.

70 Nowera Nuddy Tea Estate, West Bengal, January 17, 2013.
71 Rungamuttee Tea Estate, West Bengal, January 18, 2013.
72 Achabam Tea Estate, Assam, January 10, 2012.
73 Batabari Tea Estate, West Bengal, May 19, 2010.
74 Research visit to Namroop Tea Estate, Assam, January 8, 2012
75 Interview with Amos James Pariat, General Manager, Borjan Tea Estate, Assam, April 18, 2012.
76 Meeting with the IFC officials and Deepak Atal, New Delhi, January 4, 2012.
77 Interview with Welfare Officer, Namroop Tea Estate, Assam, April 17, 2012.
At Hathikuli, workers complain that latrines constructed with UNICEF funds (top left) are of poor quality and are already falling apart. Sewage from latrines lies in ditches, or pools by the roadside at Kakajan estate (above); at Borhat (below) sewage collects in massive open cesspools. In the absence of regular pumping of septic tanks, latrines in the labor lines – such as this one at Nahorani (left) – are often clogged with human waste.
Many latrines at Borhat are simply unenclosed concrete platforms (above), with the waste flowing directly into huge cesspools. At Achabam (right) workers themselves dug this crude ditch to try to deal with sewage from latrines. These latrines at Dam Dim (below right) have fallen into complete disrepair. The waste from these latrines at Namroop (below) simply overflows from the septic tank and collects on the ground.
The problem of sewage in the labor lines is one of crisis proportions. At every plantation visited, latrines were in dangerous disrepair, with refuse frequently flowing directly into yards. Workers painted a consistent picture of management’s disengagement from this issue: rare cleaning, rare repairs and no new construction except for inferior UNICEF-funded latrines.

The worst conditions witnessed by the research team were at Borhat, where open cesspools lay within a few feet of the doorstep of nearly every house. Raw sewage flowed from the latrines into these pools, and clogged the shallow ditches surrounding each house and running alongside each lane in the labor lines. One house had three such cesspools, brimming with human waste. This example of one house at Borhat was typical:

Nine people lived in the house, three in one room and six in the other. Two more people lived in the makeshift extension. They had not been able to fix the overflowing latrine tank, or address the cesspool in the back yard that flowed towards their neighbor’s house. They claimed they had complained to the company ten times about the latrine with no response. The eleven people who lived in the house still used the latrine, since there were no other options available. The residents had dug their own well (a large pit) to provide bathing and dishwashing water, since the supply of water from the company was inconsistent, but this water was dirty and brown.78

Similar examples on a lesser scale were visible at every plantation where the research team entered the labor lines. Some other examples include:

- At Kakajan, workers claimed that the company stopped cleaning the latrines altogether a few years ago. “We complain, and no one comes. We are treated like animals,” said one worker bitterly.79

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78 Research visit to Borhat Tea Estate, Assam, January 7, 2012.
At Batabari, workers could not remember the last time the latrines had been cleaned. At Dam Dim, we were told that latrines used to be cleaned three times a year, over a decade ago, but now they could not remember the last time it had happened.

At Majuli, we were told the company had begun demanding that workers pay to have the latrine cleaned, charging ₹200 – well over two days’ wages – for a single visit.

At other estates, we were told that on the rare occasions when the company did clean the latrines, the contents are simply shoveled out onto the ground next to the tank. Many latrines were simply falling apart:

At Namroop, we visited a family of 12 dependents on a single broken latrine that stood in a stagnant pool of human waste. In the rainy season, we were told the latrine would overflow into the street. Several members of the household told us that they were regularly sick, with diarrhea being a constant symptom.

At Nahorkutia, one of the many broken latrines was spilling raw sewage into the yard, its tank flooded. Members of that household told us that it had not been repaired in spite of repeated requests.

In the labor lines of Kakajan and Chubwa, we visited several houses that had never been provided latrines. Workers and their families had no alternative except to walk half a mile into the forest, where the paths were lined with human waste.

The only new construction of latrines identified by researchers was part of a UNICEF-funded program. Even management acknowledged that the UNICEF latrines were inferior to those previously constructed. One manager said that it would take three or four times the money allotted by UNICEF for the construction of a latrine to build one that would function well over time. The UNICEF latrines are lower, narrower and of less durable materials than the old latrines.

In interviews with management, latrines were not viewed as being a significant concern in terms of compliance with the PLA.

**WATER**

*Drinking water – In every plantation effective arrangements shall be made by the employer to provide and maintain at convenient places in the plantation a sufficient supply of wholesome drinking water for all workers.*

Plantations Labour Act, Section 8.

The issue of safe and adequate supplies of water is closely connected to the problem of sewage and sanitation. As a worker at Hattigor said, “The latrines are overflowing, and that gets into the same water we have to drink.” Access to water varied amongst the plantations, with many receiving only limited amounts at fixed times of day. There were frequent complaints about the quality of the

80 Batabari Tea Estate, West Bengal, May 19, 2010.
81 Dam Dim Tea Estate, West Bengal, January 18, 2013.
82 Majuli Tea Estate, Assam, January 21, 2013.
84 Namroop Tea Estate, Assam, January 8, 2012.
87 Interview with Gautam Baroh, General Manager, Namroop Tea Estate, Assam, April 17, 2012.
88 Hattigor Tea Estate, Assam, January 21, 2013.
At Hattigor estate (above), workers have to rely on makeshift containers to store water due to inadequate and infrequent water supply. Contaminated water at Namroop estate (bottom left). A tap at Borhat estate which is only turned on for a short while each day (below).
In one typical example at Borhat estate, an open cesspool (above) lies side-by-side with an actively used water source (right). A crumbling well at a worker’s home (below). Workers must draw water from wells a few feet from a latrine at Achabam (bottom right).
water or the dearth of pumps and taps available in the labor lines. Among the examples:

- At Borhat, we found very few company-provided water taps, and even these were only switched on for half an hour at a time, three times a day. Households tried to supplement this water supply by digging small wells by their houses. However, these access the same water table that is contaminated by the overflowing latrines and open cesspools described above. \(^9^9\)

- At Kakajan, workers showed us houses with no meaningful access to company-provided water taps; these houses are entirely reliant on wells that they dig themselves, and at their own expense. One woman told us that in the dry season, she sometimes has to work the well for an hour and a half to secure enough water for the day’s needs. \(^9^0\)

- For most of the workers at Nahorani estate, there was no company-provided access to water. Households have had to build their own tube-wells, at their own expense. \(^9^1\)

- At Dam Dim, where the water taps – three for every line of 20 houses – were switched on just three times a day for half an hour, workers alleged that the water was pumped directly from the river without treatment. They believed that the water supply was responsible for the high incidence of dysentery on the estate. \(^9^2\)

- Similarly, workers reported, in one portion of Rungamuttee estate – Line 24 – that the water was pumped directly from the river. “It’s very dirty, and in that line they are always sick,” said one worker. “Over the last 10 months, at least seven to eight people died with diarrhea.” \(^9^3\)

- At Nahorkutia, workers complained about frequent deaths from water-borne diseases including cholera. One worker told us, “there have been so many deaths from cholera that we can’t count.” \(^9^4\)

Workers at several estates recounted stories of water contamination that, for them, indicated the low value which the company placed on their health and their lives. At Hattigor, workers pointed out the large elevated tank where the drinking water for the labor lines is generally stored. On the occasions when it has been in disrepair, workers claimed, the company has distributed water using the tank in which it mixes pesticides for spraying the tea bushes. \(^9^5\) A group of workers at Majuli complained about a recent incident there, where a cow drowned in their drinking water supply. The cow was not removed for a few days, and the water tank was never cleaned – “we just kept drinking the same water.” \(^9^6\)

**ELECTRICITY**

Across the APPL estates, access to electricity as well as the expense of receiving it, are major concerns. At all estates, workers complained about very heavy deductions, sometimes amounting to nearly half of their take-home pay. To add insult to injury, they do not actually receive 24 hours of electricity; in most cases, the connection is switched on by the company, sometimes for as little as three or four hours a day.

On most estates, it appears that the cost of electricity is divided equally among workers.

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90 Kakajan Tea Estate, Assam, January 12, 2012.
91 Nahorani Tea Estate, Assam, January 22, 2013.
92 Dam Dim Tea Estate, West Bengal, April 15, 2012.
93 Rungamuttee Tea Estate, West Bengal, January 21, 2013.
95 Hattigor Tea Estate, Assam, January 21, 2013.
96 Majuli Tea Estate, Assam, January 21, 2013.
without regard to individual use. As one worker on Hattigor put it, “Whether you have one bulb or a TV, the bill is distributed equally.” Another on the same estate lamented, “We don’t know if we are paying the right amount for electricity; since we aren’t charged per unit, we have to depend on the management.”

The following chart shows deductions for electricity on four estates, together with the worker’s net pay for the period of the deduction:

<table>
<thead>
<tr>
<th>NAMROOP</th>
<th>RUNGAMUTTEE</th>
<th>HATHIKULI</th>
<th>HATTIGOR (WEEKLY)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electricity Deduction</td>
<td>Net Pay</td>
<td>Electricity Deduction</td>
<td>Net Pay</td>
</tr>
<tr>
<td>₹195</td>
<td>₹430</td>
<td>₹123.86</td>
<td>₹470</td>
</tr>
<tr>
<td>₹195</td>
<td>₹490</td>
<td>₹123.86</td>
<td>₹600</td>
</tr>
<tr>
<td>₹195</td>
<td>₹430</td>
<td>₹161.07</td>
<td>₹725</td>
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<tr>
<td>₹195</td>
<td>₹490</td>
<td>₹313.08</td>
<td>₹580</td>
</tr>
<tr>
<td>₹190</td>
<td>₹530</td>
<td>₹289.9</td>
<td>₹470</td>
</tr>
<tr>
<td>₹332.65</td>
<td>₹350</td>
<td>₹332.65</td>
<td>₹570</td>
</tr>
<tr>
<td><strong>AVG. DEDUCTION PER FORTNIGHT:</strong></td>
<td><strong>₹194</strong></td>
<td><strong>AVG. DEDUCTION PER FORTNIGHT:</strong></td>
<td><strong>₹240</strong></td>
</tr>
</tbody>
</table>

On several estates, workers were paying for electricity even though their connections were long gone. At Kakajan, the situation was perhaps the most extreme: the state electricity board had disconnected the labor lines for non-payment by the company more than four years before our visit to the estate according to workers as well as the Divisional Manager, but heavy deductions from pay continued in order to pay off the arrears. At some Kakajan lines, connections have been restored and workers are billed through individual meters, but the expense to workers is still relatively high, amounting to about ₹45 a week.

At Majuli, there is still no electricity in the labor lines. “They used to cut ₹160 per week for electricity, so we ourselves asked for it to be switched off five years ago,” explained one worker. “But then managers went house to house to collect thumbprints, so that they could take ₹4000 from our PF [Provident Fund account] to cover back dues.” When asked whether workers had protested this, we were told: “If we make a fuss, they will lock us out.”

In some cases, workers in the same household all had deductions taken from their paychecks for electricity, even though they shared the same

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97 Hattigor Tea Estate, Assam, January 21, 2013.
98 Id.
99 Pay periods for two weeks, except where otherwise indicated. Averages are given on the basis of the more common two-week period. The variation in rates at some estates corresponds to different billing periods. None of the charges correspond to actual household consumption.
100 Interview with Divisional Manager and workers, Kakajan Tea Estate, Assam, January 12, 2012. Since the practice at most APPL estates is to divide the total bill for power consumption equally among the workers, regardless of how much each has consumed individually, it is not clear why there should ever have been such massive arrears, or continued deductions from workers’ paychecks.
103 Id.
connection. At Nahorkutia, for example, we saw the paychecks of three permanent workers, living in the same house, each of whom had paid ₹195 from their fortnight’s wages for electricity.  

Electricity is one of the services that the government subsidizes for those living below the poverty line – including many with household income levels similar to those of APPL workers. There are many such households outside the plantation, sometimes within steps of the labor lines. At Hathikuli estate in Assam, for example, we visited the homes of temporary workers who live just outside the plantation perimeter, and reviewed electricity bills of between ₹30 and ₹210 per month for continuous service.  

Workers at Nahorani who had managed to secure a direct connection from the electricity board, without management permission, claimed that they pay half of what they used to pay. One worker told us that the reason electricity billed through the company is so expensive is because the company pays an industrial rate and simply passes on that rate to workers. “Why should they bother to get a residential rate for us?” the worker said. “The managers don’t even notice it is a problem, since the company pays for the electricity that they use in their homes.”  

Exchanges with APPL managers on this issue produced little clarity. The Managing Director of the company, Deepak Atal, claimed that the reason electricity bills were so high was pilferage, while the General Manager of Namroop simply denied that there was a problem, insisting that all workers have 24 hours of electricity a day, and are billed individually through meters supplied by the state electricity board.

**DENIAL OF BENEFITS ON THE BASIS OF GENDER AND OTHER ILLEGAL DISTINCTIONS**

*The PLA requires employers to provide benefits to the worker and the worker’s “family,” defined as follows:*

“Family” when used in relation to a worker means – (i) His or her spouse, and (ii) The legitimate and adopted children of the worker dependent upon him or who have not completed their 18th year. And includes parents and widow sister, dependent upon him or her.

*Plantations Labour Act, Section 2(ee)*

In a stark violation of the PLA, benefits – including for health care and subsidized food – are denied to the husbands of women workers, the retired parents of male and female workers, most children over the age of six, and most or all temporary workers.

**Gender Discrimination**

For 50 years, the PLA has had a clear non-gendered definition of spouse. The language was explicitly inserted in the act in 1960. The act was further amended in 2010 to ensure that dependent parents would also be included in the definition of “family,” regardless of whether they were the parents of a male or female worker. Nevertheless, APPL plantations systematically

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106 Nahorani Tea Estate, Assam, January 22, 2013.
107 Meeting with the IFC and Deepak Atal, NewDelhi, January 4, 2012.
108 Interview with Gautam Baroah, General Manager, Namroop Tea Estate, Assam, April 17, 2012.
exclude all dependents of women workers from access to benefits.

According to the workers across all of the APPL plantations visited, the medical expenses of husbands who are not themselves permanent workers are deducted from their wives’ paychecks, either as a lump sum, or in periodic installments if the expenses are substantial. In most cases, the worker had never received an itemized bill, though she might have been verbally informed of the total amount that she would be charged. Some typical examples include:

- Women workers interviewed at Dam Dim in January of 2013 explained that, when their husbands were sick and had to go to the clinic on the estate, they would receive a scrap of paper that informed them how much money would be deducted from their wives’ paychecks. “It is not even a proper bill,” complained one woman worker. “We have no idea what we are being charged for.”

- At Achabam, a woman who took over her husband’s permanent job when he became too sick to work found that the cost of his medical care was now being deducted from her pay, in increments of ₹100 per fortnight. Over the previous two years, she had already paid her employer over ₹5000.

References:
- Dam Dim Tea Estate, West Bengal, January 18, 2013.
At Kakajan, a woman whose husband died at the APPL referral hospital at Chubwa after surgery was told that she owed the company more than ₹20,000 for his care. He had even been a permanent worker, but his widow alleged that APPL had forced him to give up his job when he started getting sick.\(^{112}\)

The research team heard many such stories, where men gave up their permanent positions because of serious ailments or infirmity, only to find that the family member who had taken over their job was now being held responsible for the payment of substantial medical bills. Older workers describe the current denial of benefits to dependents as a shift in policy. One woman worker at Hattigor believed that the change had taken place perhaps 10 or 12 years ago,\(^{113}\) but others merely said that they were able to remember a time when the company had covered their husbands’ care, without being able to specify clearly when that might have been.

When asked about this issue, management attempted to deflect it with claims about industry practice, local tradition or a deal with the unions.

The General Manager of Borjan initially claimed that the company did give benefits to husbands of permanent workers.\(^{114}\) But when the researchers expressed surprise that Borjan was an exception among the APPL estates, he called in the Welfare Officer, who informed him that it was not “necessary” to give such benefits. Both the Welfare Officer and the plantation doctor at Borjan openly mocked the idea of a man receiving free health care as a dependent of his female spouse, arguing that “the husband should work” and take care of his own needs.\(^{115}\)

Other senior management acknowledged the practice of denying benefits to spousal dependents of female workers, but gave other explanations. The General Manager of Namroop claimed that no worker had challenged this arrangement: “Maybe if there were genuine cases of dependency, it would be brought up. But always, both people work so there is no issue.”\(^{116}\) The Welfare Officer of Namroop agreed that husbands do not receive dependent benefits, and also asserted that no one had challenged this policy, because “they know the rule.”\(^{117}\) The doctor at Hathikuli cited “old norms,” and “an old bilateral agreement with the union” that entitled the plantation to disregard the law.\(^{118}\) Union officials from ACMS went along with this interpretation, with the General Secretary, Dileshwar Tanti, insisting: “How can a man be dependent on a woman?” He went on to argue, “It is industry practice. No one has challenged it.”\(^{119}\)

Even if the explanations were true, none would affect the enforceability of the law. Not even the state of Assam has the power to unilaterally reinterpret a law passed by the central government, and trade unions certainly do not have the power to negotiate away statutory rights. Furthermore, interviews with workers indicate that many female workers have sought to challenge the denial of benefits to their families:

- At Kakajan, one permanent worker described repeated complaints to management about the lack of medical care or rations for her husband and children.\(^{120}\)

- Another worker at Kakajan, who took over her husband’s permanent job when he became too sick to work, found that the entire family lost its benefits – including the health care that was so critically important for her husband – as a result of the transfer.

\(^{112}\) Kakajan Tea Estate, Assam, January 12, 2012.

\(^{113}\) Hattigor Tea Estate, Assam, January 21, 2013.

\(^{114}\) Interview with Amos James Pariat, General Manager, Borjan Tea Estate, Assam, April 18, 2012.

\(^{115}\) Interview with Welfare Officer and doctor, Borjan Tea Estate, Assam, April 18, 2012.

\(^{116}\) Interview with Gautam Baroah, General Manager, Namroop Tea Estate, Assam, April 17, 2012.

\(^{117}\) Interview with Welfare Officer, Namroop Tea Estate, Assam, April 17, 2012.

\(^{118}\) Interview with doctor, Hathikuli Tea Estate, Assam, April 19, 2012.

\(^{119}\) Interview with Dileshwar Tanti, ACMS General Secretary, ACMS Central Office, Dibrugarh, January 11, 2012.

\(^{120}\) Kakajan Tea Estate, Assam, January 12, 2012.
Since she is illiterate, she paid a neighbor to write letters asking management for an explanation, but never received a response.\textsuperscript{121}

\begin{itemize}
\item A permanent worker at Hathikuli, married to a man who is a temporary worker at the same estate, told us that her husband and children receive no health care benefits from the company. She, and other women workers at Hathikuli in a similar position, had complained to management through a local women's organization and never received acknowledgment of their complaint from management.\textsuperscript{122}
\item At Dam Dim and Namroop, workers interviewed in January of 2012 mentioned protest rallies by groups of workers on the denial of dependent benefits to the families of female workers, with respect to health care in the case of Dam Dim,\textsuperscript{123} and food rations in the case of Namroop.\textsuperscript{124}
\end{itemize}

\section*{Parents, Older Children and Temporary Workers}

Where the parents of permanent workers are concerned, the company has chosen to deny them benefits altogether, regardless of whether they are the parents of a male or female worker.\textsuperscript{125} Examples of destitution, starvation and untreated illness of all kinds among the elderly appeared to be common. Many older people reported denying themselves health care in order to avoid burdening their children with the expense.

At Borhat, the research team met the father of a permanent worker, who was emaciated and barely able to stand. Nevertheless, he told us, he refused to seek medical treatment, because the cost of any care would be deducted from his son’s pay.\textsuperscript{126} At two estates in Assam – Majuli and Hattigor – workers spontaneously raised the issue of the financial burden of their parents’ medical care.\textsuperscript{127} With respect to this issue as well, several workers insisted that the situation reflected a change in policy. “It wasn’t like this in my father’s time,” said a worker at Nowera Nuddy who is now responsible for the medical expenses of two retired parents. “This has all happened within the last decade.”\textsuperscript{128}

It also appears that older children have been denied benefits on many of the plantations. Workers reported that the company had “recently,” or “in the last five-ten years,” capped the eligibility of children at age six,\textsuperscript{129} though the law is clear that children are covered to the age of 18.\textsuperscript{130} Even estate managers, doctors and welfare officers interviewed seemed so unaware of the law’s actual requirements that they confirmed without hesitation that coverage was available for children, but only up to the age of 6.\textsuperscript{131}

Temporary workers also reported denials of the full benefits of health care in violation of the PLA. The law does not distinguish between temporary and permanent workers with respect to medical facilities, but widespread and consistent statements by workers indicate that temporary workers are excluded from coverage. Just as in the case of parents and husbands, temporary workers must find a permanent worker to serve as guarantor if they seek care at the estate clinic, and the cost will be deducted from that permanent workers’ pay.

\begin{flushleft}
\textsuperscript{121} Id.
\textsuperscript{122} Hathikuli Tea Estate, Assam, January 13, 2012.
\textsuperscript{123} Dam Dim Tea Estate, Assam, April 15, 2012.
\textsuperscript{124} Namroop Tea Estate, Assam, January 8, 2012.
\textsuperscript{125} The obligation was extended in 2010 to apply to both, (PLA Section 2 (ee) as amended in 2010.)
\textsuperscript{126} Borhat Tea Estate, Assam, January 7, 2012.
\textsuperscript{127} Hattigor Tea Estate, Assam, January 12, 2012; Majuli Tea Estate, Assam, January 21, 2013.
\textsuperscript{128} Nowera Nuddy Tea Estate, West Bengal, January 17, 2013.
\textsuperscript{129} Hathikuli Tea Estate, Assam, January 13, 2012; Kakajan Tea Estate, Assam, January 12, 2012.
\textsuperscript{130} PLA Section 2(ee) definition of family includes children up to age 18.
\textsuperscript{131} Interview with General Manager at Hathikuli Tea Estate, doctor at Borjan Tea Estate and Welfare Officer at Namroop Tea Estate.
\end{flushleft}
HEALTH SERVICES

_Medical Facilities._ (1) In every plantation there shall be provided and maintained so as to be readily available such medical facilities for the workers and their families as may be prescribed by the State Government. (2) If in any plantation medical facilities are not provided and maintained as required by sub-section (1) the chief inspector may cause to be provided and maintained therein such medical facilities, and recover the cost thereof from the defaulting employer.

_Planations Labour Act, Section 10_

_Payment of sickness allowance._ (1) Every worker shall be entitled to obtain sickness allowance from his employer for each day of certified sickness for a total period of 14 days in a year at the rate of two-thirds of his daily wages.”

_Planations Labour Act, Assam Rules (Section 74) and West Bengal Rules (Section 75)_

There is a serious and widely acknowledged problem with medical care on the APPL plantations. Workers complain about the absence of doctors, the poor quality of care, the unexpected costs, and the burdens that are placed on them when they are sick. Many incidents of mass worker protests on APPL plantations are reported to have been triggered by the gross mismanagement of medical services, or callous and abusive treatment by doctors.

The sustained lack of doctors is a widespread aspect of the problem. “We used to have two doctors; now we don’t even have one,” a group of workers at Rungamuttee reported in 2010. By 2013, the second doctor had been replaced but workers said it was still not enough. “When there are too many patients,” they said, “sub-staff start prescribing on their own.” Workers at Batabari, interviewed in 2010, also told us that they had no doctor. At Hattigor, workers interviewed in January of 2013 said that they had been without a doctor for over a month.

Management acknowledged the concern, but minimized the severity of the problem and shifted the blame. At Namroop, in April 2012, the General Manager informed us that there was “at present” no doctor at the estate; he said it had been ten days. Workers subsequently informed us that they had actually been without a doctor for more than two months.

The Namroop General Manager did say that the inability to retain doctors was the main obstacle he encountered to full compliance with the PLA. The reasons he gave, however, were questionable: in the first place, he pointed to the attitude and culture of the doctors, and conjectured that they were unfit for the isolation of life on the plantation. But a government health official from the Indian Council of Medical Research put it in a very different context, and insisted that it was simply a matter of compensation. The pay offered to plantation doctors was so poor, the official alleged, that it was unsurprising that companies like APPL found themselves unable to attract or keep genuine medical professionals. In fact, the doctors hired by plantations often do not have post-graduate degrees at all, according

132 Rungamuttee Tea Estate, West Bengal, May 19, 2010.
133 Rungamuttee Tea Estate, West Bengal, January 18, 2013.
134 Batabari Tea Estate, West Bengal, May 19, 2010.
135 Hattigor Tea Estate, Assam, January 21, 2013.
136 Interview with Gautam Baroah, General Manager and with workers, Namroop Tea Estate, Assam, April 17, 2012. Workers claimed there had been no doctor since February 10.
137 Id.
to the official. At Borjan, for example, the “doctor” acknowledged to us that he had no more than a bachelor’s degree.

Besides the culture of the doctors, the Namroop General Manager laid the blame on workers. He suggested that “malingering” in the workforce created too much work for doctors, which was then compounded by the disrespectful way they were treated by their patients.

The perspective of workers is radically different. In fact, the attitude of clinic staff was cited as an issue on almost every plantation visited by the research team. Unsolicited and in detail, workers listed instances of contemptuous and dismissive treatment. One of the most frequently mentioned complaints was that doctors refuse even to touch workers. As far as possible, they diagnose them at arm’s length. In fact, at one estate, workers went out of their way to note that the doctor did touch them, but washed his hands constantly during the course of the exam.

Cursory, superficial examination by medical practitioners was another frequent complaint. “Before the doctor even looks up at us, he is writing out a prescription,” said one worker at Hattigor. “No matter what is wrong with you, they give you the same pill,” a worker at Kakajan complained. At Rungamuttee, workers from one division with high incidence of illness alleged that the doctor refused even to let them come to the hospital anymore; he simply prescribed medication without even the pretense of examining them first.

In interviews with medical staff, the research team had direct experience of the attitude that led to worker complaints. In response to the question of why there were no preventive health programs at Borjan, for example, the “doctor” was dismissive: “What you need to understand about these people [workers] is that they have very low IQs.”

Besides the absence of doctors and their contemptuous attitude, another major complaint related to the impediments that keep workers from accessing the statutory entitlement to sick leave. “The doctor is interested in doing what’s best for the company, not what’s best for us. He pressures us to go back to work, and he lectures us,” said a worker at Hattigor. “No matter how sick we are, we are just pushed out of the hospital and told to get back to work,” a worker at Majuli told us.

One of the most onerous impediments is the requirement that patients must present themselves at the clinic two, or even three, times a day in order to access the sick leave to which they are entitled by law. In most cases, workers said they had to appear three times a day – in the morning, the early afternoon, and at the end of the work day – in order to be approved for sick leave. Management supports the practice. The Welfare Officer at Namroop insisted that these measures were necessary, in order to limit absenteeism. “The problems come because workers pretend to be sick,” he informed us.

Many workers described the reporting rule as absurd. “How are we supposed to walk two kilometers to the clinic and back again three times, if we are sick?” demanded a worker at Majuli. At least one estate, Dam Dim, goes even further, according to workers, and requires that those who are sick be admitted to the

138 Interview with Dr. Jagdish Mahanta, Indian Council of Medical Research, April 17, 2012.
139 Interview with clinic doctor, Borjan Tea Estate, Assam, April 18, 2012.
140 Interview with Gautam Baroah, General Manager, Namroop Tea Estate, Assam, April 17, 2012.
141 Hathikuli Tea Estate, Assam, January 24, 2013.
142 Hattigor Tea Estate, Assam, January 21, 2013.
143 Kakajan Tea Estate, Assam, January 12, 2012.
144 Rungamuttee Tea Estate, West Bengal, January 18, 2013.
145 Interview with clinic doctor, Borjan Tea Estate, Assam, April 18, 2012.
146 Hattigor Tea Estate, Assam, January 21, 2013.
147 Majuli Tea Estate, Assam, January 21, 2013.
148 Interview with Gautam Baroah, General Manager, Namroop Tea Estate, Assam, April 17, 2012.
149 Majuli Tea Estate, Assam, January 21, 2013.
WORKER PROTESTS AGAINST MEDICAL NEGLECT... AND MANAGEMENT RETALIATION

On at least three APPL estates there have been recent incidents of mass industrial unrest, in the wake of events that signaled, to workers, their employer’s gross indifference to their basic health and wellbeing. In each case, management responded to the protestors with a heavy hand, punishing them severely without addressing the underlying demands. While workers admit that the protests were accompanied by substantial damage to plantation property, they also point to a long history of medical neglect and humiliating treatment on the plantations to justify their fury. Certainly, every worker we interviewed across the APPL estates could testify to these indignities: clinic staff who refuse to touch them, for example, or rules that require them to go to the clinic three times in order to secure sick leave for a single day.

NOWERA NUDDY

On August 9, 2009, Arti Oraon, a 22-year-old worker, collapsed while plucking tea at Nowera Nuddy Tea Estate in West Bengal. Nearly eight months pregnant, Oraon should long have been exempted from the physically demanding work of plucking under Indian law under the Maternity Benefits Act of 1961.

Workers responded with a spontaneous protest, demanding disciplinary action against the estate doctor. According to a complaint filed by the International Union of Foodworkers (IUF) with the IFC, workers’ frustrations were fueled by longstanding problems over access to maternity benefits, as well as the doctor’s contemptuous treatment of Oraon after her collapse.

APPL responded to worker protests by declaring a lockout. Such a measure, as a form of collective punishment, exerts incredible pressure on workers to cede their demands, as the entire plantation is forced to go without pay and statutory rations until the garden reopens. Given the chronic malnutrition widespread among plantation workers, a lockout of even a few weeks can push workers into starvation.

Nevertheless, the lockout lasted four months; the garden finally reopened on December 12, 2009. Eight workers who were involved in the protests were suspended and they, along with four others including Oraon, were served with arrest warrants on charges including theft, grievous bodily harm, unlawful assembly, criminal intimidation and unlawful confinement, in connection with the protests.

Although six of the eight suspended workers were eventually reinstated, the impact of targeting activist workers, as well as the four-month lockout, is still apparent throughout Nowera Nuddy.

Arati Oraon and the child she was carrying when she collapsed in the field, leading to worker protests and a prolonged lockout. The photo was taken nine months later, when she and 11 other workers were forced to appear in court to face criminal charges arising from the protests.
The following year, worker anger boiled over at Powai Tea Estate in Assam, similarly triggered by what workers perceived as management contempt for workers’ health and safety. On May 28, 2010, a 25-year-old worker named Gopal Tanti, assigned to pesticide spraying, collapsed and died on the job. Workers reacted strongly, protesting both the conditions that they believed contributed to his death and the disrespectful treatment of his body once it was found.

Union of Foodworkers, exposure to pesticides was the likely cause of Tanti’s death. The report concludes that Tanti and the other spray workers had not been wearing any personal protective equipment at all, and had been spraying toxic chemicals wearing nothing more than shorts, T-shirts, and rubber slippers. The report also cites eyewitness testimony that, when the Assistant Manager arrived at the scene, he prodded Gopal Tanti’s body with his shoe to see whether he was alive.

During the protests that broke out following Tanti’s death, local management called in the police. The police fired into the crowd, killing two people and injuring fifteen.

“EXTERNAL INFLUENCES”

From APPL’s perspective, workers’ protests are not related to conditions on the plantations; rather, they are instigated by outside agitators.

Hardeep Singh, former Managing Director of APPL, claimed that industrial disputes only take place when “biased external influences create dissonance and muddy the water.” With respect to the deaths at Powai, in particular, he took pains to emphasize that the two protestors who were shot were “not our employees or contractors or contractor employees.” [Email from Hardeep Singh to researchers, October 11, 2010]

However, far from being outsiders, the two young men who were killed were the children of permanent workers, and had grown up in the labor lines.
On December 28, 2011, Raimati Majhi, a 55-year-old worker at the Borhat Tea Estate in Assam, died after the plantation doctor reportedly denied her sick leave, threatening her with dismissal if she did not go back to work. That evening, after the day’s work was over, Majhi began to bleed. No ambulance was made available, so the family took her to the clinic in a wheelbarrow. After they got there, they allege, the doctor did not even look up or attend to her for over half an hour. By that time, she was already dead.

At that point, the family refused to take the body away, in protest. Workers demanded that the doctor be sanctioned. The next day, a group of workers attempted to confront the General Manager, but he refused to speak to them; instead, security forces ordered the group to disperse. From that point on, according to workers and management, the crowd’s anger intensified. They attacked the home of the General Manager and the plantation doctor, destroying property. Armed security intervened, and APPL declared a lockout. We visited Borhat nine days into the lockout. However, its impact, on a population living hand to mouth, was already apparent. Workers repeatedly asked us how they would survive, without their wages or rations. The company insisted that it would only end the lockout if workers agreed to the termination of everyone involved in the destruction of property, and cooperated in the prosecution.

After 34 days, the company ended the lockout. According to workers at Borhat, 16 workers were terminated, and the doctor was merely relocated to Namroop, another APPL plantation, without any apparent investigation into his conduct. No compensation was paid to Raimati Majhi’s family.
clinic in order to claim their sick leave. Workers at Dam Dim also alleged that they were only permitted three days of sick leave—far below the statutory entitlement of 14 days. Managers have good reason to be aware of workers’ frustration with callous and insufficient medical care, in part, because it has boiled over into violent conflict. Of the two known lockouts in APPL’s recent history—one at Nowera Nuddy in West Bengal, and the other at Borhat in Assam—both took place in the wake of workers’ protests over perceived callousness in medical treatment. At Nowera Nuddy, protests erupted in August 2009 when Arti Oraon, a worker who was eight months pregnant, fainted while working in the field, and was refused an ambulance by the estate’s doctor. At Borhat, workers attacked managers’ bungalows and engaged in extensive property damage after the death of Raimati Majhi on December 29, 2012. Majhi had been denied sick leave for a recurrent medical condition, and was forced to return to work, where she collapsed and died soon afterward.

It is impossible to discuss plantation health care without acknowledging the high disease burden and fragile health of plantation workers, overall—what one government official referred to as the high prevalence of “diseases of poverty.” The data gathered from estate clinics’ own health logs confirm that the most common reasons for workers seeking treatment are waterborne diseases such as dysentery, anemia, injuries from strenuous physical labor, malnutrition, tuberculosis and, in the monsoon, malaria.

A review of the death logs at Borjan, conducted in the course of a management-organized visit to the estate, revealed that a substantial percentage of the deaths were the result of respiratory tract infections; when asked about these, the head of the clinic explained that these were essentially “the last stage of malnutrition.” At Hathikuli, where clinic staff were also interviewed in the context of a visit organized by APPL management, they attributed the high level of deaths resulting from respiratory tract infections to malnutrition, unhealthy living conditions, and anemia.

Elias Kujur, former Welfare Officer at Nahorani, alleged that high-level managers actively urged him to conceal the underlying cause of deaths in the labor lines behind similar euphemisms, during the period of his employment. For example, he said, “If an older person died of dysentery, we were told to write that he had died of ‘old age.’”

WAGES

**Assam daily wage for 2013 for tea plantation workers: ₹89 (US $1.62)**

**West Bengal daily wage for 2013 for tea plantation workers: ₹91 (US$1.65)**

Work on tea plantations is characterized by a degree of insecurity unparalleled in India’s formal sector: workers are paid only for the days they work and wages do not include a paid day off. In addition, as discussed above, there is no minimum wage for tea workers in Assam and

150 Dam Dim Tea Estate, West Bengal, January 18, 2013.
151 See, e.g., Assam Rules, Section 74, requiring 14 days sick allowance.
154 Interview with Dr. Jagdish Mahanta, Indian Council of Medical Research, April 17, 2012.
156 Interview with clinic doctor, Borjan Tea Estate, Assam, April 14, 2012.
157 Interview with clinic staff, Hathikuli Tea Estate, Assam, April 19, 2012.
158 Interview with Elias Kujur, Action Aid Office, Guwahati, Assam, April 2012.
West Bengal. The result is an extraordinarily low negotiated wage which is reduced a further 30% by employer deductions. Based on the pay slips of more than 60 workers reviewed by the research team, the actual take-home pay, even after the most recent increase in wages, was about ₹750 per fortnight. On that basis, the actual take-home averages ₹62.5 per day or US$1.13.

Wages have actually inched upward in recent agreements – partly as a result of political mobilizations by workers in the northern part of West Bengal – but plantations have exacted costs in other ways, primarily by raising the daily work quotas. “Plucking rates,” which are set through industry-wide agreement, have been ratcheted up nearly 40% between 2007 and 2013, from 18kg to 24kg per day.159 As a result, workers have lost the money they would have earned from exceeding the quota, and risk being penalized when they fall below it.160 At four APPL estates, pay slips indicated that failure to meet the quota resulted in incremental deductions for every kilo of leaf that was not picked that day.

With respect to the other tasks assigned to plantation workers, such as pruning bushes or cleaning gutters, the higher targets set by management have had severe consequences. In some cases, it has meant working well beyond eight hours, without additional compensation. At Kakajan, for example, a woman who had worked at the estate her whole life, and had been able to complete her pruning task easily by the end of a regular workday, said that the task rate was now so high that it took her over 10 hours to complete it.161

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160 “Provision has also been made for deduction in the payment for those workers who pluck below the minimum of 24 kg. If any worker in the same garden plucks, say 14 kg, his payment will be reduced at the rate of ₹1 for 6 kg, starting from 24 kg to 19 kg, at the rate of ₹1 and from 18 kg to 14 kg, that is, 4 kg, the deduction will be made at the rate of ₹1.50 per kg.” Id. Also see Sujata Gothsar, “This Chay is Bitter: Exploitative Relations in the Tea Industry,” Economic and Political Weekly, December 15, 2012, for how the increase in quota has eroded wages.

More commonly – since the tasks are extremely strenuous – workers unable to meet the target either accept the loss of half a day’s wage as penalty, or seek help in meeting the target from friends or family members, with whom they share the day’s wage. While the quotas for plucking are set through region-wide tripartite negotiation, the “task rates” for pruning and gutter-cleaning are typically set unilaterally, at the company level. In the case of APPL, each individual estate sets its own task rate. However, across all the APPL estates, workers complained about onerous tasks rates, especially for pruning. There were many well-substantiated accounts of lost wages:

- At Hattigor, a group of eight workers interviewed during pruning season in January 2013 agreed that the “task rate” had begun to increase approximately seven or eight years ago and now, as one of them said, “It is so high that we can never complete it.” A review of several pay slips confirmed that several had been paid only half a day’s wage, over multiple days.

- At Kakajan and at Rungamuttee the team interviewed workers returning from pruning at the end of the day. They reported that they had been informed by their supervisor in the field that they would only get half of their wages, since the task was not complete.

There were also numerous interviews with workers who described having to share their job and their wage with another person. In several cases, both workers still had to labor for over eight hours to complete the task:


164 Kakajan Tea Estate, Assam, January 12, 2012; Rungamuttee Tea Estate, West Bengal, January 18, 2013.
LOW WAGES, HIGH DEDUCTIONS: A SAMPLE PAYSLIP

The wages of tea plantation workers in Assam and West Bengal are low even in comparison with other unskilled workers in the region, for example, agricultural workers in Assam, who are entitled to nearly twice as much. At APPL the low wages are further diminished by deductions that often total more than 40%.

Workers' daily wage. It has since been raised to ₹89 ($1.62) in Assam and ₹91 ($1.65) in West Bengal.

On all but one APPL estate in Assam, union dues are automatically deducted and distributed to an organization that workers never had an opportunity to elect.

Contributions are collected from each worker for an annual Hindu festival, regardless of the worker's religion or preference.

An exchange rate of ₹55 per $1 was used.
Fortnightly deduction to pay for shares in APPL. Coercion and deception were widespread in the campaign to sell shares to workers.

**R 100 \( \approx \) $1.81**

Deduction for a loan from the worker’s Provident Fund. The most common reasons cited by workers for such loans are medical expenses and repairs to homes, both of which should, by law, be paid for by the company.

- **R 123.41 \( \approx \) $2.24**
  - Deduction for Provident Fund, a statutory scheme that provides a one-time payout to workers on retirement.

- **R 123.41 **
  - Provident Fund.

- **R 100 \( \approx \) $1.81**
  - Deduction for Provident Fund. The most common reasons cited by workers for such loans are medical expenses and repairs to homes, both of which should, by law, be paid for by the company.

- **R 44 \( \approx \) $0.80**
  - Fortnightly deduction to pay for shares in APPL. Coercion and deception were widespread in the campaign to sell shares to workers.

- **R 490 \( \approx \) $8.91**
  - Total net wages for two weeks, each with a six-day work week.

- **R 195 \( \approx \) $3.55**
  - Deduction for electricity. The cost at this estate is divided equally among workers regardless of their actual usage.

- **3.91 kg rice 2.61 kg flour**
  - The company-subsidized food rations.
At Kakajan, two workers said they had been pruning from 6AM to 2:30PM that day, for a single wage.\(^{165}\)

At Hattigor, a worker, employed at the estate for over 20 years, complained that the task rate was three times what it used to be, and noted that even with an assistant, both had to work for nine hours to complete it.\(^{166}\)

As a worker at Kakajan articulated the company’s practice and the outcome, “In one wage, they get two people to work for them.”\(^{167}\)

However, APPL managers simply deny that there are any instances of pay deductions for failure to meet the target, or of workers having to share a task and a wage. At Namroop, the General Manager insisted that no worker was permitted to bring a helper into the field. If the problem was that he or she could not complete the task rate, then the task rate would be reduced, at the discretion of the supervisor;\(^{168}\) the General Manager of Borjan also stated categorically that no helpers were allowed, as a matter of company policy, and also indicated that the task rates for pruning and gutter-clearing are routinely adjusted for any worker unable to meet them.\(^{169}\)

The increasing reliance on temporary workers also has significant implications for compensation. For tea plantations, the chief economic incentive to use temporary workers is that they are not provided benefits such as housing or health care. (While the Plantations Labour Act does not contemplate a distinction between permanent and temporary workers in the matter of benefits, the industry practice of denying benefits to temporary workers is well established and apparently universal, at least in West Bengal and Assam.) However, temporary workers are paid the same daily rate, even though this rate explicitly assumes that workers are also receiving a substantial non-wage component in the form of social benefits. Given that workers and managers on the estates agree that there are high numbers of temporary workers – equal to or even more than the number of permanent workers at APPL, according to some NGOs active on the estates\(^{170}\) – then the savings for APPL are dramatic.

At least some APPL estates sub-contract work to informal labor brokers, a practice that has further eroded wages, even below the legal daily rate. We spoke with adolescent workers at Kakajan estate, recruited and employed by a contractor, who had been cleaning the gutters between the rows of tea bushes from 8AM to 3PM that day and over the previous week, in violation of the hourly limitations imposed on the labor of young people by the Plantations Labour Act.\(^ {171}\) They were paid \(\text{₹}30\) a day for their work, which is approximately a third of the applicable daily rate. Individuals interviewed at other estates shared information about similar practices – where sub-contracting resulted in the payment of wages far below the legal minimum – but the information in those cases was second-hand, from parents or neighbors of the workers rather than the workers themselves.\(^ {172}\)

Finally, it appears that wages are being diminished through a process of shifting certain core production costs and operational risks from the company onto workers. In terms of production costs, for example, workers across all APPL estates now have to bear the expense of tools that should reasonably be provided by the employer. At every estate, we were told that workers sent to prune the tea bushes are

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166 Hattigor Tea Estate, Assam, January 21, 2013.
168 Interview with Gautam Baroah, General Manager, Namroop Tea Estate, Assam, April 17, 2012.
169 Interview with Amos James Pariat, General Manager, Borjan Tea Estate, Assam, April 18, 2012.
170 Interview with Elias Kujur and meeting with the All Adivasi Students Association of Assam (AASAA) at Chubwa Tea Estate, Assam, January 11, 2012.
171 No adolescent, defined as between 14 and 18 years old, may work “for more than twenty-seven hours a week.” Plantations Labour Act, Section 19(1).
required to buy their own knives. At Achabam, pay slips reflect that management deducts ₹21 every year for the cloth sack into which workers deposit the tea leaves that they pick.\footnote{Payslip from a worker on Achabam Tea Estate, Assam, reviewed January 10, 2012; copy on file.} With respect to operational risks, we heard at multiple estates from workers assigned to spraying duty that, if spraying had to be canceled because of rain, they would not be paid for that day, even though they were present and prepared for work. At one estate, Namroop, a group of three spray workers described multiple occasions where they had started work at 6AM, worked for several hours until it began to rain, and were paid nothing for the day’s labor.\footnote{Namroop Tea Estate, Assam, January 8, 2012.}

**OCCUPATIONAL HEALTH AND SAFETY**

*Safety. (1) In every plantation, effective arrangements shall be made by the employer to provide for the safety of workers in connection with the use, handling, storage and transport of insecticides, chemicals and toxic substances.*

*Plantations Labour Act, Section 18A*

The PLA was amended in 2010 to include detailed provisions related to the health and safety of workers spraying pesticides and other chemicals. International standards for sprayer safety had already been well in place for many years before that. APPL managers at multiple levels have insisted that the company has consistently attended to sprayer welfare, meeting or exceeding both domestic and internationally-recognized standards.

The gap between management assertions and worker experience was in evidence at many of the plantations visited. At Namroop, management introduced us to the spray team supervisor, who described in detail a complex system of masks, gloves, knee-high rubber boots, aprons and goggles that all spray workers receive. He explained that workers are provided with new equipment every year, with the exception of aprons, which are changed twice a year, and masks, which are replaced monthly.\footnote{Interview with Gautam Baroah, General Manager, Namroop Tea Estate, Assam, April 17, 2012.}

Workers at Namroop, interviewed on a separate occasion offered a contradictory description: they received nothing other than a cloth mask and a tarpaulin sheet to wrap around their bodies; with this minimal protective gear, they had to spray at least 200 liters of pesticide a day in order to meet their quota.\footnote{Namroop Tea Estate, Assam, January 8, 2012.}

Interviews and observations by the research team suggest that some changes are underway or may recently have been implemented, but that vast gaps remain. At this point, workers clearly lack important training and appropriate gear. On three separate occasions members of the research team witnessed spray teams working without any personal protective equipment whatsoever. In each case, they were dressed in their own shorts, T-shirts and rubber slippers, carrying large tanks of pesticide slung on their backs.\footnote{Research visit to Borjan Tea Estate, Assam, April 18, 2012; Nowera Nuddy Tea Estate, West Bengal, April 14, 2012; Powai Tea Estate, Assam, July 14-16, 2010 (viewed by researcher prior to Columbia Human Rights Institute visit).}

With respect to personal protective equipment, worker testimony indicates that there is a somewhat haphazard quality to who gets what, on many estates: “In a group of 50 sprayers, 30 will get mask and goggles, the other 20 won’t get anything,” said a spray worker at Majuli.\footnote{Majuli Tea Estate, Assam, January 21, 2013.} On some estates, the allocation of gear among spray workers appears to follow some logic, even if it is an extremely flawed logic. For example, at Kakajan and Borhat, spray workers said that...
only those who mix the toxic chemicals are given masks and gloves; sprayers receive nothing, unless they buy their own equipment.

Across the APPL estates, spray workers who do receive goggles to protect their eyes heap scorn on their quality and effectiveness:

- At Achabam, one spray worker told us that he did not use the goggles, since they were of such low quality that it was impossible to see through the lenses.¹⁷⁹

- At Nowera Nuddy, one spray worker described his goggles as “a child’s toy. I shook my head and the lenses fell out.”¹⁸⁰

- At Rungamuttee, they were described as “like the glasses film stars wear.”¹⁸¹

- At Hattigor, a worker said they were of such cheap plastic that “you can’t see through them after you use them for one day.”¹⁸²

The provision of gear varied across the plantations:

- At Rungamuttee, a group of three spray workers interviewed together said that they received a cloth hat, cloth shoes, and a cloth mask when they began spraying, but nothing else.¹⁸³

- At Hattigor, two spray workers informed us that they received plastic shoes that go up to the ankle, but nothing else.¹⁸⁴

- A group of three spray workers interviewed together at Kakajan said that they had received nothing throughout the years that they had been spraying, except for a tarpaulin sheet to wrap around the waist.¹⁸⁵

- No spray worker we spoke to, at any APPL estate, had ever received gloves, except for those mixing pesticides. A spray worker at Majuli noted emphatically that “for us, there isn’t even a question of gloves.”¹⁸⁶

Workers are well aware of what equipment they should receive, because they are given full gear, including a change of clothes, when auditors arrive, according to interviews at every estate visited. At Kakajan and Borhat, we were told in January 2012 that spray teams were given

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¹⁸⁰ Nowera Nuddy Tea Estate, West Bengal, January 17, 2013.
¹⁸¹ Rungamuttee Tea Estate, West Bengal, January 18, 2013.
¹⁸² Hattigor Tea Estate, Assam, January 21, 2013.
¹⁸³ Rungamuttee Tea Estate, West Bengal, January 18, 2013.
¹⁸⁴ Hattigor Tea Estate, Assam, January 21, 2013.
personal protective equipment when outside auditors were visiting, but that it would be taken away as soon as the auditors were gone. The story was repeated when we returned to Kakajan in January 2013. One current spray worker said: "[the supervisors] gather up the goggles, mask, as soon as the auditor has gone." Workers generally expressed apprehension about consequences – in the form of retaliation – if they requested regular access to the equipment. Indeed, the one former spray worker we interviewed who did describe having asked for protective gear – a spraying coat and mask – informed us that he had been punished with a six-week suspension from work immediately after making the request.

Under international standards, appropriate protective gear depends on the hazards of the chemicals in use. Chemical-resistant boots, coveralls, gloves, hood and respirator are not required under all circumstances, but some basic protections, including goggles, mask, coat, gloves, et cetera, would be required even for those spraying minor irritants. However, interviews conducted with workers, as well as a review of a spraying journal maintained by a sub-staff member at one of the estates, indicate regular use of chemicals categorized as Class II (moderately hazardous) by the World Health Organization.

Workers claim that one particularly dangerous chemical, endosulfan, which has been subject to a global ban, had been in recent use. At Dam Dim, a worker who had been spraying for over 10 years told us categorically that endosulfan

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189 Id.
190 Name of plantation withheld to protect identity of worker. The list we viewed included a total of seventeen pesticides containing chemicals listed as moderately hazardous (Class II) by the WHO; copy on file. See World Health Org., Recommended Classification of Pesticides by Hazard (2009).
is used, “not year round, but for one particular insect, and when they see it, they tell us to spray.”191 He further stated that spray workers using endosulfan do not receive any protective equipment, or training in precautionary measures. At Nahorani, a worker in a position to see containers for pesticides volunteered that endosulfan was being used there, too.192 At Kakajan, a worker involved in transporting pesticides affirmed that he had carried endosulfan containers.193 In both of these cases, there were no special protective measures taken in conjunction with the use of the chemical.

On the subject of protective gear for sprayers, management is categorical: they deny any problem and insist that there is rigorous and consistent implementation of strict standards. Managing Director Deepak Atal described an extensive occupational health and safety audit of management systems, conducted by Verde Ventures, a consulting group based in India, over 2011 and 2012, to ensure long-term compliance with sprayer safety measures.194 He insisted that the occupational health and safety review was routine, rather than having been triggered by the identification of any particular problems. There is a stark disconnect between management claims and the researchers' own experience – let alone workers' accounts – of measures to protect spray workers:

- Following the death of a spray worker at the Powai estate, in 2010, Hardeep Singh, then the Managing Director of APPL, denied that the worker could have died from exposure to hazardous pesticides. He told the researchers that spray workers are simply not allowed to begin the day's work unless they are in full protective gear.195 He dismissed a photograph of spray workers without gear that had been taken by one of the researchers, a full month after the death.196

- At Borjan, the General Manager insisted that all sprayers receive a full set of protective gear at the beginning of every work day, which they must put on under supervision before they can begin spraying. The equipment is collected from them at the end of the day, to ensure that it is cleaned and stored appropriately. “We all go around and check to make sure it is worn,” he emphasized. “I go, and the assistant manager goes.” As he was describing these systems, we observed a team of spray workers filing past the window behind him, wearing only T-shirts and shorts, with full spray tanks strapped to their backs.197

Managers, at multiple levels, claim that spray workers undergo full medical checkups, every three months, to ensure that their health has not been affected by exposure to pesticides. With regard to this specific claim too, the evidence suggests the absence of a clear, consistent policy across the estates:

- Spray workers at Nowera Nuddy acknowledged receiving blood tests every year,198 and those at Dam Dim said blood tests took place every three or four months, along with a checkup of weight and blood pressure.199 In neither case, according to workers, had they received any information regarding the results of the tests.

- At Nahorani, a worker who had been spraying pesticides for between five and ten years claimed that he had never had any medical checkup.200

191 Dam Dim Tea Estate, West Bengal, January 18, 2013.
192 Nahorani Tea Estate, Assam, January 22, 2013.
194 Interview with Deepak Atal, New Delhi, January 4, 2012.
195 Interview with Hardeep Singh, New York, October 9, 2010.
196 Photo reproduced in *In Cold Blood: Death by Poison, Death by Bullets*, International Union of Foodworkers, October 2010, at 5
197 Interview with Amos James Pariat, General Manager, Borjan Tea Estate, Assam, April 18, 2012.
198 Nowera Nuddy Tea Estate, West Bengal, January 22, 2013.
199 Dam Dim Tea Estate, West Bengal, January 22, 2013.
Three workers at Kakajan, each of whom had been spraying pesticides for between five and ten years, also denied that they had ever had a checkup.\textsuperscript{201}

APPL claims to rotate spray workers, to limit continuous exposure to chemicals.\textsuperscript{202} However, during our interviews, we did not meet a single worker who had been rotated on and off spray duty. Consistently, across all APPL estates, workers told us that whenever there was any pesticide spraying to be done on the estate, the same team would take on the work. During periods between pesticide spraying, the workers were assigned to spraying fertilizer, or pruning. One worker at Nowera Nuddy had been spraying continuously for over 15 years, a worker at Dam Dim for over 20.\textsuperscript{203} Many workers, across the estates, told us that they would welcome a break from spraying. One worker at Hattigor said, “I’ve been doing nothing but spraying for a year. I am sick and am not getting over it at all, but they won’t give me different work.”\textsuperscript{204}

Indeed, sprayers certainly believed that there was a link between their exposure to pesticide and certain very particular symptoms of ill health. Two spray workers at Nowera Nuddy told us they both experienced consistent fever and weakness. One added: “We all age more quickly than those who do not spray. Men who are 30 look like they are 50.”\textsuperscript{205} Other symptoms described frequently, in interviews with spray workers across the APPL estates, included dizziness, breathlessness, and nausea.\textsuperscript{206}

**CASUALIZATION AND WORKER “SHORTAGE”**

The current crisis of working conditions on the APPL estates appears to be deeply connected to the increasing use of casual labor. As noted above, the phenomenon of casualization affects plantations across the region, perhaps even more severely than at APPL. While organizations active in the tea sector at large claim that permanent jobs have declined across Assam and West Bengal, to the point where there are approximately two casual workers for every permanent worker, the ratio at APPL appears less extreme, though still troubling. The General Manager of Borjan acknowledged employing 1,030 permanent workers and 700 temporary workers,\textsuperscript{207} which is similar to the ratio at Nowera Nuddy in West Bengal – 7 temporary workers for

\begin{itemize}
\item 200 Nahorani Tea Estate, Assam, January 22, 2013.
\item 201 Kakajan Tea Estate, Assam, January 25, 2013.
\item 202 See infra, the IFC’s Environmental and Social Review Summary of Tata Tea, footnote 374.
\item 203 Nowera Nuddy Tea Estate, West Bengal, January 17, 2013; Dam Dim Tea Estate, West Bengal, January 18, 2013.
\item 204 Hattigor Tea Estate, Assam, January 21, 2013.
\item 205 Nowera Nuddy Tea Estate, West Bengal, January 17, 2013.
\end{itemize}
every 10 permanent workers, in the low season—according to the independent trade union at the estate.208 (At Nowera Nuddy, and all other APPL estates where we conducted interviews, the numbers of casual workers go up significantly during the so-called “high season,” when the plucking of leaf takes place.) At Dam Dim, a group of five workers interviewed together agreed that there are currently 1,954 permanent workers at the estate, and about as many temporary workers on a year-round basis. One worker in the group said that there were even more temporary workers until about two years ago, when many of them stopped trying to seek work at the estate and migrated to nearby cities.209

Managers at APPL also agree that workers are leaving the APPL estates in an attempt to find better paying work elsewhere. The General Manager of Namroop indicated that young people, and men of all ages, were leaving the plantation to seek employment in New Delhi and other large cities, as well as at construction projects closer by.210 From the management perspective, the main problems that ensued were the lack of male workers for hard labor, as the Namroop General Manager explained, or absenteeism, where workers simply do not show up if there are better paying opportunities for day labor in the vicinity, as a Divisional Manager at Kakajan explained.211

According to workers, however, there has been little effort to deal with the “push” factors leading to migration and absenteeism. One worker at Dam Dim pointed out, “Even with so many leaving, management refuses to create new permanent jobs, and ask them to stay.”212 In fact, according to workers at several estates, APPL is actively advancing the process of casualization, not by terminating existing permanent workers, but by refusing to replace those who retire. At Nahorkutia, a worker claimed that the total number of permanent jobs had been reduced by almost 300, as existing workers retired, but were not replaced.213 At Borhat, a group of eight workers interviewed together in 2012 estimated that there were 50 workers who had retired over the previous two years and had not been replaced.214 A group of more than 20 workers interviewed together at Batabari asserted that temporary workers are not given the opportunity to become permanent, even though there are vacancies.215 This comment requires further explanation: temporary workers and managers are well aware that if the company employs them for 240 days of work in a year, they will be entitled to permanent status. To avoid this, as we were told at Batabari, and at least one other estate, management has adopted the stratagem of cycling through different groups of temporary workers in the low season, and only using all of the temporary workers available for the five months of high season.216

There are a few estates, especially the four located on the North Bank of the Brahmaputra River in Assam, where managers and workers agree that available labor on the plantations is insufficient. At one of these estates, a group of 20 workers interviewed together described in detail the claim that the company was attempting to deal with this labor shortage by finding more vulnerable workers elsewhere, and employing them under even more deplorable conditions. “Over the last three years, there have not been enough people for plucking,” said one worker. “But the company just brought truckloads of people from four, five hours away. They have built only crude shacks for them to live in, and they are all temporary workers.”217

207 Interview with Amos James Pariat, General Manager, Borjan Tea Estate, Assam, April 18, 2012.
208 Interview with Progressive People’s Party, Nagrakata, West Bengal, January 17, 2013.
209 Dam Dim Tea Estate, West Bengal, January 18, 2013.
210 Interview with Gautam Baroah, General Manager, Namroop Tea Estate, Assam, April 17, 2012.
211 Interview with Divisional Manager, Kakajan Tea Estate, Assam, January 12, 2012.
212 Dam Dim Tea Estate, West Bengal, January 18, 2013.
216 Namroop Tea Estate, Assam, January 8, 2012.
THE FAILURE OF ENFORCEMENT AND ABSENCE OF REMEDIES: “THEY ARE THE COURT, THEY ARE THE JUDGE, THEY ARE THE POLICE.”

In conversations with management, we were routinely told that there are mechanisms in place to protect workers’ rights on the plantations: the government has inspectors who visit the plantations, and the workers have unions that represent them. But these checks on management power exist only in theory, for the most part. The absence of meaningful government enforcement is well known to analysts and borne out by the government’s own statistics. For the last two years in which statistics are available, there were, effectively, no sanctions for violations.

The conditions on the labor lines are kept as far out of the public view as possible. “Auditors,” whether private or public, do come to plantations. But workers were adamant across all of APPL that the audits were tightly controlled by management and, in any event, never extended to the living area. There are other steps taken by management to ensure that conditions of life in the labor lines are kept hidden: Despite the law that requires unhindered public access to the areas where workers live, management strictly monitors visits, restricts meetings and intimidates visitors.

Management also cites the existence of unions as evidence that workers have directly negotiated their terms and conditions of work, and have recourse to support when there are problems. But in Assam, there is one recognized union in the tea sector, the Assam Chah Mazdoor Sangha (ACMS), and its monopoly is maintained with the active complicity of management. The monopoly serves the company well. For workers, the union is little more than an arm of management, resisting worker demands, implementing management will, and even providing distorted descriptions of the conditions on the plantations in support of management’s claims.

AUDITS

At their own initiative, workers frequently mentioned “audits.” Sprayers brought them up when asked about gear. Clinic workers mentioned them in connection with conditions in the hospital. They were not sure who or what the auditors were, but they were very familiar with the term. At two estates, we asked workers in greater detail about their understanding of the audit process. They explained to us that, three or four times a year, someone from the staff would inform them that an audit was imminent, and would tell them how to behave. In preparation, according to workers, safety gear was distributed, and the buildings were cleaned and painted. No cleaning was ever done in the labor lines, according to workers, because the auditors would never come there.

- Many workers recounted a variation of the story we heard at Rungamuttee: management would inform them that an auditor was coming, and would tell them: “work hard and look good.”

- In anticipation of the audit, workers on several estates said that the factories and hospitals were cleaned, and the supplies of medicine were replenished.

218 This was one worker’s description of management’s total authority over all aspects of tea plantation workers’ lives. Hattigor Tea Estate, Assam, January 21, 2013.
219 See supra note 41, Reports on the working of the Plantations Labour Act, 1951 during the years 2008 and 2009.
221 Rungamuttee Tea Estate, West Bengal, January 18, 2013.
one plantation, we were even told that patients were removed from the hospital in preparation for an audit.  

➢ At Dam Dim, workers were instructed not to speak to the auditors.  

➢ Extra security guards were also assigned during audit processes – “if there are usually four, suddenly there will be ten,” said one worker at Hattigor.  

Extra medical staff are brought on site as well. “There are two workers in the hospital where there is usually one,” according to another worker at Hattigor.  

A worker at Kakajan explained: “The office may have one person there regularly, but on audit days there will be three; they will have two chowkidars [security guards] where there is usually one.”

➢ Some sprayers reported being provided with personal protective equipment on the day of the audit, though this was invariably taken away or became useless after a day or two.

According to the workers, the auditors are constantly accompanied by management and never visit the labor lines:

➢ At every plantation, the research team heard some variation of this statement by a worker at Majuli: “They go to the office, they go to the hospital, maybe to the factory. But they never come to the labor line.”

➢ Or, as one worker said about the advance planning for an audit, “They don’t worry about cleaning the labor lines, because auditors don’t come here.”

On multiple occasions we heard complaints that auditors never take the time to speak with workers. As one worker at Kakajan said, “Not once have they come to us to say, ‘How are you, how do you like your work?’”

Even if auditors were to attempt to interview workers in the labor lines, however, candid discussion would be impossible if management was present throughout. One worker said, “If we could talk to [the auditors] face to face in the labor lines, we would be able to explain what our lives are really like. There are holes in my roof. Look at the windows on that house. We would say, in a garden this big there should be two doctors.”

But another worker interrupted, “If they came, they would come with the manager, so how could we show them anything?”

Workers have a clear idea of what a meaningful audit would look like: in the first place, visits should be unannounced, and auditors should swoop down “like the CBI [Central Bureau of Investigation],” as one worker put it. Another suggested auditors come on Sundays or holidays, so that workers are available to meet with them freely in their own homes.

In any event, the workers insisted, auditors must come unaccompanied by management in order to afford an opportunity for candid interviews with workers, and take their time to move freely within the labor lines.


223 Hattigor Tea Estate, Assam, January 21, 2013.

224 Dam Dim Tea Estate, West Bengal, January 18, 2013.

225 Id.


228 Sprayers at Hathikuli told us that “when they hear that auditors are coming, we’re given plastic gloves like a doctor wears. They fall apart the next day” and are not replaced. January 24, 2013. At Rangamutee, we were told that sprayers were occasionally given soap to wash with, and management would take pictures of them washing their hands to show auditors. January 18, 2013.


230 Hathikuli Tea Estate, Assam, January 24, 2013.


Another important reason that there is little exposure of conditions in the labor lines is that management restricts access to these parts of the plantation, and carefully polices all worker activities there. This is the case even though the State Rules of the Plantations Labour Act in both Assam and West Bengal dictate that, “The employer shall not deny to the public free access to those parts of the Plantation where the workers are housed.” Through written or unwritten estate-level policies, management effectively seeks to countermand domestic law. Management closely monitors visitors, either through ACMS or the Welfare Officers, and on several plantations, explicitly demands that workers seek advance approval for any meetings with outsiders or visitors who stay overnight:

- Deep Paraham Goswami, the Welfare Officer at Namroop, told the research team that it was a longstanding rule that strangers required permission to spend the night.

- One worker at Hattigor received a formal warning from management when he had family members from Delhi staying in his home. Management told him, “Next time, if you don’t get permission first, you will be terminated.”

The estate-level rules are further reinforced in the wake of any reported gatherings or group meetings, particularly with independent trade unions or NGOs. As this report nears completion, workers at Majuli and Hattigor estates have come forward with allegations that they are facing harassment from management for having shared information about working and living conditions with several local NGOs and church groups. We have been informed that, in addition to interrogating workers and threatening them, management has forcefully reiterated that workers must comply with “standing rules” that require advance approval for any meeting with “outsiders” in the labor lines. Furthermore, after meeting with NGOs at Hattigor, five workers were summoned to a meeting with the General Manager, were reprimanded by him, and made to sign declarations, without any explanation of what they were signing.

234 Assam Rules, PLA, Section 60(4); West Bengal Rules, PLA, Section 48(5), with respect to the terms of PLA Section 16.
235 Interview with Deep Paraham Goswami, Namroop Tea Estate, Assam, April 17, 2012.
236 Hattigor Tea Estate, Assam, January 21, 2013.
237 Email exchanges and discussions with NGOs in North Bank of Assam, copies on file, May 16-21, 2013.
In encounters with the research team, management made light of the legal requirement to allow unimpeded access to the labor lines. In some cases, management – including the Managing Director Deepak Atal – denied that the law was applicable, insisting that it was trumped by APPL’s private property rights. In other cases, managers passed over the law and insisted that their obligation to prevent agitators and ensure public safety allowed them to exercise broad powers to monitor all activity in the labor lines. Managers also made vague references to dangerous events and incursions having taken place, in order to support the argument that the company policy was actually intended to protect workers from outsiders.

**UNIONS**

One of the major complaints of workers across all APPL estates in Assam is the absence of meaningful worker representation. “We have a very good union,” a worker at Kakajan said sarcastically. “If you lodge a complaint, the union people say, ‘Keep your mouth shut.’”

According to workers, the Assam Chah Mazdoor Sangha (ACMS), the monopoly union in Assam, functions as a part of management. At best, the ACMS performs a human resources function; at worst, it insulates management from workers’ complaints and concerns. “ACMS and management get together and suppress workers,” said one worker at Hattigor. A former ACMS representative at Nahorani agreed, “ACMS is in cahoots with management.”

APPL derives extensive, concrete benefits from its relationship with ACMS. The union helped with the sale of shares, including by coordinating group meetings and going door-to-door in the plantations to persuade workers to sign up. At Hattigor, workers claim that the union even provided large quantities of alcohol at a group meeting, and tried to orchestrate the discussion, telling dissenters: “You young people should not speak.” In industrial disputes, ACMS consistently intervenes in negotiations to insist that workers drop their demands and accept those of management; at Borhat, for example, it pressured workers to apologize for having engaged in protest and accept blame, in order to end a lockout. In audits and inspections, management has apparently convinced the International Finance Corporation and auditing agencies that it would be inadvisable if not illegal to enter the labor lines without advance notice and permission. During a dispute over conditions that had led to the death of a pesticide sprayer at Powai in 2010, the US government, as a shareholder in the World Bank, encouraged the IFC to undertake unannounced audits of sprayer safety. According to US government sources, the IFC refused, explaining that, while their agreement with APPL did allow them to undertake unannounced audits, for reasons that included the safety of the auditors, they would not in fact do so.

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238 When Deepak Atal found out about the research team’s visit to the labor lines, he wrote an email castigating the team for neglecting to inform the General Manager of the visits in advance. “The Garden Managers,” he wrote, “were naturally surprised as they had received no prior information regarding these visits . . . There appears to be no respect for Private Property!” Email from Deepak Atal, January 13, 2012.

239 Interviews with managements at Achabam Tea Estate, Assam, January 11, 2012; Namroop Tea Estate, Assam, April 17, 2012.

240 Email and telephone exchanges with officials who asked not to be named.

241 The following section is focused on union conditions in Assam, which faces the particular problems of union monopoly maintained with management support. In the state of West Bengal, a number of independent union formations have begun to develop over recent years, and these have begun to challenge the low wages and poor conditions in that region. It is too early to tell what the long-term impact may be of these new worker organizations, which include the Progressive Tea Workers’ Union (PTWU), and the Darjeeling Dooars Terai Plantation Labour Union (DDTPLU). For the moment, however, the APPL estates in West Bengal permit union plurality. While there have been sporadic allegations about management efforts to interfere with workers’ right to organize, particularly through bribery, the situation there is far better than it is in Assam.


244 Nahorani Tea Estate, Assam, January 22, 2013.

245 Hattigor Tea Estate, Assam, January 10, 2013.
the ACMS has provided a contented worker face, legitimizing problematic management decisions and dismissing any concerns about living and working conditions. This was certainly our experience at the APPL plantations we visited; in almost all cases, we sought meetings with ACMS representatives to request their views. ACMS is the only union that is entitled to participate in tripartite state-wide negotiations over wages and conditions, and the only union recognized on almost all APPL plantations.

The union monopoly on Assamese tea plantations is accompanied by compulsory membership, and compulsory dues deduction. Workers at every APPL estate in Assam – except Nahorani, discussed below – are automatically treated as members of ACMS. Uniformly, workers interviewed affirmed that they had never had an opportunity to elect a trade union representative, or to indicate individual consent to join the union or, for that matter, any other union.

While the monopoly of ACMS was shaped, and continues to be reinforced, by the Assam state government and the Congress Party in power in the state, Tata and APPL are deeply complicit also. As Dileshwar Tanti, General Secretary of ACMS acknowledged, the union’s membership list for APPL plantations in Assam is compiled purely on the basis of submissions from management, which periodically sends the union names and details of all current workers.246 There is no legal basis in Indian law, or under international standards, for this particular version of a management-controlled “closed shop.”

Dues are automatically deducted from the wages of all workers, in what is referred to locally as “table cut.” Even temporary workers have dues deducted from their wages. According to workers, in order to obtain dues from the largest possible number of workers, deductions are made over six to eight pay periods during the monsoon, when an army of casual and seasonal labor is recruited for plucking.

APPL managers treat this as uncontroversial. They deny that there is, or has been, opposition to the compulsory payment of dues to ACMS. The General Manager of Namroop insisted that he had never seen any other unions in tea besides ACMS, and had never heard of workers trying to cancel the deductions for ACMS dues from their paychecks.247 The General Manager of Borjan offered the improbable argument that workers would have come to him personally if they did not want their dues deducted. Not surprisingly, no one had ever done so.248

246 Interview with Dileshwar Tanti, ACMS General Secretary, ACMS Central Office, Dibrugarh, January 11, 2012.
247 Interview with Gautam Baroah, General Manager, Namroop Tea Estate, Assam, April 17, 2012.
248 Interview with Amos James Pariat, General Manager, Borjan Tea Estate, Assam, April 10, 2012.
While employers claim that plantation workers are better off than other unskilled workers because of the social benefits provided under the terms of the Plantation Labor Act, many—including workers and labor experts—argue the contrary. For them, the absence of state oversight, lack of access to government benefits, and continued dependency on the plantation for housing, food, and healthcare amount to worse conditions and fewer opportunities for workers to improve their lives.

The absence of state oversight is rooted in the history of plantations as a separate legal regime. While the worst aberrations no longer exist—plantation managers no longer have the power to arrest or imprison workers—there is still widespread impunity for their excesses. Workers at several APPL estates said that it was difficult even to get local police to assist them in the face of management abuse. “They take calls only from management, not from us,” said a worker at Batabari, describing his unsuccessful efforts to file a complaint after he had been severely beaten by an assistant manager in 2009.249 A worker at Kakajan described the constant surveillance of the labor lines and the restrictions on visitors. When we asked if he knew about the provisions in the Plantations Labour Act guaranteeing public access to workers’ homes, he responded: “but the law here they’ve made up themselves.”250 At Hattigor, one worker said of the managers: “They are the court, they are the judge, they are the police.”251

Speaking about living conditions more broadly, Virginius Xaxa, a sociologist and expert on tea plantation labor, expressed his view that “The state doesn’t discharge its duty to take care of these people [the plantation workers], because it considers that the company is supposed to do it. They are barely treated like citizens.”252 The impact of this neglect, he asserted, is easily apparent; for example, while the literacy rate on the plantations is a mere 20%, according to his research, in Assam as a whole, it is almost 59%. “If you take any social indicator, the numbers in Assam go down when you factor in plantation labor.”253

The same is true of health indicators, as noted elsewhere in this report.254 Conditions are better for those who do not live on plantations. Indeed, according to Dr. Jagdish Mahanta, an official at the Indian Council of Medical Research, the levels of cardiovascular disease and hypertension are significantly higher on plantations than in general population. Based on preliminary studies, Dr. Mahanta believes that exposure to pesticides is a significant factor.255 Dr. Tulika Goswami, an official connected to the National Rural Health Mission, focused on maternal mortality as an indicator, and informed us that almost 80% of these deaths, in the state of Assam, take place on tea plantations. “A major element is the delay in getting medical help,” she explained.256

Health and access to health care were primary concerns at each estate we visited. The complaints about the garden-level clinic were always accompanied by complaints about the difficulty of getting to government hospitals, where all citizens are entitled to free treatment. In spite of the large populations living on plantations, the government does not establish hospitals in the vicinity, since the responsibility of that care is delegated to the employers. However, the majority of those living on the plantation—casual workers, dependents of women workers, children over the age of six, retired workers and dependent parents of workers—are illegally denied free treatment. At Majuli, a woman worker whose husband had died the previous year lamented that if she had been able to get him to a government

249 Batabari Tea Estate, West Bengal, May 19, 2010.
250 Kakajan Tea Estate, Assam, January 12, 2012
251 Hattigor Tea Estate, Assam, January 21, 2013.
252 Interview with Virginius Xaxa, Tata Institute of Social Sciences, Guwahati, January 13, 2013.
253 Id.
254 See supra notes 43–47.
255 Interview with Dr. Jagdish Mahanta, Indian Center for Medical Research, April 17, 2012.
256 Interview with Tulika Goswami, National Rural Health Mission, April 17, 2012.
hospital, his care would have been entirely free under a government scheme for tuberculosis patients. In her case, since he was treated at the garden hospital, the expenses are being deducted from her paycheck.257

“We’d be better off in a village,” a factory worker at Borhat told us.258 Almost without exception, plantation workers would qualify for government schemes entitling those below the poverty line to free houses on their own land. Plantation workers have no legal right to land that is on the plantation and, in some cases, have even been frustrated in efforts to assert rights over land that they own outside the plantation. Workers at Borhat and at three other estates claimed that they were unable to register small plots of land that their grandparents had bought outside the plantation without a “no-objection certificate” (NOC) from confirming that the plantation does not own the land. APPL, and Tata before them, have consistently refused to issue these NOCs, without which they cannot benefit from the government scheme or even sell the land.259

Workers have also sought “below poverty line” (BPL) power connections through the state electricity board for their homes within the labor lines, to replace the expensive and intermittent supply provided through the company, but have largely been unable to secure them without an NOC. Our review of BPL households’ electricity bills from communities in the same regions as the plantations indicates that 24-hour connections under the government scheme, used consistently to power fans, a television, and other household goods, still led to bills that were lower than those for households in the labor lines receiving no more than three hours of electricity per day.260 Similarly, at Nowera Nuddy in West Bengal, where the new, independent trade union made NOCs a central part of its demands, workers secured BPL connections in the labor lines in 2012. These have drastically reduced electricity bills, according to two workers interviewed in January 2013.261

An NOC is also required for connections to government water supplies. At Rungamuttee, a group of 20 workers who had described the unclean water and frequent dysentery deaths there, also told us that a particular division within the labor lines had attempted to secure a direct municipal connection, but was denied because the company would not provide an NOC.262

The government’s apparent abdication of its responsibility to address development and services for plantation workers in general, including – based on our extensive interviews and observation – workers at the APPL estates, is a matter of serious concern. Given that the government heavily subsidizes plantations’ social benefit obligations, as noted earlier in this report, the quality of and access to these benefits should be at least on par with the comparable government scheme.

Damp and meager bedding in employer-provided housing at Borhat Estate from a photograph taken in the midst of winter 2012.

Lower Primary School run by APPL at Hattigor Estate. According to workers, the single room school house serves 200-300 children, limiting each age group to an hour of class time per day.

260 See supra notes 105-06.
261 Nowera Nuddy Tea Estate, West Bengal, January 17, 2013.
262 Rungamuttee Tea Estate, West Bengal, January 18, 2013.
In fact, we heard from workers about several largely unsuccessful efforts to resist compulsory payment of dues, including a protest by more than 80 unaffiliated workers at Achabam, and by members of other unions, including the Assam Tea Labourer’s Union, the Bagicha Sramik Santha, and CITU, at Powai, Borhat and Namroop respectively.

ACMS offers shifting justifications for the system of dues deduction. In January 2012, the union’s General Secretary, Dileshwar Tanti, insisted that every worker on the Assam estates had individually authorized dues deduction, based on lists maintained by the union’s garden-level committee. In all of our interviews, however, we did not speak with a single worker who had agreed to dues deduction, or who had indicated his or her desire to join the union, through a signature or thumbprint. A year later, Tanti’s story had changed. He insisted that compulsory dues payment was justified, on the basis of “an industry-wide check-off agreement, where the registered unions authorize the deduction by management on behalf of all of their members.” The issue of how workers become ACMS members in the first place, or how ACMS received recognition, remained unexplained.

The one exception to the system of compulsory dues payment that we encountered among the APPL estates in Assam was at Nahorani, one of four estates on the North Bank of the Brahmaputra River. According to an interview with a garden-level representative of the CITU union, “table cut” was ended at the estate following a large-scale protest in 1982. Currently, dues payment is voluntary: all unions at the estate, including ACMS and CITU, seek contributions on payday, and workers pay, as they wish, to any one union or none. Other workers at Nahorani – both CITU members and those unaffiliated to a union – described constant efforts by ACMS to restore “table cut,” which continue to be vigorously opposed by workers. The exception to compulsory dues payment that prevails at Nahorani makes the practice at other estates all the more difficult to explain or defend.

265 Interview with Dileshwar Tanti, ACMS General Secretary, ACMS Central Office, Dibrugarh, January 11, 2012.
266 Interview with Dileshwar Tanti, ACMS General Secretary, ACMS Central Office, Dibrugarh, January 28, 2013.
267 Nahorani Tea Estate, Assam, January 22, 2013. The exact levels of employee ownership – proposed or current – are not entirely clear.
PART III

THE ECONOMIC IMPACT OF RESTRUCTURING: “EMPLOYEE OWNERSHIP” AND DIVERSIFICATION
THE ECONOMIC IMPACT OF RESTRUCTURING: “EMPLOYEE OWNERSHIP” AND DIVERSIFICATION

When Tata transferred its northern plantations to APPL, in 2007, it set in motion a multi-staged plan that included the sale of up to 30% of the company to workers and staff. The transition plan was premised on building “greater land and labor productivity” for a more sustainable plantation model. Employee ownership was promoted as a central element of the transition. It was critical to winning the support of World Bank's International Finance Corporation (IFC), which linked employee ownership to improving efficiency, productivity and sustainability. As APPL stated in its annual report for the 2009-10 financial year, “Employee ownership in your company will bring about a strong sense of ownership and belonging.” APPL has celebrated the transformative impact that share ownership will have on the workers, who, as stakeholders in the company’s success, will be instilled with a new sense of accountability.

Besides employee share ownership, one of the most significant features of the planned transition was diversification from the monoculture of tea into other agricultural products. This was a core part of the plan to bolster the sustainability of the plantations. Like the share plan, it was also intended to generate benefits for workers, in this case, with better and more secure employment.

The actual implementation of the share plan and the diversification program, however, are far from the lofty rhetoric of the IFC documents and APPL annual reports. It may be indicative of the gap between the rhetoric and reality that the company never shared the IFC documents or the annual reports with the workers. Far from achieving the goal of improving the condition of workers, APPL’s actions appear to be creating even more burdens. The impacts are discussed in detail below: they include confusion, deception, duress and further impoverishment in connection with the share plan, and the loss of land historically used by workers as a direct result of diversification.

268 The IFC’s Summary of Proposed Investment in Tata Tea, dated 2006, suggests an expected level of 20% for workers and management. See infra note 368. Tata Global Beverages (TGBL) acknowledges owning 49.06%, while the IFC owns 19.29%. That would leave a maximum of 31.65% for employees. According to the 2011-12 APPL Annual Report, the other major shareholder is Tata Investment, which has 30.14%, which presumably includes the unvested employee shares (the “CCCPSS”). However, the Annual Report also claims that workers and management own 34.20% through the CCCPS.
269 IFC Summary of Proposed Investment, Project Description.
270 See Memorandum from IFC Vice President and Corporate Secretary, “India: Proposed Investment in a New Company which will Acquire and Manage the 24 Tea Plantations in Assam and West Bengal Currently Owned by Tata Teas Limited,” October 6, 2006, at 1, 5; on file.
271 APPL Annual Report 2009-10 at 2; on file.
272 In an internal memo, the IFC proposed amending this, through an “employee empowerment program to enable the employees to play a participatory role in the management of the Company.” IFC Memorandum, supra note 270, at 3.
THE SHARE PLAN: “CUMULATIVE COMPULSORILY CONVERTIBLE PARTICIPATORY PREFERENCE SHARE SCHEME” (CCCPPS)

The sale of shares to workers was structured as an interest-free loan, to be paid back over seven years. Workers who subscribed to the so-called “Cumulative Compulsorily Convertible Participatory Preference Share Scheme” or CCCPPS committed to repaying the ₹8000 loan through deductions from their wages over that time.

There was considerable discomfort and confusion about the plan from the time that it was announced. Initially, in Assam, even the usually complacent trade union, the ACMS, opposed the plan. Among other things, workers feared that they would lose their statutory employment benefits since they were to become owners. The Managing Director of APPL, Deepak Atal, acknowledged that the workers reacted with some “aprehension” to the idea of losing the stability associated with the connection to the Tata brands. Tata “was a shelter for them,” he said. On some plantations, anxious workers disrupted the meetings organized by management to discuss and promote the plan. At Hattigor, “there was chaos at the meeting that management organized at the crèche,” one workers described. “We all said, there is no point in buying these shares. We won't be able to get rations and firewood and gratuity if we become the employer.” Meetings on some other plantations were suspended.

Tata insisted that employee benefits would continue, ACMS was persuaded to support the plan, and eventually APPL proceeded with implementation. From October 2009 to March 2010, the company collected signatures or thumbprints from workers who committed to participate in the CCCPS. Overall, 67% of plantation workers (about 21,000) subscribed to the CCCPPS, according to Deepak Atal, taking on shares estimated at between 5% and 8% of the total ownership of the company. The numbers of workers who signed up varied by plantation, ranging from a low of 37% at Majuli to 100% at Hathikuli and Borjan.

The roll out was completed in April 2010, and deductions began soon afterward. Under the terms of the plan, the capital investment and a dividend of at least 6% per year are guaranteed for the first four years. After that time, the shares will vest and their value will depend on the market. APPL celebrated the rollout, noting in an Annual Report that the “success was overwhelming.” It pointed to the high level of subscriptions as clear evidence of its good communication with workers, and of their trust in management:

- “The success of the employee stock plan is testimonial to the efforts made at all levels to communicate and engage with employees.”
- “Engagement and trust building with employees at all levels has received all round focus.”
- “[The workers] have reposed trust in the management and ownership of the company by participating in large numbers.”

273 Incidentally, the company’s bid to offer workers stakes in APPL has caused confusion among workers in TTL’s gardens in West Bengal on whether their existing service conditions would continue if they became employee shareholders of APPL. “Tata Group to Hold About 35% in APPL,” Economic Times, April 5, 2007.
274 Meeting with the IFC and Deepak Atal, New Delhi, January 4, 2012.
275 Hattigor Tea Estate, Assam, January 21, 2013.
276 Meeting with the IFC and Deepak Atal, New Delhi, January 4, 2012.
277 Review of pay slips for the period April 26-May 9, 2010 from Rungamutte Tea Estate, showing deductions for “equity”; copies on file.
280 Id.
Evidence of trust and communication were particularly important to the legitimacy of the process. Recognizing this, APPL emphasized in the scheme considering that much of the workforce had a different version of events, characterized by abuse of power and extraordinarily poor communication. Workers described extensive confusion, deception and duress in the sale of shares. Very few had a clear idea of the source of the “loan” for the shares, let alone the potential risks and benefits of owning them. A substantial majority of the workers who purchased shares still believe that they were paid for with money taken out of their statutory retirement accounts (commonly known as Provident Fund or “PF”). Communication has been a significant problem from the start: there was no real effort to provide workers with written materials in local languages before the sale. In the wake of the sale, there has been no communication with workers at all: no meetings, no presentations, and no reports to convey information about the state of the company with its “new owners,” much less to solicit their opinions. The extreme contrast between the experience of the workers and the claims of the company raise serious questions, not only about the company’s will and capacity at the level of implementing the share plan, but about its good faith in the initial conceptualization.

Management acknowledges problems of communication since the sale of shares, but denies other failures. Instead, the company stresses the benefits to workers. In the financial year 2010-11, workers – as well as other shareholders – received a 12% dividend, twice the guaranteed rate of 6%. Moreover,
management has consistently asserted that the share value has increased, with Managing Director Deepak Atal claiming that it had gone up by 170%. The latter claim is hard to verify since the shares are not publicly traded, and the financial reports are not public, and the company is still closely tied into Tata Global Beverages. With regard to the high initial dividends, there is no denying that they were welcome, but they have subsequently dropped. According to the annual report for 2011-12, the declared dividend was only 5%.

While there is room to argue that workers will ultimately benefit from the share plan, it is also clear that there is considerable risk and uncertainty, as there would be with any market investment. Workers’ accounts suggest that they did not have a realistic opportunity to weigh the options and make an individual choice. The experience of workers during the subscription period, and the burdens imposed by the share plan subsequently, are described in the following sections.

**NO INFORMED CONSENT**

Many of the workers who bought shares provided us with detailed accounts of misinformation, deceit or even fraud. At the most basic level, those responsible for executing or facilitating the share plan – Tata and APPL managers, and some IFC staff – made little apparent effort to disclose the details, including the potential risks. Workers were given no basic information about the operation of the stock market, and remain puzzled, years after the changes have taken place:

- At Hathikuli, not one of the workers interviewed felt that he or she had received any information about the share plan. "No one explained to me what this business of shares is," one worker recounted. "They just said, 'It will be good for you to buy shares.'"

- At Namroop, in April 2012, one worker complained: "What do we know about the share bazaar? They keep cutting our wages and we still don’t know what we’ll get from it.

- A worker at Hathikuli who had recently become involved in local politics, after agreeing to purchase shares, said, "We were told that when there was a profit we would get some of it. Only later I realized that there could be a loss to the company, and then I would also suffer from the loss."

- One young man at Kakajan, who had managed to study through 10th grade, described intervening to prevent his mother from buying shares: “I had heard about the share market. I knew what they were saying wasn’t true – shares don’t just go up, they also go down.”

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283 According to passbooks viewed by the research team, workers have received four dividends between December 2010 and November 2012. The total amount received was ₹1760. The amount deducted from their paychecks, assuming deductions from April 2010 to November 2012 would have been about ₹3060, assuming 139 weeks and deductions of ₹22 per week.

284 Meeting with the IFC and Deepak Atal, New Delhi, January 4, 2012. Despite this growth, the 6% deduction paid to workers is calculated on the basis of the original share price.

285 According to a former high-level APPL manager who asked to remain anonymous, there are serious unacknowledged problems in the division of assets and accounting of costs between Tata Global Beverages and APPL.

286 See APPL Annual Report for 2011-12. As per the CCCPPS, employees were given a 6% dividend, while regular shareholders received 5%. Id. at 4.

287 The researchers found little consistency across estates, or even across different groups of workers on a single estate, regarding what they were told in meetings, or in one-on-one communications with managers and supervisors, about the share plan. While no worker shared an experience of clear, truthful and coherent explanations of the share plan, the particular ways in which experiences were negative varied a great deal, suggesting that many decisions regarding communication about the scheme were delegated to managers and supervisors, with little central supervision of anything except the final tally of how many workers had signed up.

288 Hathikuli Tea Estate, Assam, January 24, 2013.

289 Namroop Tea Estate, Assam, April 17, 2012.

290 Hathikuli Tea Estate, Assam, January 24, 2013.
Some of the concerns related to lack of understanding of the share plan, as a result of levels of literacy and/or the absence of translation. No significant document was produced in Sadri, the lingua franca of the plantation workers. Workers “signed” documents in English, a language that none of them speak:

- A group of workers at Kakajan, interviewed together, told us that all of the managers spoke to them in English or Assamese, rather than Sadri or Hindi (which the majority of workers also understand) when proposing the share purchasing plan at the official meetings.  

- Another group of workers at Kakajan described having been given forms to “review” before signing their names or marking their assent with a thumbprint, by supervisors who were well aware that they were illiterate in English.

Other testimony from workers supports the perception that there was a pro forma quality to the informational meetings, with very little effort to convey even basic details. In many cases, workers left the meetings not even understanding that they could refuse to participate in the share plan.

- Seven workers at Nowera Nuddy said that they signed forms under the impression that they would be receiving money if they did so – four of them thought they would receive ₹8000 each, the other three believed they would receive an unspecified “bonus” from management. In each case, the workers were surprised to find that not only did they receive no cash, but that regular deductions were being taken out of their paychecks as a consequence of assenting to the scheme.

- A group of eight workers at Hathikuli, where APPL claims that virtually 100% of workers agreed to buy shares, told us: “We understood that all the workers had to do it. It was an order to buy.”

The promises regarding the financial benefit that would flow from signing the document were many:

- A group of 12 workers interviewed together at Hattigor reported that, in order to publicize the share plan, managers brought vans loaded with saris and other consumer goods, and showed a film on a projector featuring the things workers would be able to buy with the money they made from the share plan.

- One worker at Nowera Nuddy was told by high-level managers, “in four years your money will be doubled.”

- At Batabari, another estate in West Bengal, a worker was informed by a supervisor that “the price of shares will increase like the price of aloo [potatoes]. From ₹8,000 you will get ₹80,000.”

- A worker at Majuli came away from the official meeting organized there with inflated expectations: “They told me it was like life insurance,” he reported. “They said the ₹8000 would be worth ₹800,000.”

- At an official meeting to discuss the share plan, organized by the management at Namroop in 2008, workers recalled being told: “Every house will have a car.”

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293 Kakajan Tea Estate, Assam, January 12, 2012.
294 Nowera Nuddy Tea Estate, West Bengal, July 17, 2010.
296 Hattigor Tea Estate, Assam, January 21, 2013.
297 Nowera Nuddy Tea Estate, West Bengal, July 17, 2010.
298 Batabari Tea Estate, West Bengal, May 19, 2010.
At Kakajan, according to three workers who had attended a meeting on that estate, workers were told, “If you buy shares, you’ll be able to get a car, anything else you want.”

The experience of participation in a scheme that they do not understand actually appears to have further disempowered many workers. One dispirited worker at Nowera Nuddy, attempting to explain why he had purchased shares, “What’s the point of asking us about shares, whether we think it’s a good thing or a bad thing?” demanded a worker at Hathikuli. “It is done.”

The perception of powerlessness has only been enhanced by the company’s failure to communicate any information about its profit and loss subsequent to the sale of shares. At Hattigor, a group of 12 workers interviewed together recollected that they had been promised a monthly meeting for shareholders, where they would be provided with details on the company’s financial health. But not even a single such meeting has taken place. “Shouldn’t we be told how much money the garden is making, why we are getting so little money every year?” asked one worker. “But no one tells us anything.” The CITU trade union representative at Nahorani made a similar point: “They said, ‘We’ll give you an accounting every month. You’ll know what the profits are, what the losses are.’ But what’s actually going on, absolutely no one knows.”

The lack of information has led to sometimes panicked speculation on some estates. “No one has told us anything since we bought the shares, so the company’s value must be going down,” said a worker at Hathikuli. “After going organic, our bushes produce very little leaf.”

COERCING WORKERS TO BUY SHARES

Beyond misrepresentation, the researchers found widespread use of coercive techniques by management to secure workers’ participation in the share plan. Across all APPL estates, large numbers of workers reported experiencing some degree of pressure to buy shares, including threats and acts of retaliation if they did not.

In its simplest form, their participation was presented as a fait accompli. At Hathikuli a group of eight workers recalled that they were told in a large meeting, by the manager, “There is going to be a share system, and money will be cut from your wages to pay for it.” After that, one worker said, “They just took everyone’s thumbprint.”

Coercion, however often took on a more direct form. Several groups of workers at Namroop, interviewed at multiple separate locations, described the most extreme threats:

- There were blunt threats of termination – “You must buy shares or we will fire you.”
- Managers promised violent retaliation threatening that the chowkidar (security guard) or militants from the United Liberation Front of Assam would be sent after them.

While these extreme threats were relatively rare, at every APPL estate visited over the three years of the research process, the research

300 Namroop Tea Estate, Assam, April 17, 2012.
301 Kakajan Tea Estate, January 25, 2013.
304 Hattigor Tea Estate, Assam, January 21, 2013.
305 Nahorani Tea Estate, Assam, January 22, 2013.
306 Hathikuli Tea Estate, Assam, January 24, 2013.
308 Namroop Tea Estate, Assam, Apr. 17, 2012.
309 Id.
EXCERPTS OF THE IFC AND TATA/APPL BROCHURE ON SHARE OWNERSHIP

The brochure prepared by the IFC and Tata/APPL to describe the share ownership scheme to workers frequently crosses the line from informational to promotional.
team routinely heard reports of more equivocal threats of job loss:

- At Nowera Nuddy in West Bengal, a group of workers were warned, “If you don’t sign all these papers immediately, you might lose your jobs and face trouble.”

- At Hattigor, a worker said that she and her neighbors were told, “If you buy shares, the garden will thrive and you will still have your job. If you don’t, the garden will close.”

- At Hathikuli, a group of eight workers was convened and they were told, “The company can’t keep going unless you buy shares. The garden will close and be sold.”

- At Kakajan, three workers said they were told, “You must buy. If you don’t, the company will close.”

The threats were reported as having come from all levels of management: general managers, assistant managers, welfare officers, and supervisors.

In some cases, the threats may seem, on their face, relatively inoffensive. However, these comments should be understood in the context of power relations on the estates, and the impact on workers of having their decision challenged by high-level managers, who are otherwise never seen in the day-to-day work of plucking leaves in the tea garden, or working in the factory.

- At Dam Dim, a worker who initially refused to buy shares said that she was surrounded by three managers, haranguing her until she changed her mind.

- At Namroop, five workers told us that they had all tried to refuse to buy shares. They said that they had been reassured by the promise of the general manager, at the initial public meeting about the share scheme, that no one would be forced to buy in. However, following the meeting, the manager sent garden security personnel to visit them in their homes repeatedly, to persuade them to change their minds. Even though the security personnel made no threats, the five described feeling intimidated, and finally, all of them gave in.

- At Dam Dim, a worker who tried to resist purchasing shares was told, “later you will regret it.”

The mere presence of high-level management turned relatively minor threats into much more serious ones in the eyes of workers interviewed. For example, at every estate we visited, multiple workers described incidents where, at the end of the workday, they were told by supervisors, in the presence of management, that they would not be paid for the day’s work unless they signed for shares. A few incidents are detailed below, but it should be understood that these are merely examples from more than 80 such stories reported.

- Two workers at Nowera Nuddy said that they had felt compelled to sign by the supervisor, when he switched off the weighing machine which weighs each worker’s sack of plucked leaf at the end of the day to determine how much he or she will be paid for the day’s work. “We won’t weigh your leaves until you sign,” the workers were told. Both workers said that the “chhota saab” and the “bada saab” (assistant manager and general manager) were standing by as these comments were made. “Usually, the managers are never there,” one worker emphasized. “Now all of them were there.”

311 Hattigor Tea Estate, Assam, January 21, 2013.
312 Hathikuli Tea Estate, Assam, January 24, 2013.
314 Id.
315 Namroop Tea Estate, Assam, April 17, 2012.
316 Dam Dim Tea Estate, West Bengal, July 17, 2010.
317 Nowera Nuddy Tea Estate, West Bengal, July 17, 2010.
At Batabari, a group of almost 30 workers interviewed together said that they had personally experienced or witnessed the same form of pressure. One summed up the threat in the following terms: “If you don’t buy shares, we won’t weigh your leaves and you won’t get paid.”\(^{318}\)

One worker at Nowera Nuddy, the sole earner for a family of five, described going to a manager to ask that he be released from his initial agreement to buy shares, since he was unable to make ends meet after the deductions were taken from his salary. He told us that the manager had refused, saying, “Why? Did we catch hold of your hand and make you sign?” He had to acknowledge that he had not been physically forced to sign. But, he explained to us, a high-level manager from outside the plantation, and a _chaparasi_ [pejorative term roughly translating as flunky] from inside the plantation had come into the gardens to urge people to sign. “Usually none of these people show up in the garden,” he said. “Isn’t that pressuring us?”\(^{319}\)

Researchers spoke to a number of workers at various estates who claimed that they had in fact been disciplined for trying to resist, or organize against, the share scheme. There were at least three significant mass protests against the shares, involving efforts to rescind the initial signed agreements. In each case, according to workers, they were unsuccessful:

- Three workers interviewed at Dam Dim described having been part of a group of 35 who sought, in 2010, to return their shares and undo the deal. They appealed to the general manager, but he refused to entertain their request, saying, “What is done is done.”\(^{320}\)

- At Hattigor, an organization of Adivasi [indigenous] youth on the estate tried to mobilize against the share scheme when workers first began to see deductions from their paychecks. According to one of the leaders, workers were upset over the relative size of the deductions: “At that time, the average take-home wage was about ₹500 every two weeks. People said, ‘how can you deduct another 50 from that?’” However, the leader reported, management refused even to meet with protestors, even though they gathered in large numbers outside the office and refused to leave for several hours.\(^{321}\)

- At Nahorani, according to the CITU union leader interviewed, managers simply chose to wait out the protests. “Even though the protests went on for two to three years, over that time they wore people down with empty promises,” he commented.\(^{322}\)

- A worker at Nahorkutia claimed that he and others who tried to support each other in resisting the share scheme faced retaliation, in the form of being assigned more laborious tasks to perform.\(^{323}\)

### The Economic Consequences of the Corporate Restructuring

#### The Share Plan: Heavy Deductions from Low Wages and Future Uncertainty

The wage deductions, designed to pay for the shares in installments over seven years, have had
an onerous impact on the livelihood of workers with already depressed wages. The deductions, which range from ₹44 to ₹48 per pay period, typically represent 6% to 8%, and sometimes as much as 10%, of workers’ net wages. In one interview after another, workers described the very real impact of the ostensibly minor deduction on their ability to feed themselves, buy educational supplies for their children, or take care of other debts. They complained not only about the fact that they had been forced to participate in the share scheme in the first place, but that there was no apparent means of opting out of the plan now: “Surely we should be able to say, I can’t afford this anymore. Please give these shares to someone else,” insisted a worker at Rungamuttee.

A worker at Nowera Nuddy, interviewed in 2010, told us that she and her husband were both forced to buy shares, even though they had protested that their pay – after deductions at source for electricity, rations, Provident Fund and life insurance – never exceeded ₹500 every two weeks.

A worker at Dam Dim told us that she had tried to explain that her household had heavy medical debts to pay off, “but the Chhota Saab [assistant manager] said that the weight of the leaves I pick will be recorded as less from now on if I don’t buy.”

At Rungamuttee, a worker demanded: “How am I supposed to run a household on ₹1000 a month? With all the deductions, we take home so little. And then they are taking still more for the shares. The money I get in hand, I spent almost all of it the same day, just buying dal and rice.”

At Nahorkutia, a worker who tried unsuccessfully to refuse to buy the shares told us that he was the sole supporter of three children in school.

Workers were not by any means rejecting outright the larger idea of investing or saving that a plan like this could represent; several were, however, adamant that this particular scheme did not reflect their priorities or their assessment of a worthwhile risk or sacrifice. “If I took out a loan of ₹8000, I would use it to educate my brothers and sisters, not buy shares,” explained a worker at Batabari. A retired worker at Namroop whose husband bought shares pointed out that they could have received a higher rate of interest than the 6% promised for the first four years, and more secure guarantee of the principal, simply by putting their ₹8000 into a seven-year fixed deposit in the bank.

Even after interviews with management, there are still uncertainties about the implementation of the scheme. For example, there are small but consistent variations in the amount deducted for “equity” every fortnight. Our review of pay slips indicates that at Chubwa, Hathikuli, Nahorani, Kakajan and Nowera Nuddy, workers pay ₹44 per fortnight; at Nahorkutia, deductions are ₹45 per fortnight; at Rungamuttee and Achabam, workers pay ₹47.62 per fortnight. APPL management denies that there could be any variation, asserting that all workers pay the same amount. In our interview with Deepak Atal, he conjectured that deductions might vary only if workers had requested that their loan repayment be deferred or reduced given unanticipated expenses for a particular pay period. However, we encountered no evidence that variations in equity payment were correlated to workers’ requests.

324 See supra “Wages,” in Part II.
325 Rungamuttee Tea Estate, West Bengal, January 18, 2013.
326 Nowera Nuddy Tea Estate, West Bengal, July 17, 2010.
327 Dam Dim Tea Estate, West Bengal, April 15, 2012.
328 Rungamuttee Tea Estate, West Bengal, January 18, 2013.
330 Batabari Tea Estate, West Bengal, May 19, 2010.
331 Namroop Tea Estate, Assam, January 8, 2012. As of July 2013, rates for fixed term deposits for longer than 5 years were above 9% at www.ratekhoj.com.
332 Meeting with the IFC and Deepak Atal, New Delhi, January 4, 2012.
While workers have received more than the promised dividend payments thus far, many complain that the money is difficult to collect. While regular wages are given to workers in the form of cash, the dividend is deposited directly into their bank accounts. Given that banks are far away from the remote tea plantations, workers at several estates pointed out that withdrawing the money involves losing a day’s wages (since banks are not open on Sundays, which are workers’ only regular days off) and spending substantial amounts of time and money in travel. At Hattigor, for example, workers said that the bank is three hours’ journey away, and the trip costs ₹40 each way. We heard similar complaints from workers at many other estates.

Officials at ACMS, the union which claims to represent Assam tea plantation workers, provided us a distorted view of the plan, exaggerating the amount of dividend received and the value of the shares. For example, the ACMS General Secretary asserted that the declared dividend was 30% per year (₹2400), the ACMS representative at Namroop insisted that it was ₹1200, and the ACMS Representative at Hathikuli contended that already, all workers had received dividend payments equivalent to eight times the value of the shares. The General Secretary said with certainty that the value of shares had increased from ₹10 to ₹35, and that he personally knew workers who had been able to sell them for this amount. In reality, no worker can sell the shares before they vest, four years after the purchase.

The future is even more uncertain, at multiple levels. The guaranteed 6% annual dividend will come to an end and the shares will assume a market value. Because of APPL’s continuing close connection with Tata Global Beverages at this time, and the company’s refusal to make the financial reports public, the value of the shares claimed by management cannot be objectively verified. A high-level APPL insider and individual shareholder who asked not to be identified expressed the belief that the claimed value of the shares is highly inflated. Furthermore, he alleged, there are serious reasons to believe that the value of the worker’s shares will decrease substantially at the time of the public offering.

**ECONOMIC DIVERSIFICATION: LOW WAGES AND LAND SEIZURES**

As part of the transition, APPL is engaged in diversifying beyond tea into other fields of agricultural production and, possibly, tourism. Even before the transfer of assets by Tata, several of the plantations were already experimenting with alternative crops and fisheries. According to APPL Managing Director Deepak Atal, the changes have not involved the reduction of tea bushes (and therefore tea plantation labor). Black pepper vines are cultivated around the “shade trees” among the tea bushes, he said, and ponds for the fisheries have used “fallow land.” Diversification is being touted for a number of reasons, one of which is to benefit the worker community.

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335 Interview with Dileshwar Tanti, ACMS General Secretary, ACMS Central Office, Dibrugarh, January 11, 2012.
336 Interview with ACMS representative, Namroop Tea Estate, Assam, April 15, 2012.
337 Interview with ACMS representative, Hathikuli Tea Estate, Assam, January 24, 2013.
338 Interview with Dileshwar Tanti, ACMS General Secretary, ACMS Central Office, Dibrugarh, January 11, 2012.
339 Interview, New Delhi, January 2013. Name and identifying details withheld at the interviewee’s request.
340 As a regulated sector where the land actually belongs to the state, there are strict limitations on what economic activity the company can conduct on tea plantations. According to APPL and the IFC, the government of Assam has allowed all plantations to use up to 5% of their land for non-tea production. Interviews with IFC and Deepak Atal, Delhi, January 4, 2012.
341 Interview with Hardeep Singh, Delhi, January 14, 2013. There has not been a new process of forward integration through branding and retail, and there appear to be no plans to undertake such a process. According to Singh, this choice was made in order to avoid creating competition with Tata’s tea brands.
342 Interview with Deepak Atal, January 4, 2012.
through more – and more secure – jobs. So far, the jobs have not materialized. But far worse has been the immediate effect of the diversification: on many plantations, workers claim they have lost access to land that was allocated to their families generations before to grow subsistence crops, especially rice. In other words, according to workers, diversification has led to divesting them of land and making them even more dependent on the meager plantation income.

**Fisheries**

The development of fisheries is a proud feature of APPL’s promotional literature. In every account of its agribusiness “beyond tea,” fisheries come first. As the Annual Report for 2009-10 announces: “Your company has undertaken large scale excavation to build a substantial fisheries business. Assam is a fish deficit state and imports fish from as far as south east India [...] With the focus on developing the fish farming business, your company has built the largest corporate fish farming business across north and east India.”

The company claims that the land used for the fisheries had been lying fallow, since much of the lowlands within the estate are not suitable for tea. What it has failed to mention is that much of this land was allocated to workers’ families, decades ago. Allocating land for rice and vegetables was a well-established element of worker recruitment during the colonial era. Promises of land for cultivation were included in recruitment contracts, including those used to bring workers to what are now APPL plantations.

Families passed on the land, from one generation to the next. On many of the plantations, workers reported that their families had been cultivating the land continuously until the company had seized it in recent years. The research team interviewed more than 50 workers on 8 plantations who claimed to have lost land. Details vary, but workers tell a consistent story of land taken away, without recourse and without compensation. For example:

- A group of workers at Hathikuli estate allege that the company attempted to seize their land in order to construct a small hotel. Although they succeeded in preventing the seizures, with the help of local politicians, the bulldozers had already diverted the small water source that irrigated their land and the plot is now infertile.

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343 The IFC Project Summary notes that “additional jobs might be created from the development of alternative crops and tourism,” and points to the number of permanent and temporary employees as a monitorable indicator. IFC Memorandum, supra note 270, at 4-5.

344 APPL Annual Report for 2009-10 at 3.

345 In a few cases, the land was seized for purposes other than fisheries. For example, at Nowera Nuddy, the company sought land that had been used by workers for decades to grow rice in order to expand its tea production. At that estate, as we heard from a group of 25 workers interviewed together, the workers were promised that they would receive extra food as compensation. As one worker said, “our land is gone and we have no extra rations.” Nowera Nuddy Tea Estate, West Bengal, January 17, 2013. At Hathikuli, workers claimed to have struggled over land that APPL sought to use for the construction of a hotel. According to the workers there, they succeeded in stopping the company from taking the land, but in the meantime, builders had already diverted the source of water necessary for cultivating crops. As a result, the land is now unusable. Hathikuli Tea Estate, Assam, January 13, 2012.
workers from eight households told us that they had been using the land since their grandparents' and great-grandparents' time, when it was given to families by the British owners of the plantation. The land was taken from them in 2008.

At Hathikuli, a worker who had lost paddy land to the company’s fishery project said that the rice they grew used to be enough to last his household for almost the entire year; they now have to buy 20 kg of rice every two weeks, at ₹16 per kg.

Another Hathikuli worker told us that he had been able to grow 360 kg a year on his small plot, and that the expense of buying enough to replace what he grew had been devastating.

Workers from three families at Kakajan who had lost land to fisheries, interviewed together, also described the extent of the impact on household budgets. “We used to be able to grow enough to last six, eight months of the year,” said one. “Now, we have to borrow money to buy rice.”

The land was not surrendered willingly. On several plantations, workers described having tried to fight back against the seizures, though without success:

In interviews with a group of 15 workers in Kakajan’s Belaguri division, we were told of extended, vociferous protests outside management offices, which ended only when the division manager at the time threatened workers that he would file a case against them.

At Nahorani, workers briefly contemplated legal action of their own to challenge the seizure of land, according to an interview conducted with three members of one of the affected households. “We live in such poverty, where would we find the money to file a case?” one of them demanded.

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348 Hathikuli Tea Estate, Assam, January 24, 2013.
349 Id.
351 Id.
352 Nahorani Tea Estate, Assam, January 22, 2013.
At Hathikuli, workers described a protracted struggle over their land. According to accounts from multiple interviews, between 32 and 35 households lost their land to planned fisheries and hotels (none of which are currently operational). When they protested, they were told by management, “If we build the fisheries, the money will go to the company. The company belongs to you, so why are you complaining?” Between 10 and 15 households remained intransigent and refused to surrender their land, according to one worker whose family had resisted the seizure until the end. “We told them, ‘for long years we have been planting our paddy here. You have to give us money or give us a job,’” the worker recounted. He described the subsequent confrontation with Sahal Singh, the general manager at the time. Singh called them into his office and said, “If you make any more noise, I will cut your name from the permanent list, and then we will throw you off the land anyway.”

At Hattigor, workers were particularly indignant because they had operated their own fishery until the company interfered. According to 25 workers interviewed together, over a decade ago, the labor community had collectively dug a shared fishery for its own use. The workers had even received a small grant of ₹100,000 from the government to stock it with fingerlings. The fishery had functioned for over five years. Four years ago, however, the company set up its own commercial fishery, on land that used to be a brick kiln for the estate. At that point, management barred the workers from using their own fishery. Today, workers complain, they have no choice but to buy fish at the market rate from the company fishery, and what used to be a regular part of their diet has become a largely unaffordable luxury.
Managers did not deny the historical commitment of land to workers, but they insisted that the allocation was purely discretionary, and could be revoked at any time. They argued that workers had not acquired any legal or moral right over what had always been “company property.” Furthermore, according to former Managing Director Hardeep Singh, the primary architect of the plan during his tenure at APPL, workers had been “compensated” for the land that they had lost, and would “benefit” from the fisheries set up there. When pressed for details, he acknowledged that there were no specific benefits – such as a concesionary rate for the fish produced in the fisheries, or a percentage of the profits – but that there would be “visible” improvements on the plantations. He was adamant that no false promises of compensation or benefit had ever been made. \(^{356}\)

There is evidence to suggest that this is not true, however. At several plantations, workers claimed they were offered one permanent job per family that had lost land, though no one had actually received it. \(^{357}\) At Hathikuli, we spoke to some workers who had been offered casual employment – at low wages, with no security of tenure and no benefits – at the estate’s fisheries, and they had performed the work until the fishery was shut down for unspecified reasons. \(^{358}\) At Nahorani, the research team was shown a job offer letter from management that was particularly deceptive, promising not a category for plantation work: he reports that he works seven days a week, with no day off and no overtime pay. He is paid ₹93 a day but not given a pay slip. As stated in the employment letter, he receives no benefits except “basic medical” (not specified; according to the worker, it means that he can use the estate clinic but must pay for all medication), and “labour tea” (the fannings and fiber left over after processing, which cannot be sold in the market). But, as the worker commented wryly, he has not even received this “labour tea,” at any point during the two years that he has been working. \(^{362}\)

Workers were unable to identify any other “benefit” or “compensation” that came from the fisheries. As matters currently stand, workers do not receive additional food rations to compensate them for the grain and vegetables they are no longer able to grow; they do not even receive concessional rates for the fish raised on these lands. As groups of workers complained at Nahorani and at Hattigor, the market price for a kilo of fish is ₹120 – well over a day’s wages. \(^{363}\)

The Nahorani estate’s employment offer has no legitimacy in law. The phrase “regular temporary employment in perpetuity” is self-contradictory, since under Indian law, temporary work is impermissible if it is full-time and for an open-ended period. \(^{360}\) Since the letter was in English, it was also incomprehensible to the worker who had received it. “It means absolutely nothing,” the worker responded, when the team translated it for him. “They’re making fools of us.”\(^{361}\) The conditions of work described by the worker did not fit any legal category for plantation work: he reports that he works seven days a week, with no day off and no overtime pay. He is paid ₹93 a day but not given a pay slip. As stated in the employment letter, he receives no benefits except “basic medical” (not specified; according to the worker, it means that he can use the estate clinic but must pay for all medication), and “labour tea” (the fannings and fiber left over after processing, which cannot be sold in the market). But, as the worker commented wryly, he has not even received this “labour tea,” at any point during the two years that he has been working. \(^{362}\)

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\(^{356}\) Interview with Hardeep Singh, New Delhi, January 14, 2013.


\(^{358}\) Hathikuli Tea Estate, Assam, January 24, 2013

\(^{359}\) Letter from management to fishery worker at Nahorani Tea Estate, dated September 7, 2011; reproduced on following page.

\(^{360}\) Industrial Disputes Act of 1947, Schedule V, Part I, Section 10.

\(^{361}\) Interview with fishery worker, Nahorani Tea Estate, Assam, January 22, 2013.

\(^{362}\) Id. and Letter, supra footnote 359.


\(^{364}\) Kakajan Tea Estate, Assam, January 12, 2012.
No Job Creation or Improved Job Security

There are other issues related to diversification, including the quality and pay for the jobs that have been created. Some of these issues raise legal questions. For example, APPL is continuing to pay tea-plucker’s wages for jobs that fall under statutory minimum wage categories. Managing Director Deepak Atal confirmed that all workers are paid the same wage, without regard to the work performed. “You can’t differentiate conditions of service or salary for workers who are engaged in new forms of non-tea production such as fisheries; they have to be compensated on par with tea work,” he told the research team.365

Whether or not Atal’s position is legal, the justification would only make sense if workers were receiving the social benefits under the PLA, including medical care, housing and rations. But in the observed cases, this was not true. There is no evidence of the creation of new permanent jobs, and many of those employed in the fisheries, or in black pepper production, come from the same pool of temporary workers who are currently denied benefits when they are engaged in plucking tea. The team spoke to a temporary worker at Hathikuli who is occasionally offered day labor picking black pepper, and occasionally for plucking tea at the estate. He is not guaranteed regular work, he receives no employer-subsidized “social benefits,” and he lives outside the estate, paying rent for his housing. He said that the compensation for picking pepper was actually worse than that for plucking tea, since he could not even hope for the “incentive” available to tea workers during the plucking season, which provides a small bonus for every extra kilo of leaf collected, above the established quota.366 We interviewed other workers employed in these new sites of economic activity who were paid even lower wages, since they were designated “trainees.” One had inexplicably been a “trainee” for over a year, working daily in a task requiring little or no specialized skill, and thus no meaningful training.367

365 Interview with Deepak Atal, January 4, 2012.
366 Interview with former fishery worker, Hathikuli Tea Estate, Assam, January 24, 2013.
367 Interview with worker, Hathikuli Tea Estate, Assam, January 24, 2013.
PART IV

ROLE OF THE IFC AND SOCIAL CERTIFICATIONS
ROLE OF THE IFC AND SOCIAL CERTIFICATIONS

INTERNATIONAL FINANCE CORPORATION (IFC)

In 2006, the IFC agreed to become a partner in Tata's plan to begin divesting from its plantations through an employee share ownership scheme. Its contribution was to be a $7,800,000 equity investment, giving it a 19% stake in the newly formed company. It also committed to broker the sale of shares from Tata to its employees. The actual investment took place two-and-a-half years later, in April 2009. According to former Managing Director of APPL Hardeep Singh, the IFC's financial contribution was indispensable to the plan's implementation. But the IFC's willingness to put its reputation behind the share plan was no less significant, since it gave the experimental plan the legitimizing stamp of a development project designed to protect and improve the economic security of workers.

As the private investment arm of the World Bank Group, the IFC operates under a development mandate. Its stated objective is to “create opportunities for people to escape poverty and improve their lives,” and the investment and services it provides to private companies are meant to promote this goal. With its investment in Tata's tea plantations, the IFC ventured into a sector in which it has relatively little experience. In doing so, it cited the extreme vulnerability of tea workers and the risks they face from recent changes in the industry.

The IFC's investment in the project was aimed at the “preservation of jobs for more than 30,000 people currently employed in the plantations and creation of additional jobs in the alternative crop sector. The IFC saw the share plan proposed by Tata as an “innovative business model,” which would increase productivity, and therefore the economic security of workers. This would be accomplished in two ways: by empowering workers through share ownership and by diversifying away from tea.

The IFC's vision was for the share plan to create a “change in the incentive structure” that would not only increase the growth of the company, but also result in higher earnings and a greater number of secure jobs in the tea sector. At the same time, the company would reduce its exposure to the changes in price of tea leaf through “alternative crop cultivation and potentially exploiting the tourism potential in the scenic plantation locations.” This, too, would lead to greater profits, new jobs and improved job security for the new worker-owners.

The IFC was enthusiastic about partnering with Tata, which it portrayed as an innovator in worker empowerment. In its assessment of the environmental and social risks of the project, it described Tata as an internationally recognized “leader in progressive environmental, social responsibility and occupational health and safety initiatives.” As noted by the IFC's Compliance Advisor/Ombudsman (CAO), in connection with labor and occupational health and safety

369 Interview with Hardeep Singh, New Delhi, January 14, 2013
371 Summary of Proposed Investment, supra note 368.
372 Id.
373 IFC, Summary of Proposed Investment, supra note 368.
374 IFC, Tata Tea: Environmental and Social Review Summary, disclosed Sept. 11, 2006, available at http://www.ifc.org/ifcext/spiwebsite1.nsf/ProjectDisplay/ESRS25074. Although the Review goes on to discuss several social issues, such as labor management practices, workplace and community health and safety, and the handling and management of agrochemicals, it identifies no problems.
in particular, the IFC assessment of Tata was consistently “positive without reservation.” 375 Given that the IFC was operating on the basis of a thin record that included visits to only three plantations over three days and no documentary review, the CAO questioned “whether the IFC had sufficient evidence” for such findings. 376 The working and living conditions documented in this report powerfully echo these concerns.

THE IFC’S ROLE AS “HONEST NEUTRAL BROKER” IN THE EMPLOYEE SHARE PLAN

The importance of the employee share ownership plan is noted throughout the IFC documents. This feature of the APPL investment headlined the press releases and occupied a central place in the IFC’s description of the project, alongside diversification and improvement in the quality of tea produced. 377 The IFC documents touted the “unique business model” and in 2006, even before any implementation, the project proposal suggested that the APPL approach be replicated throughout the tea industry. 378 Although details are absent, the proposal envisioned a very significant role for the IFC. Under “IFC’s role in the Project,” it included:

Honest neutral broker role to support a fair transaction: TTL [Tata Tea Ltd.], as sponsor, is very keen for IFC to participate as an honest neutral broker on account of the nature of the transaction where it is selling shares to employees and wants this to be a fair transaction both for the employees and its own existing shareholders. 379

Among the risks, the IFC did note that the model was “largely untested (although it has been tried with varying degree [sic] of success in other industries).” Implicitly, the IFC also appeared to recognize that there were gaps in the program, and specifically, that the absence of any role for employees in governance could be a cause for concern. It suggested that the IFC “would . . . consider an employee empowerment program to enable the employees to play a participatory role in the management of the company.” 380 But the IFC documents are striking for the absence of analysis of the risks involved in selling shares to workers. There is, notably, no description of how the IFC would execute the role of “honest neutral broker.” 381

By the time the IFC disbursed funds for the project, however, it appeared to have signed off on the sale of shares as having been a success. In fact, the IFC presented a version of the process that bears little resemblance to workers’ accounts. The Environmental and Social Review concluded that TTL [Tata Tea Ltd.] management has undertaken extensive consultations on the sale of [APPL] shares to employees and others in the local community, in an effort to create a more sustainable plantation model. The discussions, which included presentations on a timetable outlining how and when the change will be undertaken, have taken done (sic) at all levels of employees. The consultations have taken place both indirectly, through worker representatives, as well as directly, by the management team at each plantation. These consultations have

376 Id. at 7.
378 “The proposed Project . . . would help structure and finance a plantation business which is likely to lead to a significant demonstration impact and spur similar programs at other plantations in India.” IFC Memorandum, supra note 270, at 2-3.
379 Id. at 3.
380 Id. at 3.
381 Since this is an unusual role for the IFC to have assumed, neither the safeguard policies nor the Performance Standards give clear guidelines. The IFC did not supplement its standard policies with any specific measures to facilitate a fair transaction, identify particular risks, or assess the adequacy of Tata’s consultations.
occurred over the last 7-8 months to give employees adequate time to understand the potential impact of the change in ownership and discuss their concerns directly and thoroughly with worker representatives and management.\[382\]

It is not clear how the IFC reached this conclusion,\[383\] but as documented in the previous section, it is dramatically contradicted by worker testimony. Moreover, according to descriptions from management and workers, the IFC had reason to know that this description was incomplete, at best. Not only were the early problems with the roll out of the share plan well known, and widely reported in the media, but the IFC was reportedly involved in the consultations with workers that were cut short because of worker frustration. The General Manager at Borjan indicated to the research team that an IFC consultant had encountered worker resistance to the share plan directly, when he visited the four plantations on the North Bank of the Brahmaputra River in Assam to explain the process.\[384\]

There is other evidence that the IFC was directly involved in promoting the share plan together with Tata, rather than playing the role of “honest neutral broker,” as it proposed. One brochure bearing the IFC logo exaggerates the promise of share ownership, in words and pictures, without any mention of the complexity or risks. One typical image shows a worker-shareholder dreaming of a car and a house. Beneath the photo is written, in Assamese, “We can fulfill our hearts’ desires if we try.” One of the final photos is of a worker holding a share certificate, with the caption: “Tata Company has offered you such an opportunity for the first time. Make use of this golden opportunity and turn your dreams into reality.” Such a reality would be highly unlikely for even the most successful SA8000 investment.

A page from the Tata Global Beverages Annual Report for 2010/11 devoted to the company’s “ethical sourcing” policies for tea. The report references the private social compliance bodies, such as the Ethical Tea Partnership, to which the IFC improperly delegated its obligation to assess Tata’s compliance with social and labor standards.

### IFC ASSESSMENT OF LIVING AND WORKING CONDITIONS

#### Standards Applied

The IFC appears to have applied two sets of standards in connection with APPL: the older Safeguard Policies for the approval of the plan and the revised Performance Standards for its

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\[382\] The available IFC documents describe only a three-day visit that included three plantations and Tata’s main office in Guwahati in 2006, prior to the share plan roll out. See Summary of Proposed Investment, supra note 368, and CAO Appraisal Report, supra note 375, at 6. It is also unclear when this determination was made. The initial disclosure date for the Review Summary was September 11, 2006, but it was last updated around the time of the investment. Presumably, this section was included closer to the later date.

\[383\] Interview with Amos James Pariat, General Manager, Borjan Tea Estate, Assam, April 18, 2012.

\[384\] For an overview of the differences between the two sets of standards, see the IFC’s Fact Sheet, available at [http://www1.ifc.org/wps/wcm/connect/4106ae0048f556c97e4de6a6515bb18/FactSheet.pdf?MOD=AJPERES&CACHEID=4106ae0048f556c97e4de6a6515bb18](http://www1.ifc.org/wps/wcm/connect/4106ae0048f556c97e4de6a6515bb18/FactSheet.pdf?MOD=AJPERES&CACHEID=4106ae0048f556c97e4de6a6515bb18)
implementation. As a result, the IFC conducted due diligence for approval under the Safeguard Policies, but APPL is required to comply with the Performance Standards while the IFC remains an investor.

All IFC projects must comply with a set of policies – known as the Safeguard Policies prior to 2006 and the Performance Standards since then – that require client companies to meet minimum environmental and social standards. The Safeguard Policies were significantly improved the same year that the Tata Tea project was approved. The 2006 Performance Standards, which were to be applied to all projects approved after April 30, 2006, were comprehensively reformed to include, among other things, new standards on labor rights, and on community health and safety. In addition, new mechanisms were introduced as part of an “outcome-based approach,” such as requirements for community engagement and support, as well as grievance mechanisms.385

Although the Tata Tea project was approved on November 8, 2006, six months after the new Performance Standards took effect, the IFC appears to have sought to circumvent them, applying the old Safeguard Policies.386 The CAO Appraisal addresses this discrepancy, noting “some lack of clarity,” but taking the position that the IFC was wrong to have applied the less rigorous policies.387

The impact of the distinction is primarily with respect to the standards that the IFC should have used in reviewing and approving the project. Significantly, the issue of which standards apply has no implications for the obligations of APPL going forward: as noted by the CAO Appraisal, the company’s investment agreement with the IFC “includes in its warranties and conditions of subscription provisions that the company shall be in compliance with the IFC’s 2006 Performance Standards.”388

There are some important differences that are relevant to the APPL project. The only labor requirement formally applied to the project was a prohibition on forced labor and harmful child labor. By contrast, the Performance Standards include broader sections on Labor and Working Conditions and on Occupational Health and Safety. These new sections include language related to adequate working conditions and fair terms of employment, representative worker organizations, non-discrimination, a grievance mechanism and a safe workplace. To be sure, some of the obligations spelled out under the Performance Standards can be understood to have existed even under the older Safeguards. For example, the fact that the Environmental and Social Review must take into account “human health and safety”389 can presumably be read to include proper sanitation, the lack of which is a serious problem at APPL. Similarly, it can probably be assumed that the Pest Management provision requiring safe agrochemicals – defined, inter alia, as having “negligible adverse human health effects”390 – creates a requirement for providing sprayers with protective gear, the absence of which on APPL has been implicated in one worker’s death and widespread health problems.

Indeed, it appears that the IFC either understood the Safeguards to include some requirements beyond their strict language or informally

386 Summary of Proposed Investment, supra note 368. According to the Environmental and Social Review Summary, supra note 375, the older standards were applied because the Corporate Investment Committee approved the project on April 26, 2006, four days before the new policy took effect. This is a dubious loophole, as it is presumably the IFC approval date which should be determinative.
387 CAO Appraisal Report, supra footnote 375, at 6. The Appraisal also notes that the June 2006 “Decision Memorandum” adds to the confusion by referring to the “application of “new environmental and social safeguard policies” (emphasis in original), thus mixing the old terminology (“safeguard policies”) with what appears to be the newly enacted Performance Standards. Id.
388 Id. at 8
391 While the Environmental Assessment should “take into account . . . the country’s overall policy framework and national legislation,” the provision would only require that the IFC deny funding for those projects that contravene “obligations of the country, pertaining to project activities, under relevant international environmental treaties and agreements. IFC Operation Procedure § 4.01.3 (1998).
applied some of the Performance Standards in their assessment since compliance with domestic law and use of protective gear are both addressed in the project assessment. This gesture, however, is not an adequate substitute for formal application of the Performance Standards, since it obscures the obligations of the IFC itself in fulfilling its role.

Under the Safeguard Policies, for example, the IFC may not have been required to scrutinize Tata’s compliance with domestic law, particularly the Plantations Labour Act. Under the Safeguards, compliance with domestic law was not a clear prerequisite to funding. 391 But, the Performance Standards, which the IFC acknowledges as applying to APPL in its current conduct, are less ambiguous in this regard, and require that a host country’s applicable social and environmental laws and international obligations be “taken into account.” 392 The obligation is even more emphatic in the context of labor conditions, where the Standards require “working conditions and terms of employment that, at a minimum, comply with national law.” 393

**Lack of Due Diligence**

Regardless of the standards applied, the IFC failed to identify the poor working and living conditions on the plantations. With little evidence, the Environmental and Social Review Summary concludes that the project “compl[ies] with the environmental and social requirements – the host country laws and regulations and the World Bank/IFC environment and social policies and the environmental, health and safety guidelines.” 394 As noted by the CAO Appraisal, the IFC affirmed Tata’s labor practices without referencing the voluminous history of labor problems on plantations in the region. 395 The Plantations Labour Act is never specifically mentioned, nor is the history of its inadequate implementation. Rather, the IFC assumes compliance, apparently not on the basis of independent verification, but on the basis of Tata’s reputation alone. As mentioned, the company is described by the IFC as an internationally recognized “leader in progressive environmental, social responsibility and occupational health and safety initiatives.” 396

In addition to relying on Tata’s reputation, the IFC also relied on Tata’s claims about third party mechanisms that supposedly ensured a

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394 Environmental and Social Review Summary, supra note 374.
395 The CAO Appraisal finds it “noteworthy that discussion of the history of complex union politics, labor unrest and ethnic tension around the tea plantations of India’s Northeast is absent from the E&S [Environmental and Social] review and Board documentation.” It then goes on to footnote a list of scholarship that the IFC could have consulted to uncover this important background information. CAO Appraisal, supra note 375, at 7.
396 Environmental and Social Review Summary, supra note 374. Although the Review goes on to discuss several social issues, such as labor management practices, workplace and community health and safety, and the handling and management of agrochemicals, it identifies no problems.
certain level of compliance with labor and social standards. As noted by the CAO, “Confidence was also drawn from the numerous levels of third party oversight (public, union, and standards bodies) which were seen to assure good labor practice in the plantations . . . . Similarly lacking was documentation to suggest that IFC was in a position to draw robust conclusions as to the adequacy of third party oversight.”

In light of the experience of the research team, it seems unlikely that the IFC made any serious effort to visit the labor lines or to speak with workers independently. Given the isolation of the plantations, and the time required to travel to and from them, the three days that the IFC spent visiting three plantations would have conditions. If the IFC’s practice was consistent with that of the other “auditors” identified by workers, the visits would in any case have been strictly controlled by management to ensure that there was no unsupervised contact with workers, and no visit to the labor lines.

But even cursory due diligence should have generated substantial doubts for the IFC that labor and health conditions on the plantations could possibly have been in compliance with IFC standards, or that the project would comply with policies related to displacement from land. With regard to sanitation, for example, the Performance Standards provide, “The client will prevent or minimize the potential for community exposure to water-borne, water-based, water-related, vector-borne disease, and other communicable diseases that could result from project activities.” The need for mitigation of this risk should have been immediately apparent in a substantial number of the plantations, given the condition of sewers and latrines, and the limited access to clean water.

Similarly, many of the claims made about services, such as the quality of health care, would have been called into question by any degree of observation and interviews. The Review describes a generous and functioning “system of estate hospitals,” including “intervention for safe motherhood . . . nutritional care of children . . . [and] regular health education programs.” This picture bears little relationship to the reality of the health care on the plantations and the prevalence of health problems that are documented in the previous section.

In regard to the health of pesticide sprayers on the plantations, there are reasons to believe that the IFC did in fact discover problems, but did not take them seriously. The Review concluded that Tata “endeavors to rotate” sprayers and that they are given quarterly medical check-ups, including cholinesterase and other blood tests, bilirubin tests, chest x-rays and urinalysis. It further found that sprayers were given proper training and “all requisite personal protective equipment (PPE) including hand gloves, goggles, masks, boots and aprons.” Ultimately, the documents taken as a whole suggest that, while the IFC approved

397 CAO Appraisal Report, supra note 375, at 9–10. The failings of unions and government enforcement are discussed above in Section II; weaknesses in private monitoring mechanisms are discussed below (Private Certification – SA8000 and the Ethical Tea Partnership).
398 See supra, “Audits,” in Part II.
400 See Environmental and Social Review Summary, supra note 374.
401 Id. The Review Summary also finds that Tata uses no pesticides listed by the IFC as banned or “should be avoided.” We found two plantations on which sprayers were spraying Endosulfan, a substance currently banned by India, but already listed as “moderately hazardous” by the WHO when the Review was undertaken. IFC guidelines forbid a client to use pesticides in this class “if they are likely to be accessible to personnel without proper training, equipment, and facilities to handle, store, apply, and dispose of these products properly,” IFC Performance Standard § 3.15 (2006), making the poor training and protective gear of sprayers especially troubling.
402 There are discrepancies between the public Environmental and Social Review Summary and an internal project proposal written by the IFC Vice President and Corporate Secretary before the project was approved. The most salient example concerns the provision and use of protective gear for chemical sprayers, which is a particularly important issue in light of the death of a spray worker due to suspected pesticide exposure at APPL’s Powai Tea Estate in May 2010. The memo takes a less confident tone than the public assessment quoted above, finding that although Tata has systems in place for training, as well as handling and storing chemicals, “IFC has identified some gaps in these programs.” Indeed, this is the one area of improvement identified in the Action Plan for Tata to achieve compliance. Environmental and Social Review Summary, supra note 374.
the project, it may have been more aware of “red flags” than the Environmental and Social Review itself reveals.\textsuperscript{402}

Another glaring gap in the assessment is the absence of any evaluation of the potential negative impacts of diversification, particularly the loss of the land traditionally used by workers for growing rice and vegetables for their own consumption. The IFC’s Performance Standards regarding physical or economic displacement due to land confiscation extends to both formal and informal claims to land,\textsuperscript{403} so workers’ lack of title to the lands would not have stood in the way of application of IFC procedures. Additional, more stringent procedures are triggered when displaced persons are indigenous, as is the case here.\textsuperscript{404} Yet these provisions appear not to have been considered in the context of the diversification plan.

**CAO COMPLAINT**

In May 2012, the Compliance Advisor/Ombudsman (CAO), the independent recourse mechanism for the IFC, took the unusual step of initiating a compliance appraisal of APPL. According to the CAO’s Annual Report, the decision was made due to complaints made about “worker health and safety standards on two tea estates where violent protests and deaths had been reported.”\textsuperscript{405}

At the appraisal stage, the CAO’s investigation is limited to project documents and does not involve site visits. Nevertheless, the Appraisal identified reasons to question the adequacy of the IFC’s project supervision both during the initial assessment of environmental and social standards, and during the outbreak of violence at Powai and Nowera Nuddy, the two estates in question. The CAO “questions whether IFC had sufficient evidence to support the strong positive findings” in its Environmental and Social Review,\textsuperscript{406} and “is unclear whether IFC adequately discharged its duty” in regard to the “labour disputation and associated conflict.”\textsuperscript{407}

The CAO Appraisal raised particular concerns that the IFC assessment overlooked violations of Performance Standard 2 regarding Labor and Working Conditions. The lack of independent union representation is also alluded to, as having contributed to the problem: “CAO finds that this case demonstrates challenges in the assessment and supervision of PS2 risks that emerge from the nature of the relationships between an IFC client, its workers and the unions that represent them.”\textsuperscript{408} The Appraisal, however, does not explicitly address the worker-shareholder plan or the diversification, both of which were at the heart of the IFC’s involvement in the project.

**PRIVATE STANDARDS – SA 8000 AND ETHICAL TEA PARTNERSHIP**

In addition to relying on Tata’s reputation, and on the assumption that labor inspectorates in India ensure compliance with domestic law, the IFC also gave great weight to the fact that the Tata plantations participated in private, multi-stakeholder mechanisms that are supposed

\textsuperscript{403} IFC Performance Standard § 5.14 (2006): “Displaced persons may be classified as persons . . . who do not have formal legal rights to land, but have a claim to land that is recognized or recognizable under the national laws [i.e. adverse possession or customary or traditional law].”


\textsuperscript{405} The report significantly notes these concerns as a violation of Performance Standard 2, which suggests that contrary to what is written in the public project documents, the reformed safeguards apply to the project. CAO, Annual Report 2012, at 66.

\textsuperscript{406} CAO Appraisal Report, supra note 375, at 7.

\textsuperscript{407} Id. at 9–10.

\textsuperscript{408} Id. at 10.
The IFC’s Response to Complaints: Neutral Arbiter or Tata Partisan?

Following the events that set off worker protests at the Nowera Nuddy and Powai tea estates, the IFC was confronted with demands that it respond to the situation and address the possibility that the protests indicated serious human rights violations at APPL. However, there are no indications that the IFC subsequently undertook any objective assessment of conditions at APPL, or used its influence to ensure meaningful remedies. Rather, the IFC served as a highly partisan defender of Tata and APPL, continuing to insist that there has been no wrongdoing by management, in the face of mounting evidence to the contrary.

Personnel from U.S. Treasury and the State Department, acting on behalf of the U.S. Executive Director of the World Bank, alerted the IFC to their concerns in August 2010. They had heard reports that a spray worker had died at Powai, allegedly from overexposure to pesticides, and that two young men protesting his death were shot and killed. Paolo Martelli, the IFC’s Director for South Asia at the time, responded in an email that the IFC was aware of the “labor unrest,” but saw no cause for alarm. He said that the IFC would soon be visiting the estates as part of its regular supervision, and promised it would then “study the ground reality and assess if there is any basis for these NGO queries/allegations.”

Martelli met with then-Managing Director of APPL, Hardeep Singh, in September 2010, and was apparently told that the protests were nothing more than local unions jockeying for power. On the basis of this assertion alone, Martelli in turn reported back to Treasury that the allegations were “false,” and that there was no violation of IFC performance standards at APPL.

When Treasury asked Martelli in greater detail about Powai, it emerged that he was unaware of the particular “labor unrest” there. In the four months since the deaths at Powai, no one from APPL had reported them to the IFC, and Singh had failed to mention them during the course of the meeting.

The Political and Economic Affairs Officer at the U.S. Consulate in Kolkata, having decided to pursue the matter on his own, dispatched a representative to visit Powai. The representative concluded that, “at the least, the Amalgamated project is very controversial from a labor/legal/human rights perspective,” and recommended that either the U.S. Government reconsider its association with the project, or make support contingent on “an independent participatory and public mechanism to review and correct labor practices.”

Even after this report had been shared with the IFC, and Martelli had been replaced as Director for South Asia, the IFC maintained the same line: Tata and APPL’s account of events was the true version, there were no violations of IFC policies at the tea plantations, and no independent investigation was necessary.
to ensure high social standards. This includes SA8000 and the Ethical Tea Partnership. As noted critically by the CAO Appraisal, these private mechanisms figured prominently in the IFC's assessment of Tata's compliance with labor standards, apparently substituting for the IFC's own judgment. In reality, while private mechanisms should supplement the requirements of Indian law, they appear, instead to have deflected attention from the absence of company compliance and state enforcement, as detailed below.

**SOCIAL ACCOUNTABILITY INTERNATIONAL’S SA8000**

The weaknesses of SA8000 relate not so much to the standards themselves as to their implementation. Many of the SA8000 standards echo IFC requirements, but there are also some significant additions with respect to workers’ rights. The rules covering remuneration are particularly progressive, and their lack of enforcement is the source of recurring complaints from workers at APPL estates. For example, the SA8000 standards require that workers be paid a “living wage,” that wages and benefits be clearly described to workers, that all overtime must be reimbursed at a premium rate, and that the company may not use consecutive short-term contracts or other schemes to keep workers in a state of precarious employment. In many cases, APPL would appear to be in flagrant violation, as detailed above.

Health and safety is another area where SA8000 standards include relatively detailed requirements, and where problems persist. Companies are required to take “effective steps” to prevent accidents and minimize hazards inherent in the work environment by appointing a “senior management representative” to implement specific safeguards. These include on-the-job health and safety trainings, protective equipment and medical assistance in the case of an accident, access to clean toilets and potable water, and dormitories that are “clean, safe, and meet the basic needs of personnel.” Many of these rules provide a useful supplement to IFC labor rules, which do not adequately contemplate the needs of workers living on employers’ premises. Many of the SA8000 provisions speak directly to problems identified by workers in regard, for example, to unsanitary latrines and inadequate housing.

Nevertheless, despite the clarity of the standards, and the egregiousness of the violations at APPL, the plantations all received SA8000 certification. One reason for the gap between the rules and the compliance may be the complacent relationship between Social Accountability International and the corporations it is intended to regulate. This relationship is particularly noticeable with respect to Tata, where the Managing Director of Tata Industries, Kishor Chaukar, is a member of SAI’s Advisory Board. SAI’s President, Alice Tepper Marlin, is quoted in a Tata brochure lauding this close relationship, saying: “I am honored to consider many at Tata

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409 SA8000 certification was launched by the NGO Social Accountability International (SAI) in 1998. It is funded by individual, governmental and corporate donations and has an eight-person Board of Directors, with a mix of corporate and NGO representatives. An Advisory Board equally divided between business and non-business representatives sets the SA8000 standards and proposes revisions. The Advisory Board also serves other functions, including, in some cases, hearing complaints. See SAI, “About SAI: Who We Are,” [http://www.sa-imi.org/index.cfm?Fuseaction=Page.ViewPage&pageld=490](http://www.sa-imi.org/index.cfm?Fuseaction=Page.ViewPage&pageld=490).

410 CAO Appraisal, supra note 375, at 9–10; In the Environmental and Social Review Summary, supra footnote 374, the section titled “Labor management practices, including child labor, in the Company and its supply chain” notes only two measures of compliance, the second of which is the project’s SA8000 and ETP certifications. In the project proposal, under “Quality Management,” these two certifications are the only safeguards mentioned. IFC Memorandum, supra footnote 270, at 8.

411 The SA8000 standards are based on ILO Conventions and include eight areas: child labor, forced labor, occupational health and safety, freedom of association and right to collective bargaining, discrimination, disciplinary practices, working hours, and compensation. A ninth section provides for “management systems” to implement and monitor the standards.

412 SA8000 Standard 8.3.

413 SA8000 Standard 8.4.

414 SA8000 Standard 8.5.

415 SA8000 Standard 3.1.
Group colleagues, as we move forward together to ensure decent work for individuals around the globe.” While partnerships between NGOs and corporations may be a commendable step toward improved labor conditions, they present a risk when these voluntary certification schemes replace or distract from mandatory regulation processes, such as those of the IFC.

Another concern is the inadequate independence of the certification process. The company’s control over the outcome is reinforced by the fact that it pays for the certification, which is then conducted by approved Certifying Bodies (CBs). The CB that approved APPL’s SA8000 certification was the Norway-based risk management company Det Norske Veritas (DNV). The requirements set out in the SA8000 standards require the CB to maintain proper records of “frequent announced and unannounced monitoring” and to make this data available to “interested parties.” The reality however is very different.

In response to the research team’s initial request for information DNV disregarded SA8000 rules stating that they “are bound by ‘confidentiality agreement’ with the client.” After the research team obtained the intervention of Social Accountability Accreditation Services (SAAS), DNV provided limited details. Rupam Baruah, Head of North East Operations for DNV, reported that the initial audit included six tea estates, and that there was periodic auditing of four tea estates every six months. He claimed that DNV “allocate minimum 1 manday besides lady interviewer.” He did not indicate whether audits are announced in advance. DNV did say that they visited the labor lines “to assess company provided quarter in line with PLA and tripartite agreement.” and reported that they secured input from workers, both through direct worker interviews “and through Union as required.”

Though the Project Manager for Social Accountability Accreditation Services had specifically informed DNV that it would be appropriate to provide us with information about “concerns you have found at these plantations,” Mr. Baruah refused to respond to the question of whether there “were any other

416 SA8000 Standard 3.2
417 SA8000 Standard 3.3
418 SA8000 Standard 3.5
419 SA8000 Standard 3.7
420 SA8000 Standard 3.9
422 The Tata brochure, “A Journey Towards an Ideal,” is available on SAI’s website. The full quote reads as follows: “As the President of Social Accountability International (SAI), I have had the distinct pleasure of working with various members of the Tata Group, and have learned from their visionary approach to social responsibility. The work of the Tata Group and TCCI is a consistent inspiration forme, providing insight into what can be accomplished in India for workers through sustainable business practices and dedicated community development. I am honored to consider many at Tata Group colleagues, as we move forward together to ensure decent work for individuals around the globe” (62). Available at http://www.sa-intl.org/index.cfm?fuseaction=documentShow&DocumentId=358&varuniqueuserid=61988692628
423 SA8000 Standard 9.7(d)
areas of particular concern” and how they were addressed. Instead, at the end of his brief email, he wrote, “I feel this will suffice your query.”

**ETHICAL TEA PARTNERSHIP**

The Ethical Tea Partnership [ETP], which is mischaracterized by the IFC as a certification mechanism, also has some meaningful substantive requirements, but it has even less significant enforcement. Companies voluntarily agree to the conditions and submit an annual self-assessment. ETP then analyzes these assessments and identifies “key areas of risk for producers and priorities for improvement.”

Third party auditors may be used, but there are no rules for when such audits are required.

Unlike SA8000, the plantations’ participation in ETP predates the change in the ownership structure and the involvement of the IFC. ETP was formed by a group of tea producers in 1997 and Tetley, which was acquired by Tata Tea in 2000, was a founding member.

The ETP standards are similar to those of the SA8000, although they also include environmental provisions. There are specific standards related to the safe handling of agrochemicals, access to hygienic washing facilities and clean toilets, access to potable water, and housing that is “clean, safe and adequate.” In addition, there is a special provision requiring employers to “provide welfare and social services which meet the needs of women workers, particularly those with family responsibilities and pregnant female workers.” Wages must be “sufficient to meet basic needs of workers and their families and to provide some discretionary income,” the conditions in respect to wages must be made clear to workers before entering into employment, and deductions may only be taken as provided for in national law or with the employee’s permission.

In the absence of meaningful enforcement, the ETP process – like SA8000 – functions primarily to shield APPL from rigorous scrutiny, rather than to ensure compliance with the high standards it sets forth.

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425 Email from Rupam Baruah, Head of North East Operations at Det Norske Veritas AS, June 3, 2012.
426 Email from Salah Husseini, Project Manager, Social Accountability Accreditation Services (SAAS) to Rupam Baruah, head of North East Operations at Det Norske Veritas AS, June 26, 2012 (“I see no harm in sharing with him general audit procedures and concerns you have found at these plantations”). This email followed an email to Salah Husseini, June 12, 2012.
427 Email from Rupam Baruah, June 27, 2012.
428 Email from Rupam Baruah, July 16, 2012.
430 In addition to mischaracterizing the ETP as a certification mechanism, the IFC claims that it require third party auditing. “Independent monitoring bodies assess a range of indicators including minimum age of workers, minimum wage, hours or work, equal opportunity, total remuneration, workplace health and safety conditions, medical and education facilities, housing, and basic human rights.” Environmental and Social Review Summary, supra note 270.
432 The social categories are: Freely Chosen Employment; Freedom of Association and the right to collective bargaining; Health and Safety; Child Labour; Wages and Benefits; Working Hours; Discrimination; Regular Employment; and Disciplinary and Grievance Procedures.
433 Ethical Tea Partnership Global Standards § 3.7 (Sept. 2011).
434 Ethical Tea Partnership Global Standards § 3.9 (Sept. 2011).
435 Ethical Tea Partnership Global Standards § 3.10 (Sept. 2011).
436 Ethical Tea Partnership Global Standards § 3.14 (Sept. 2011).
437 Ethical Tea Partnership Global Standards § 3.13 (Sept. 2011).
438 Ethical Tea Partnership Global Standards § 5.1 (Sept. 2011).
439 Ethical Tea Partnership Global Standards § 5.3 (Sept. 2011).
440 Ethical Tea Partnership Global Standards § 5.3 (Sept. 2011).
PART V

CONCLUSIONS AND RECOMMENDATIONS
Amalgamated Plantations Private Ltd. (APPL) employs more than 31,000 workers in the Indian tea sector. By operating tea plantations, the company is obligated to meet the conditions of one of independent India's most expansive pieces of protective legislation, the Plantations Labour Act of 1951. By partnering with the World Bank's International Finance Corporation, the Tata Group promoted APPL as a development project, subject to international standards and scrutiny. The evidence in this report shows that APPL is not living up to its commitments and that both Tata and the IFC bear responsibility for this failure.

**LIVING AND WORKING CONDITIONS**

Our findings, based on visits to 17 of the 24 plantations, indicate multiple violations of the domestic legal framework, especially of the Plantations Labour Act. These include the following:

- Denial of health care and subsidized food to thousands of workers and their dependents, who are explicitly covered under the law.
- Grievous lack of attention to the repair and upkeep of housing, the provision of adequate, clean water, and the maintenance of basic sanitation in the “labor lines” where workers live.
- Low wages further eroded by illegal forms of casualization, unjust wage deductions, or unrealistic work quotas that require workers to perform unpaid overtime work and/or share their wage with a helper.
- Nonexistent or highly inadequate measures to protect the health and safety of workers spraying hazardous chemicals.

The problems persist, with little effort by the state to investigate potential violations, or penalize employers. APPL points to its partnership with private regulatory schemes – Social Accountability International and the Ethical Tea Partnership – as evidence of ongoing external monitoring and certification of compliance with labor and social standards. However, the research team identified significant flaws in the operation of these schemes at APPL, particularly at the level of audits, which substantially undermine their credibility.

APPL also emphasizes the presence of trade unions at its plantations, as further evidence that workers have real avenues to raise complaints about any violations that may have occurred. But through the maneuvering of employers and the state government in Assam, a single trade union, the Assam Chah Mazdoor Sangha (ACMS), maintains a monopoly in the state. On the basis of extensive worker testimony, the research team concludes that, rather than enabling workers to challenge conditions on the plantations, ACMS has largely served to suppress incipient worker protest and to conduct surveillance in the labor lines on behalf of management. While it is still too early to reach conclusions about West Bengal, the situation there appears to be marginally better, and newly emergent forms of unionism have already led to some significant gains.
EFFECTS OF THE SHARE PLAN AND ECONOMIC DIVERSIFICATION

The transition to APPL, including the sale of shares to workers and the diversification into fisheries, has generated new difficulties for workers.

Workers were pressured into buying shares without fully understanding the complicated plan or the risks involved. Most of the workers interviewed by the researchers had profound misunderstandings about how they were paying for the shares. After initial efforts to explain the plan were abandoned by Tata and the IFC, in the wake of worker resistance, there has been no meaningful communication with workers, including those who bought shares. Even the annual reports are not made available to the worker-shareholders.

There is little evidence to suggest that share ownership will benefit workers in the longer term. Worker-shareholders have no role in the governance of the company. The guaranteed interest of 6% on shares is 30% less than the rate of interest on long term savings provided by commercial banks, and in any case will come to an end when the shares vest in 2014. While management claims that shares have increased in value, this is impossible to verify since APPL shares are not traded in the open market and financial reports are not shared with the public. Furthermore, APPL has been and continues to be the beneficiary of significant "hand-holding" – such as guaranteed sales and, possibly, preferential pricing for its tea – by Tata; it is unclear how the company will fare when it is weaned of that support.

APPL’s diversification into fisheries and black pepper production was supposed to create an expansion of higher-quality employment. Instead, it has resulted in a handful of extremely precarious jobs, and some expansion of day labor; in all cases we encountered, these workers have low wages, no benefits, and no security of tenure. The fisheries, which management had claimed were constructed on “fallow” land within the tea estates, involved the seizure of land that had been allocated to workers and their families to grow rice and vegetables for their own subsistence. For the families that had land and have lost it, the diversification scheme has entailed a significant net loss.

THE ROLE OF THE IFC AND PRIVATE CERTIFICATION

The IFC’s investment in APPL bolstered its reputation for social responsibility and provided needed capital for the project. By partnering with the World Bank, Tata recast a business decision to minimize its exposure to the risks associated with operating plantations into a plan for promoting economic development in the backward tea-growing regions of India.

The IFC, in turn, appears to have exercised little critical scrutiny in advance of the project or meaningful oversight during the implementation. Rather than serving as the “honest neutral broker” in connection with the sale of shares, the IFC became an avid promoter and defender of the project. It did not undertake the required independent scrutiny of Tata and its record; rather, it relied on Tata’s reputation as an internationally recognized “leader in progressive environmental, social responsibility and occupational health and safety initiatives,” and on third-party verification by Social Accountability International and the Ethical Tea Partnership. While private certification also offers promise if seriously enforced, it currently lacks credibility. Audits are announced in advance, are tightly controlled by management, and do not appear to involve any independent interviews with workers or meaningful visits to the labor lines. According to the standards and procedures which these
bodies aim to follow, private certification should supplement and reinforce domestic law. In the case of APPL, it appears to have deflected from the lack of state enforcement.

**RECOMMENDATIONS**

It is beyond the purview of this report to provide comprehensive recommendations to correct the problems on APPL plantations. In order to address the concerns legitimately, Tata, APPL, and the IFC must engage in a process that is transparent and genuinely participatory. Many of these problems are sector-wide, and will require sector-wide solutions.

At the same time, there are certain violations of law and policy at the 24 APPL tea estates that are entirely within the company’s power to remedy, and could be ended immediately. For example:

- **The discriminatory denial of benefits to plantation workers and their dependents.** Temporary workers, the dependents of female workers, and the parents of all workers are entitled to these benefits by law and should receive them.

- **Interference with workers’ rights of free movement, and their right to receive visitors in their own homes.** The law guarantees public access to the “labor lines,” and this right must be respected. This applies not only to workers’ friends and family seeking to visit them, but also more generally: anyone should be able to enter the labor lines, and enter workers’ homes if workers invite them to do so, without having to notify management. The direct or indirect surveillance of workers must also cease.

- **Restrictions on workers’ right to form and join a union of their choice.** APPL is currently complicit in maintaining the monopoly the ACMS, in the state of Assam. Management must allow workers to be represented by the union of their choice in any negotiation or dispute, and must end the practice of deducting dues from all workers at source to give to ACMS. Until such a time as there is a legitimate election, workers should be free to pay dues to the union of their choice, after receipt of their wages.

- **Erosion of wages through unfair deductions and high task rates.** Among the many factors that contribute to the impoverishment of workers at APPL, there are two that should be corrected immediately: electricity costs, and high task rates that require workers to perform unpaid overtime and/or share their wage with helpers. In the immediate term, the plantations must ensure that workers do not have to pay industrial rates for residential electricity connections, and should place no obstacles in the way of workers seeking to obtain subsidized “Below Poverty Line” electricity connections through the government. For tasks such as pruning and clearing drains, management must ensure that the work can be completed by a single worker within the eight-hour workday. There should be no wage deduction for workers unable to complete the task, and no uncompensated overtime.

- **Sale of APPL shares to workers through deception and coercion.** The plantations must act immediately to enable workers to opt out of the share ownership scheme, and return to the status quo ante. Failing a meaningful opt out mechanism, APPL must immediately convert the “share sale” plan to a share grant, refunding all paycheck deductions to date and ceasing any further deductions, given that most workers are ill able to afford them.

- **Seizure of workers’ agricultural land.** It will be difficult to reverse the confiscation of land, given that it has, for the most part, already been converted to fisheries.
However, compensation should be paid at once, equivalent to the fair market value of the land, in order to enable those workers to purchase plots elsewhere if they desire.

The chronic violations of the Plantations Labour Act, related to housing, sanitation, medical care, education, occupational health and safety, and other entitlements for workers and their families, will require a thorough, objective and transparent review of compliance, and a clear timetable for implementing solutions.

Many violations associated with the share ownership plan will also require longer-term remedies. Worker participation in the governance of APPL, through proportional representation on the Board, must be put in place, along with a system of communicating with worker-shareholders, in local languages, about the performance of the company.

The IFC has an important role to play in developing long-term remedies and ensuring their implementation. While it would be hard to deny that the IFC failed to exercise due diligence prior to approving the project, this should not become an excuse for it to “cut and run” at this critical stage, and pull out its investment. Until the original stated goals of the project are achieved, in compliance with the Performance Standards, the IFC must maintain its investment level and stay fully engaged in resolving violations.

Finally, the IFC must act immediately to ensure that workers understand that they have a right to bring complaints before the Compliance Advisor/Ombudsman (CAO), as well as other complaints mechanisms and grievance procedures. In particular, the IFC must acknowledge that there has been management surveillance of, and retaliation against, workers who have attempted to reach out to auditors and inspectors, including the CAO, and it must intervene promptly to ensure workers’ safety.
“The More Things Change ...”
The World Bank, Tata and Enduring Abuses on India’s Tea Plantations
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