

September 7, 2018

IFC Investment in India Hotel Sector

Responsible Investment in the Sustainable Tourism Sector

The hospitality sector has the potential to contribute to the creation and sustainability of decent work and development. The United Nations Development Program recognizes that “representing 10% of world GDP, 1 in 10 jobs and 7% of global exports, tourism has a decisive role to play in the achievement of the 2030 Sustainable Development Agenda.”[i] The OECD recognizes tourism as one of the largest and fastest growing sectors in the world economy[ii] and the Sustainable Development Goals include the sector in Goal 8 on Decent Work and Economic Growth as well as Goals 12 and 14 on Responsible Consumption and Life Below Water.[iii] The ILO estimates the number of jobs in the sector to grow from 284 million worldwide in 2015 to 370 million worldwide by 2026. 20% of those workers are employed within multinational enterprises operating increasingly through brand identities using management contracts and franchising models.

India’s travel and tourism sector ranks 7th in the world in terms of its total contribution to the country’s GDP and 2nd in the world in terms of total employment generated. The 25.9 million jobs created in 2017 made India the country with the most robust growth in the sector among G20 countries. Hospitality is also among the top ten sectors in India to attract foreign direct investment. Much of this growth is centered around globally branded hotels including Marriott. India’s globally branded hotel sector has expanded rapidly growing from under 20% of the rooms in India in 2002 to about 50% of current rooms and with the expectation of over 75% of the rooms by 2020. In this emerging business model, Marriott appears to increasingly function as a managing partner or franchisee requiring adherence to its global human resources policies for employment practices. Industry reports also predict that an increasing amount of Marriott International’s global profits will arise from Indian and Asian travelers staying in these Indian and Asian hotel properties.

Recognizing these opportunities and also the risks to decent work if investments do not address longstanding obstacles in the sector that have led to poverty wages, gender discrimination, and decline in union strength and access to freedom of association for workers, the International Labor Organization has issued guidelines on Decent Work and Socially Responsible Tourism (2017) also emphasize the importance of the hospitality sector raising wages above minimum floors to meet the needs of hotel workers and their families.[iv] The ILO recognizes jobs in socially responsible tourism are not limited by national law, but are held to the standard of creating opportunities for development that prioritize employment creation at local level, contribute to social and economic development and poverty reduction and expansion of local incomes along with strengthening social dialogue mechanisms and collective bargaining which enhance working conditions, career prospects and job security to the benefit of the workers. Democratic industrial relations must be at the core as trade unions play an integral role in ensuring normative behavior of business; expressing grievance of the workers; and channelizing workers’ aspirations into new forms of collective bargaining agreements.

The IFC's Investments in Hotels for Development

A sister organization of the World Bank, the International Finance Corporation makes private sector investments and mobilizes additional third party investments towards private sector projects that create development outcomes. The IFC recognizes that its investment is often first in the sector and able to be leveraged for additional private sector funding. The IFC has made significant investments in globally branded hotels through its sustainable tourism portfolio. Among other purported development goals, the IFC recognizes that hotels create permanent jobs with living wages with the potential to employ a higher percentage of women and youth.

The IFC loans have been structured to grant loans to real estate holding entities in developing countries that partner with U.S and European globally branded operators. Marriott International, the largest hotel chain in the world with more than 6,500 properties in 127 countries and earning more than \$22 billion in the 2017 fiscal year, has funded its global growth in part through these preferential loans.

These new loans to the sector have the potential to develop best practices or to compound longstanding obstacles through further fragmentation of employment relationships and gap between workers and entities with financial control of the project.

Background on the India Hotels Project with SAMHI and Marriott International

In 2014, the International Finance Corporation approved \$20.95 million dollars in financing to SAMHI covering a portfolio of hotels operated under the brand of and by global hotel operators including Accor, Marriott, Hyatt, and Starwood. SAMHI disclosed that the IFC financing was intended to “[r]e-inforce the stamp of approval for [SAMHI] as an internationally recognized investor and act as a catalyst for the SAMHI’s future IPO/capital raising plans.” From the origination of the loan, IFC was projected to play the role of “formulat[ing] and implementing [the Economic and Social Action Plan (“E&S”)] to introduce social/labor management systems,” thus anticipating a robust role for the IFC.

The Economic and Social Action Plan approved by the IFC in 2014 skeletally relied on Accor’s human resources policies, on the basis that they were in compliance with Performance Standard 2: Labor and Working Conditions requirements. At the time, SAMHI did not detail out its plan for its engagement with or the role for trade unions in any phase of the ESAP; however, this was less important as Accor had already entered into a global framework agreement with the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers’ Associations which provides a structure for social dialogue and collective bargaining.

Insufficiencies in the Economic and Social Action Plan

On September 7, Hotel Mazdoor Panchayat, a trade union in India, and Global Labor Justice raised concerns about the projects failure to comply with articulated **Performance Standard 2: Labor and Working Conditions (2012)** based on engagement with workers at hotels covered by the project.[v] Issues raised included:

- *In the four years since the IFC approved the loan to SAMHI, SAMHI has taken over Accor JV hotels rendering significant portions of the ESAP inoperable and now works with Marriott as the globally branded operator on the majority of its hotel properties.*
 - *Marriott's global employment policies and statement on human rights include right to work language and do not include adequate protection for Freedom of Association or trade unions as stakeholders. IFC experience shows that these insufficiencies can be overcome with explicit policies and actions by the loan recipient absent in these documents.[vi]*
 - *Women workers at Marriott Hotels across the globe allege that Marriott's global employment policies and statement on human rights do not protect them from sexual harassment and gender based violence. [vii] Marriott has refused to meet with IUF regarding a global agreement to address these issues.*
 - *As result of the changes during this period, workers face actual working conditions that fall below "reasonable working conditions and terms of employment" and below Indian national law. Workers also can be collectively heard to express inconsistency in employment conditions within and across hotels covered by the project, undermining the IFC's continued reliance on Marriott as a global operator engaged in true standard setting and then standardization across hotels.*
- **Wages:** *Based on the reports of workers at the hotels covered by the project, a significant number are earning wages which do not support development for their families and communities, and in fact fall below the amount allowed by PS2 or Indian law for an entity with SAMHI's and Marriott's capacity to pay. This is the case even though the room rates more than allow the capacity to pay higher wages.*
- **Contract/ Third Party Labor:** *Workers in the hotels covered by the project reported being inappropriately relegated to third party labor status with lower labor standards while remaining in positions that are permanent and core to the function of the hotels in apparent violation of PS2 and Indian contract labor law and jurisprudence.*
- **Freedom of Association:** *No worker reported receiving information, documentation or training that they have a right to form a union without facing retaliation. And of grave concern, one worker reported that joining a trade union is not permitted by his employer.*
- *In addition to these violations, workers at the hotels covered by the project report two additional issues that raise serious concerns about the application of PS2. First, the relationship between SAMHI, Marriott, the hotel owners, and various third party contractors remains opaque. Second, workers report a patchwork of inconsistent policies across the hotels. Both contribute to a high risk*

that some workers to fall through the cracks of the floor PS2 is designed to create. These are likely to be workers with structurally vulnerabilities including women and migrants who may also face additional discrimination.

Action Steps for the International Finance Corporation

As the ILO has recognized, when undertaken with a commitment to decent work and sustainable development, investments have the potential to expand job creation especially for women and young people.[viii] The entry of global operators like Marriott with significant financial resources offers an opportunity to model best practices when projects are undertaken in collaboration with trade unions in social dialogue and through collective bargaining. The International Finance Corporation investment including India should be investment that brings decent jobs, is environmentally sustainable, and does not negatively impact local communities.

Towards that end, HMP Union and GLJ have proposed the following action steps to ensure the hotel workers' conditions are remediated going forward and SAMHI and Marriott undertake their obligations to be in dialogue with HMP and other unions organizing within the hotels covered by the project as follows:

1. As an immediate matter, HMP Union renews its request that the IFC meet with HMP Union in India to discuss specific action steps to ensure freedom of association is protected and no workers faces fear, threats, or retaliation for engaging in protected concerted activity including:
 - a. Taking notice of this risk and reminding the loan recipient and other stakeholders of their obligations not to engaged in actions that are or would be perceived as retaliatory against workers during this critical phase of dialogue; and
 - b. Providing HMP Union a point of contact in India who the union may reach out for an immediate conversation on remediation should a violation of freedom of association occur.

While the IFC acknowledged receipt of HMP Union's August 17, 2018 letter previously requesting these action steps, the Union has yet to receive a substantive response and has no reason yet to believe the IFC has put these specific anti-retaliation measures in place.

2. Require SAMHI, Marriott, and any other entity engaged in the employment of core workers at the hotels covered by the project to provide evidence of an agreement with HMP and any other union organizing in the hotels covered by the project for an agreement that affirms their commitment to PS2 requirements and International Labor Standards codified therein including ILO Convention 87 on Freedom of Association and Protection of the Right to Organize and ILO Convention 98 on the Right to Organize and Collective Bargaining.

3. Ensure SAMHI and Marriott establish and foster dialogue with HMP Union, and other unions organizing in the hotels covered by the project and workers in the areas of:
 - a. Review of SAMHI's information and analysis on which its employment standards are set including minimum wages, use of contract labor, and criteria for agencies that provide contract labor.
 - b. Development and implementation of a joint remediation plan covering violations of PS2 in the last four years.
 - c. Collective bargaining with sufficient transparency and monitoring to ensure reasonable employment standards in the future.
4. Conduct additional due diligence into working conditions and terms of employment including directly employed and third party workers and require an updated, public ESAP that (1) takes into account the shift from Accor to Marriott as the primary partner in a number of hotels; (2) guarantees compliance with all relevant International Labor Standards, in particular ILO Conventions 87 and 98, and (3) clarifies how consultation with all relevant trade unions at all remaining stages of the project through SAMHI's IPO.
5. Use its leverage as a financier to ensure that SAMHI and Marriott partner productively with HMP and other unions organizing in the hotels covered by the project to model best practices as to freedom of association, labor standards for development, and ultimately collective bargaining including exercising its right to board participation as a SAMHI shareholder voting its shares in support of business decisions that strengthen PS2 compliance at each phase of the project.

*For more information, reach out to
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Global Labor Justice is a strategy hub supporting transnational collaboration among worker and migrant organizations to expand labor rights and new forms of bargaining on global value chains and international labor migration corridors.

[i] United Nations Development Program, Tourism and the Sustainable Development Goals- Journey to 2030 (2018) available at

http://www.undp.org/content/dam/undp/library/Sustainable%20Development/UNWTO_UNDP_Tourism%20and%20the%20SDGs.pdf

[ii] OECD, High Level Meeting on Tourism Policies for Sustainable and Inclusive Growth (2017) available at

<http://www.oecd.org/cfe/high-level-event-on-tourism-policies-france-2017.htm>

[iii] *Id.* at note i.

[iv] available at

https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/normativeinstrument/wcms_546337.pdf

[v] The hotel will have 330 keys (300 rooms) with a built-up area of about 40,000 m² over ground, two basements and 14 floors. The hotel will have the typical facilities of a top of the line hotel, including multiple food and beverage outlets, a swimming pool, spa and banquet facilities. Construction of the hotel is expected to commence in July 2019, and the hotel is expected to be fully operational in July 2023.

[vi] The branded residential tower (referred to as the “residences”) will include 71 high-end, 3-4-bedroom apartments with a built-up area of about 37,000 m² over ground, two basements, a ground +2 floor podium with amenities, and 15 floors. Construction of the residences is expected to commence at the same time as the hotel in July 2019. The apartments are expected to be sold by December 2024.

[vii] A commercial building with three basements, a ground + 2 floors podium with showrooms for luxury brands, an art gallery, lifestyle retail and food and beverages (F&B) spaces, and 15 office floors.

[viii] IFC financing will support only two parts of this three-part Project, which Marriott will operate and manage.

[ix] The Project relies upon IFC to provide long term debt funding with a sufficient grace period. This form of funding, critical for financing projects with long development and implementation periods, is currently not available in Bangladesh.

[x] The Accord is an independent, legally binding agreement between brands and trade unions designed to work towards a safe and healthy Bangladeshi Ready-Made Garment Industry. Our purpose is to enable a working environment in which no worker needs to fear fires, building collapses, or other accidents that could be prevented with reasonable health and safety measures; See <http://bangladeshaccord.org/factory-collapse-prevented/> (summary of incident by the Accord; and see

http://www.industriall-union.org/sites/default/files/uploads/documents/2017/BANGLADESH/ntfctn_on_critical_findings_at_ananta_app_ltd_9_apr_2017.pdf (Accord letter notifying brands).

[xi] In its action plan, the applicant addresses the importance of freedom of association and provides a guarantee that it will work with trade unions:

Specifically, on Freedom of Association, typically in Nepal, workers in hotels are part of one of the registered unions [e.g. Nepal Independent Hotel, Casino and Restaurant Workers Union, All Nepal Revolutionary Hotel and Restaurant Workers Union]. The union then negotiates and signs a collective bargaining agreement. Similar practice is expected to be followed at the hotel, once it is operational.

With this ongoing relationship, the conditions of work meet both the minimum standards required by law in Nepal and the Performance Standards. The employer and trade union are attentive to both; See

<https://disclosures.ifc.org/#/projectDetail/SII/35111> for disclosures.

[xii] See, e.g., Without Getting Blamed or Silenced, Female Marriott Employees urge executives to address sexual harassment, Washington Post (May 4, 2018)

<https://www.washingtonpost.com/news/business/wp/2018/05/04/without-getting-blamed-or-silenced-female-marriott-employees-urge-executives-to-address-sexual-harassment/?noredirect=on>

[xiii] *Id.* at note iv.