

To:

European Investment Bank  
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[www.eib.org](http://www.eib.org)

8th July 2019

**Reg.:** Complaint against M/s Bangalore Metro Rail Corporation Ltd., a beneficiary of a loan from European Investment Bank, for violating loan terms, and also applicable law, policy, international standards, and judicial directives.

**Ref.:** Complaint lodged on 7th June 2019 by undersigned ----- on the above subject matter.

Dear Sir/Madam:

Apropos the aforesaid complaint, the undersigned place on record their gratitude to you for organising the hour long teleconference held on 2nd July 2019. As discussed in the teleconference, this detailed statement is in support of the aforesaid complaint and the facts and concerns discussed during the teleconference.

As a matter of record, we wish to state that -----, Coordinator/Trustee, Environment Support Group, was not originally a complainant in the complaint cited above. However, at the invitation of the original complainant -----, and with the consent of you all, he participated in the aforesaid teleconference, and as discussed joined issue in support of the complainant by also signing this statement.

On the basis of these submissions, we state as follows:

**A. Land Use Planning Violations, and employment of secrecy in decision making:**

1. At the outset, we wish to state that the approach of M/s Bangalore Metro Rail Corporation Ltd. (BMRCL), in as far as implementation of Phase II of Bangalore Metro project is concerned, is in gross violation of various applicable laws, in particular the Karnataka Town and Country Planning Act, 1961 (KTPC Act). We wish to state that strict

compliance with various provisions of this law has been specifically directed by the Hon'ble High Court of Karnataka in W.P. 13241/2009 (*Environment Support Group and anr. Vs. BMRCL and others*). The seriousness the Hon'ble Court has attached to such legal compliance is evident in the fact that it warned individual officers of BMRCL and other such infrastructure development agencies that appropriate judicial action would be initiated against them for failure to conform with the law and the judicial directive to do so. A copy of the aforesaid order is annexed at **Annexure A**.

2. The KTCPA is a law which mandates that prior to the development of any urban infrastructure project, it has to be subjected to a process of detailed review involving the public at large. This requires a series of public disclosures of the intent of developing the infrastructure, and inviting comments and objections through various stages of its finalisation such as development of the scheme, formulation of its budget and of causing any land use changes if necessary. In effect, the provisions of the law guarantee to the affected public the right to participate in decisions that directly or indirectly affects them, as is enshrined in the Principle of Free, Prior and Informed Consent, which is part of Indian law and jurisprudence.
3. BMRCL had kept the public at large in the dark through the conceptualisation, formalisation and building of the Phase I of the project, which resulted in a variety of adverse consequences that would have been avoided were transparency and accountability the praxis of the organisation. Phase I of Bangalore Metro has been marked with highly controversial efforts on the part of BMRCL to railroad public opinion. For instance, the public were stridently opposed to BMRCL's efforts to encroach a variety of public open spaces including Lalbagh and Lakshman Rao Park (in Jayanagar, South Bengaluru), and the same is captured in the critically acclaimed documentary "Our Metropolis" (accessible at: [https://www.youtube.com/watch?v=D8EEAyPV6\\_U&t=15s](https://www.youtube.com/watch?v=D8EEAyPV6_U&t=15s)). The opposition was also to the manner in which the alignments of the Phase I were being finalised, secretively, and without listening to public opinion. As a result a variety of sound technical inputs were disregarded, and thus the utility of Phase I has not been optimal, in addition to being completed after massive delays and cost over-runs: when completed Phase I cost over three times the initial budget of Rs. 5,000 crores, and also caused massive disruptions to densely populated Bangalore.
4. As a consequence of this in-transparent approach, Phase I of the Bangalore Metro has been riddled with a variety of operational problems. In recent years this has involved very serious failures. An illustration of some key ones are: theft of 450 metres of grounding wire that went unnoticed for weeks during May-June 2019, thus exposing tens of thousands of commuters to high risk of electrocution, and worse; almost all stations of the Phase I of the Metro cause traffic congestion at the street level; most stations are not accessible to differently abled and senior citizens; a child died due to a poorly designed elevator; several sections of the track are prone to flooding; and very recently there was a serious power outage in the main intersection of the Metro (at Kempegowda terminus), which resulted in tens of thousands of commuters being put to



risk, including by a black out in several stretches of the underground sections of the Metro.

5. For mega projects such as Bangalore Metro, it is essential that the developer BMRCL must conform with applicable laws, and safety and risk assessment standards, as they exist to anticipate and avoid several systemic risks, and limit damage to person and property. From the manner in which the Phase I of the Metro was built and is functioning, there is every reason for alarm. This when tens of thousands of commuters have to depend on this system for their daily commuting needs.
6. We submit that such problems as are being encountered regularly in Phase I ought to have informed BMRCL of the need for fundamentally transforming its work approach when implementing Phase II, particularly in ensuring that it would strictly conform with the applicable norms and standards of planning and design and involve public in decision making, as is necessary per KTCP Act, and as directed by the Court. Instead, BMRCL has chosen to implement its Phase II work in the same highly problematic and high risk manner as it worked during Phase I, which is in gross and egregious violation of the aforesaid directive of the Hon'ble High Court of Karnataka.

**B. 'Temporary' 'Acquisition' of All Saints Church illegal:**

7. The Karnataka Industrial Areas Development Board (KIADB) issued a Notification No. KIADB/LAQ/METRO/R6/196/2017-18, dated 29<sup>th</sup> May 2017, under Section 28(1) of the KIADB Act, listing a series of properties required for Bangalore Metro Phase II. In this Notification, the All Saints Church property claimed as required permanently for Vellara Station is listed at Rows 61-64. A copy of this Notification is annexed at **Annexure B**.
8. Thereafter, BMRCL by way of a letter No. BMRCL/Ph-2/R-6/2018-19/3526, dated 13<sup>th</sup> July 2018, addressed to Secretary, Karnataka Central Diocese, CSI, demanded an additional 4582.97 square metres of All Saints Church claiming this was 'Temporary Land Acquisition'. A copy of this letter is annexed at **Annexure C**. The Church has refused to accommodate this request, as is evident from the letter dated 16<sup>th</sup> July 2018 of the Presbyterian-in-charge of the church, annexed at **Annexure D**.
9. Notwithstanding this opposition, BMRCL has continued to demand through a variety of letters, press statements, and other such communiques this questionable idea of 'temporary acquisition' of All Saints Church. We submit that the concept of 'temporary acquisition' is *void ab initio* as it is not supported by any Indian law.
10. Sec 81 of The Right to Fair Compensation and Transparency In Land Acquisition, Rehabilitation And Resettlement Act, 2013 (RFCTLARR Act) provides for 'Temporary Occupation of Land' and that only when 'temporary occupation and use of any waste or arable land are needed for any public purpose', and too for a maximum period of 3 years.
11. In the instant case, it is not in the least clear under which law BMRCL decided to claim the church land for 'temporary acquisition'. It appears to us that this claim of 'temporary

acquisition' is not merely a case of executive overreach, but one of blatant abuse of administrative power being employed to terrorise the general public, and also unwitting property owners and custodians, to relinquishing their properties without appreciating the dire consequences of the same. We submit that this amounts to blatant violation of Fundamental Rights of those losing property. It is also an egregious attack on public interest as such propositions are made without any basis in law.

**C. Overreach of executive power:**

12. Such a case of executive overreach is also evident from the 25<sup>th</sup> May 2019 letter of BMRCL ----- to ----- Church of South India, Karnataka Central Diocese. In this letter ----- claims that 'stubborn non cooperative approach is affecting the jointly planned Public Consultation meeting by DFO/BBMP & BMRCL on 24.05.2019' and therefore 'BMRCL is constrained to initiate process to acquire 3797.271 sqm of land in All Saint's Church premises as per the enclosed plan on permanent basis to facilitate construction of Metro station'. A copy of this letter is annexed at **Annexure E**.
13. We wish to submit that it is not in the executive power of ----- to decide which land is to be acquired permanently, or taken for temporary occupation, as he heads BMRCL which is an implementing agency. Land use planning powers are contained in the Metropolitan Planning Committee (per Article 243ZE of the Consitution) and with the approval of the State of Karnataka per the aforesaid KIADB Act in case this law is invoked for permanent acquisition. In the event there is a need for "temporary occupation", the same can only be undertaken as per RFCTLARR Act. BMRCL, after all, is only an implementing agency, an SPV created by the Governments of Karnataka and India to implement Bangalore Metro, and cannot therefore claim the role as a Planning Authority. Despite this clear constitutional impediment, the fact that ----- has chosen to employ such an intimidating approach against the church is deeply distressing.
14. It appears that despite protests from the members of the congregation and also the wide public, BMRCL appears to be intent on 'temporarily acquiring' the All Saints Church, as is indicated in the minutes of the meeting of Grievance Redressal Committee of BMRCL held on 2<sup>nd</sup> July 2019, a copy of which was provided to the complainant by a 'whistleblower' deeply disturbed by such secretive transactions that compromise the interests of the congregation and the wide public. A copy of these minutes is annexed at **Annexure F**.

**D. Inconsistency between land requirements as described in DPR and current acquisition:**

15. In its Detailed Project Report (DPR) for Phase II of the Bangalore Metro prepared in September 2011, BMRCL claims at Table 13.2 that it needs 200 sq.m. of private land for permanent acquisition to build the Vellara Station and 6443.11 sq.m. of private land for 'temporary acquisition'. In the Vellara Station Plan dated 18<sup>th</sup> October 2016, annexed at **Annexure G**, BMRCL details the locus and extent of permanent acquisition and 'temporary acquisition'. We reproduce below the details as provided in this map:



Phase II, R6 UG: Vellara Station			
LAND STATEMENT (PERMANENT)			
Sn. No.	Acquisition No.	Area (m2)	Remarks
1.	VR-R6UG-P1	166.686	
2.	VR-R6UG-P2	1365.226	
3.	VR-R6UG-P3	1007.881	
4.	VR-R6UG-P4	1016.749	
5.	VR-R6UG-P5	92.141	
6.	VR-R6UG-P6	1209.374	
	TOTAL	4858.056	

Phase II, R6 UG: Vellara Station			
LAND STATEMENT (TEMPORARY)			
Sn. No.	Acquisition No.	Area (m2)	Remarks
1.	VR-R6UG-T1	3014.64	
2.	VR-R6UG-T2	3393.06	
3.	VR-R6UG-T3	40.34	
4.	VR-R6UG-T4	1527.65	
	TOTAL	6448.04	

14. At the outset we submit that the Vellara Station Plan as indicated in the map does not appear to be of the same area as is indicated in the DPR. The total area of permanent and 'temporary' acquisition of land at All Saints Church per the DPR is reported to be 6643.11 sq.m. However in the map the total of the permanent and 'temporary' land acquisition is reported to be 11306.091 sq.m. Moreover, the second table above relating to 'temporary acquisition' indicates at row 4 an extent of 1527.654 sq.m., which has not been included in the total mentioned therein. If this land is included in the total area of permanent and 'temporary' acquisition, then the total area that would be required, as projected in the map, would be 12,833.745 sq.m. This would mean that the difference of land between what has been projected as required in the DPR, and in the map, is as large as 6240.635 sq.m. Another disconcerting factor is that if we instead went by the aforesaid letter of -----, the land required for Vellara Station is indicated to be a total of 7,348.945 sq.m. (i.e. Permanent: 3551.674 and 'Temporary': 3,797.271). It is thereby abundantly evident that BMRCL is absolutely not clear about what it proposes to do at Vellara junction, for it does not even know for certain what activity it proposes to undertake and where exactly.

15. Consequently, it is certain that the land acquisition process underway has been extremely lackadaisical and progressing without due diligence and after necessarily attending to various impacts in a densely populated city like Bengaluru, and associated Fundamental Rights tied to land. It also appears to be a case of speculative decision making wherein the effort appears to be one of monopolising the use of church

property without any regard to its sacredness, its special place in the hearts of the members of the congregation, and in total disregard of the church and its environs being a particularly charming and much loved living heritage of Bengaluru.

#### **E. All Saints Church as the Living Heritage of Bengaluru:**

16. All Saints Church has been recommended to be declared as 'heritage' of Bengaluru by Bangalore Development Authority per its proposed Revised Master Plan – 2031. This church is to celebrate its sesquicentennial (150<sup>th</sup>) anniversary on November 30<sup>th</sup> this year. The congregation has been excitedly preparing to celebrate this special occasion with plans to invite a variety of dignitaries. It is also proposed to invite the wide public from various faiths from across the city to participate in this divine celebration.
17. The Sacred Grove of the church is thickly wooded, with some trees over 200 years old. This tranquil space forms a special place in the hearts of the congregation and just about anyone from the city wishing to escape the chaos outside. It is clear to us that only a mind that is insensitive to such sacred, spiritual and special aspects of this grove could consider all of this as mere real estate to be exploited for certain developments. To put it another way, it is quite impossible to imagine how engineers of BMRCL could even consider using this Sacred Grove for so called 'temporary acquisition'. We are given to understand that this space would be temporary shed for the construction equipment and also as a space to tunnel from.
18. We would like to highlight that the Church has a special place in the hearts of Europe. In [redacted] had visited the church and celebrated mass. [redacted] also visited the Church during [redacted]. The [redacted] is due to visit the church [redacted]. It is the congregation's desire that when such dignitaries visit, they do not carry back with them memories of a church destroyed by Bangalore Metro, and that too a destruction financed by European taxpayers. Please see at **Annexure H** for a compilation of the importance of these visits.

#### **F. The massacre of Trees and Biodiversity of All Saints Church proposed by BMRCL:**

19. For the people of Bengaluru, who loathe to see a tree felled, and would do everything possible to save a tree, it is shocking that BMRCL conceived Phase II of the Bangalore Metro in the manner they have, involving the felling of hundreds of trees, particularly in the Sacred Grove of All Saints Church. We estimate that over 100 age-old and charming trees, that form a crucial biodiversity haven of an heavily built city, will be axed were the BMRCL proposals for 'temporary acquisition' to be supported.
20. The legal implications and consequences of such a proposal are detailed in the 24<sup>th</sup> May 2019 representation made by the undersigned [redacted] before the Deputy Conservator of Forests and Tree Officer of Bruhat Bengaluru Mahanagara Palike (Bangalore's civic body), and is annexed at **Annexure J**. This submission was made as part of the proceedings of a Statutory Public Hearing held in response to an application from BMRCL seeking permission to fell over 700 trees. Apprised of the legal and



ecological implications of the proposed felling, the Tree Officer has kept at abeyance his decision, as the Karnataka State Government is yet to constitute an Expert body to examine the impacts as directed by the Hon'ble High Court of Karnataka in Writ Petition 17841/2018 (Dattatreya T Devare vs. State of Karnataka and ors.). A copy of a recent order in this regard is annexed at **Annexure K**. An article on this in the Times of India dated 7<sup>th</sup> July 2019, entitled 'Expert Panel not ready, BBMP sits on tree-cutting requests', is annexed at **Annexure L**.

#### **G. Rights of Special Children under threat from Bangalore Metro:**

21. All Saints Church campus is home to Arpana, a school of Cognitive Disable Special Children. This school has been functioning here for the past thirty years, and scores of children and families in the neighbourhood have benefitted from its existence. The proposal of BMRCL to 'temporarily acquire' All Saints Church campus would also mean destruction of this school. This could have a debilitating impact on the mental state of these children, who have very special needs including being comforted in spaces that they are accustomed to over time. At a time when real estate prices are soaring beyond the reach of public service minded institutions as Arpana, it is almost certain that this school, and all the children who benefit from it, will suffer irreparable damage. We submit that this proposal is directly opposed to the Rights of these Special Children, their Right to Education, and their Right to a Secure and Equitable Future, therefore.
22. All Saints Church campus also has Home for the Aged, with about twenty occupants, several of who are in their 70s. They too will be directly impacted by the proposed destruction of the All Saints Church.

#### **H. Right to Pray, a Fundamental Right, under attack:**

23. The Constitution of India upholds the Right to practice any religion as intricately and fundamentally linked to the Right to Life and Liberty (Article 21). In celebration of this Fundamental Right, about 700 members of the Congregation meet every Sunday to celebrate mass at All Saints Church. The capacity of the church is about 250, and so the Sacred Grove is a space where people gather to celebrate mass.
24. Any effort, in any manner, to restrict such sacred religious gatherings, and which in no way disturbs anyone else, constitutes an attack on the Right to Pray which, as cited above, is intricately linked to the Right to Life. For every member of the congregation, and also for the wide public, BMRCL's proposal to 'temporarily acquire' All Saints Church campus to dump its equipment and cut open the Sacred Grove for tunnelling and station operations, thus amounts to the very destruction of the church and its sacred and sylvan surroundings, and an attack on their Fundamental Right to Life.

#### **I. Alternatives deliberately ignored:**

25. All of the above destruction is comprehensively avoidable were BRMCL to comply with the directions of the aforesaid directions of Hon'ble High Court of Karnataka and subject Phase II of the Bangalore Metro to public review per the KTCP Act. Not having complied with this law, as directed, the proposals of BMRCL per the DPR, or any of their subsequent maps, amount to merely being a proposal of an applicant agency which is

yet to receive necessary statutory sanction. Thus, Phase II of the Bangalore Metro is now being implemented wholly illegally.

26. A variety of alternatives to ensuring Phase II is built non-messily, and with least destruction of Bengaluru, and thus it can work optimally for the metropolis now and into the future, have been proposed. In the particular case of All Saints Church, the option of not commencing tunnelling and dumping of construction equipment has been a point of acute focus. In fact, various representations have been made by the congregation in this regard, and a sample is annexed at **Annexure M (series)**.
27. Right next to the church is public military land which is not under use and covered with Eucalyptus trees, an exotic species with no local biodiversity value. The tunnelling and construction equipment could be placed in this Eucalyptus grove, if at all such a space is needed, and thus the Church can be saved certain ruination.
28. Further, combining the Vellara and Langford Road stations as currently proposed would save a great deal of money for the city. Besides, it would also ensure that when Phase II is operational, the commuters could benefit with time saved from one less station, and without any disadvantage overground – the two stations are proposed merely 800 metres apart now. The dropping of the Vellara Station would also benefit traffic flows at grade, as the Vellara junction is considered one of the busiest in the city, and often gets jammed. It is highly likely that with ingress and egress of hundreds into and out of the underground station provided at Vellara, massive traffic jams would most certainly result. This is already the case with almost every Phase I Metro Station today, most of which are very poorly designed. The location of a station at Vellara Junction is also opposed to the National Urban Transport Policy which mandates that public transport must assist in decongesting traffic so that the quality of air improves. Instead, the present plan will cause intense increase in traffic congestion and consequent noise and air pollution.
29. As stated above, the proposal to locate the station at Vellara is also opposed to the land use plan proposed by Bangalore Development Authority, for the campus of the All Saints Church continues to be designated as a place of worship, and proposed for being statutory declaration as an 'heritage' of the city. Thus it cannot be redesignated by an implementing agency such as BMRCL, as per its whim, into a Metro station. Such an effort would constitute a direct violation of KTCP Act, and the direction of the Hon'ble High Court of Karnataka in WP 13241/2009, cited above.
30. On 14<sup>th</sup> June 2019, Environment Support Group submitted a representation to the [redacted] highlighting several of these concerns, and a copy of the same is annexed at **Annexure N**. These concerns have been considered and the office of the [redacted] has forward the same for due consideration by [redacted] (Urban Development) and appropriate action, by way of its letter No. CM/33174/REP-GEN/2019 dated 28<sup>th</sup> June 2019, and a copy of the same (in Kannada) is annexed at **Annexure P**.



**J. Summary:**

31. In summary, taking into account all of the above, and such other material facts that are intricately involved with the concerns raised herein, which also speak of and to the concerns raised by a majority of the congregation of All Saints Church, and also to those raised by a large number of residents of Bengaluru who are opposed to the destruction of this living heritage, we submitted that:

a) European Investment Bank (EIB) must immediately suspend any loan extended to BMRCL pending adjudication of this complaint.

b) Documentation submitted by BMRCL in availing a loan from EIB is placed in public domain to provide the complainants and others interested to peruse the same and examine the *vires* of the claims so made by BMRCL in applying for a loan. The loan agreement and associated documentation may also be placed in public domain as a measure of transparency and accountability, as is necessary per Sec. 4 of the Right to Information Act, 2005.

c) A special impact assessment team of EIB must visit the All Saints Church with sufficient prior notice to appraise itself of the facts and circumstances detailed in this complaint statement. The report of this team may be placed in the public domain for aforesaid reasons.

d) On satisfactory verification of the above facts, EIB must make conditional that it will extend a loan to BMRCL only if it commits to implement Phase II of the Bangalore Metro in strict conformance with the laws as applicable and the directives of the Hon'ble High Court of Karnataka, and in the process also guaranteeing the protection of All Saints Church and its Sacred Grove for posterity and as a measure of protecting the fundamental rights of the congregation.

We thank you for your cooperation and support, and request you to reach out in case you need any further information and/or clarification.

All Saints Church Congregation W  
Association member

Coordinator/Trustee  
Environment Support Group

## Annexures

A	Order of the Karnataka High Court in WP 13241/2009
B	KIADB Notification dated 29 <sup>th</sup> May 2017
C	BMRCL letter addressed to Karnataka Central Diocese dated 13 <sup>th</sup> July 2018
D	All Saints Church letter to KIADB dated 16 <sup>th</sup> July 2018
E	BMRCL letter to the Bishop of CSI, Bangalore dated 25 <sup>th</sup> May 2019
F	Minutes of BMRCL Greivance Redressal Committee held on 2 <sup>nd</sup> July 2019
G	Map of Vellara Junction Station
H	Details regarding visit of Dignitaries to All Saints Church
J	ESG Letter dated 24 <sup>th</sup> May 2019 to BBMP Tree Officer
K	Order of the Karnataka High Court in WP 17841/2018
L	Times of India news item dated 7 <sup>th</sup> July 2019
M	Series of Representations made on behalf of All Saints Church Congregation
N	ESG Representation to Chief Minister of Karnataka dated 14 <sup>th</sup> June 2019
P	Letter of Chief Minister's office dated 28 <sup>th</sup> June 2019