

BANKWATCH

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Woman and baby in Nakai Plateau

They're one of the 6,000 people from five major ethnic groups in Laos that would be displaced by Nam Theun 2. Other IPs in other countries also face the same predicament if the existing Safeguards are weakened.

Editorial

October, the ADB Safeguards Policy Update Team issued the draft policy statement on the Safeguard Policies which has been used as basis for the ongoing regional consultations.

The draft policy statement not only manifests the intention of the Bank to water down its existing Safeguard Policies but completely shows that the Bank is disrespecting and dishonoring its pronouncements on poverty alleviation, inclusive growth and development effectiveness.

In Kyoto last May, the SPU team parroted the promise and assurances of President Kuroda to civil society that the ADB would not come up with a weaker set of Safeguards, i.e. protection of the environment, respect for the rights of the indigenous peoples (IPs) and avoidance of displacement. But this has not been the case.

In the draft policy statement, the ADB is proposing the introduction of Country Safeguards System which undoubtedly passes the buck of responsibility and accountability for the adverse impacts of ADB projects to its borrowing countries. The country system would totally remove the stringent conditionalities of the loan, making it a lot easier for national governments to implement projects without giving due respect to the environment and rights of local communities. Relying on a country's systems would be dangerous since it is open to manipulation and corruption, especially in countries with no room for democratic space.

The draft policy statement has also explicitly contradicted the recently adopted UN Declaration on the Rights of the Indigenous Peoples by downgrading its provision on "free prior informed consent" to "free prior informed consultation." This is highly problematic for IP communities since consultations with them in the past did not necessarily end up as meaningful and effective. Likewise, it strips off affected people the right to public participation.

These are just some of the worrisome provisions of the draft policy that lack vigor and clarity which contribute to the weakening of the Safeguard Policies. A safeguard policy with no teeth would make ADB shareholders, specifically the borrowing countries, really happy. But at what price?

The ADB should not only worry about how much have been disbursed and how many projects have been implemented. If it is really dedicated to its overarching goal of poverty reduction, it should ensure that the benefits of its intervention reach the poor and the vulnerable in the region, and does not contribute to the degradation of the environment.

A strong set of Safeguards is essential to achieve this. If indeed the ADB wants to solve the growing inequalities in the region while it continuously support large-scale projects posing harm to local communities and the environment, it should come up with a stronger, more binding set of Safeguards.

The ADB should review its past actions and assess its intention for updating its Safeguards. Are they really safeguarding the vulnerable from being further marginalized or safeguarding its business interest?

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NGO Forum on ADB is an Asian-led network of civil society organizations that has been monitoring the Asian Development Bank's projects and policies since 1992, and supports communities and local groups to fight for justice and good governance.

With Uncertainties and Variables

Hemantha Withanage
NGO Forum on ADB

The Asian Development Bank's Draft Policy Statement on the Safeguard Policies¹ seems to be depending on many uncertainties and variables. The proposed policy is a consolidation of the three existing Safeguard Policies, namely: Environment Policy, Indigenous Peoples (IP) Policy and the Involuntary Resettlement (IR) Policy. As an alternative to providing social and environmental safeguards in its funded

development projects, the draft policy proposes to shift the responsibility of implementing the Safeguards to national, regional and local governments, through its proposed Country Safeguards Systems.

Experience shows that violation of social and environmental rights on the ground is not a problem of the policy itself, but due to poor implementation. Although the ADB could not excuse itself for the lack of implementation of its own policies, such violations and problems are more rooted with the national governments and their respective implementing agencies. Giving safeguard control to the same agencies is somewhat close to "consulting the rogue's mother for soothsaying," as the Sri Lankan proverb says.

While the World Bank has ten safeguard policies, the ADB has only adopted three. Withal, the three Safeguards will be consolidated into one as suggested in the draft policy statement. And although the Bank has existing Forest Policy, Water Policy, Social Protection Strategy and Core Labor Standards, to name a few, the draft policy statement is silent in said issues, except for some provisions in the Forest Policy which are slightly mentioned in the draft.

The draft policy also completely removes the 120-day disclosure period for environmental impact assessments (EIAs) and other documentary requirements prior to the ADB Board's approval. This clearly undermines people's right to information to effectively engage with the ADB when they are adversely affected by the latter's funded projects. The motivation of the Bank for such a move is no other than reducing the time period of the project cycle, enabling itself from disbursing more funds at a shorter time, without giving due respect to people's rights.

On private sector participation, the ADB continuously covers up private sector or financial intermediary (FI)-led projects by allowing FIs not to disclose pertinent data such as EIAs, Involuntary Resettlement Plans and Indigenous

Peoples Plans, among others, before their appraisal. These documents are essential to ensure participation of stakeholders who are deemed to be negatively impacted by said projects. Also, the draft is completely silent about public-private partnership which is ADB's new way of doing business.

In the draft policy, free prior informed consent is downgraded to free prior informed consultation when it comes to social and environmental rights. However, it should go beyond free prior informed consultation when it comes to asserting social and environmental rights. The UN General Assembly has already adopted the UN Declaration on the Rights of Indigenous People that includes free prior informed consent. And yet, the ADB has decided to do otherwise. In reality, sincerity is missing in most consultations. Completely relying and empowering national agencies for this purpose will not solve the problem, nor provide project-affected people adequate bargaining power to preserve and protect their rights.

Also, the only parameter considered in the draft policy is the physical relocation of people, whether it might be the IPs or other marginalized groups. Yet on the other hand, development projects could still be indirectly inimical to people's welfare, livelihood and culture, that is, going beyond physical relocation. Hence, in the determination of the negative externalities caused by the Bank's funded development projects, indirect impacts to project affected people should also be considered.

Most infrastructure projects in the past have left the affected people landless, losing their livelihood in the process. Their home gardens and cultivated lands have been destroyed to give way to these so-called development projects. They have been relocated in areas unsuitable to their way of living, and at times lacking in basic social services, leaving them with no alternative other than becoming dependent on the market. Although the draft policy, specifically under the

sections on IR and IP, has mentioned the restoration of the livelihood of the affected people, it has failed to mention the latter in the main objective.

While there are a lot of criticisms on the draft policy statement, it includes a few good principles and provisions:

- Inclusion of a Prohibited Investments List;
- Recognition of the absence of formal legal title to land by affected person as not a hindrance to compensation;
- Payment of compensation and provision of entitlements before physical or economic displacement;
- Disclosure of draft resettlement plans and monitoring reports;
- Consideration of direct and indirect project impacts on people's human rights, dignity, and livelihood of indigenous communities.

Uncertainties and variables

Instead of ensuring that it remains accountable for the social and environmental harm that may have been caused by its funded projects, the ADB is shifting the responsibility for such to its borrowing countries. With the proposed policy, the Bank will be dependent on the borrowing countries' political will, good governance, judiciary mechanisms, zero corruption, good faith, domestic expertise and capacity of their respective agencies, and genuine implementation of the policies and guidelines. The Bank will rely on its

The ADB is completely ignorant about national politics and how systems are running in the diverse nations in Asia and the Pacific. There are governments that do not respect the basic rights of the people in terms of access to information and access to justice.

borrowing countries' efficient preparation of their respective country safeguards and regulations, and disclosure policies, both matching ADB's standards.

The ADB is completely ignorant about national politics and how systems are running in the diverse nations in Asia and the Pacific. There are governments that do not respect the basic rights of the people in terms of access to information and access to justice. There are also governments that do not provide venues for public participation in decision making. For example in some countries, EIA and related documentary requirements are not open for public comments. While in some, stakeholders are given very short time to comment on EIA documents.

The Bank is overestimating the capacity of both national and local governments to get their local policies at par with international standards. And in most countries in the region, it takes years to legislate or revise existing laws and regulations. A country's systems could not be easily changed even by providing them with grants and loans for their infrastructure projects, luring them to speed up the process of legislation.

There is no question that sovereign nations should have the right and sole responsibility to decide on which policies and regulations they need for their development. However, relying too much on a nation's capacity and existing systems could only lead to further violations of the Safeguard Policies. In reality, local communities have already lost faith in their respective countries' systems, and in both national and local governments' capacity to implement their policies.

The proposed "Country Safeguard System" is based on glorified pronouncements. The World Bank has initiated its country systems in 2004 but did not yield impressive results due to factors mentioned above. According to the ADB, only a few countries apply for the country systems. This has put into question the reason behind the Bank's move, spending several years and resources developing such a system which would not be useful after all. The Bank should have tried developing the respective safeguard systems of its developing member countries (DMCs) to meet its standards before opening this avenue.

The ADB-proposed "Country Safeguard System" is completely based on glorified parameters mentioned above. The World Bank-initiated country system in 2004 has not yielded adequate results due to same factors. According to the ADB, not many countries apply for country systems. Given this, why would the ADB spent several years and resources developing such a system which its DMCs may not want to accept completely? Perhaps the ADB is one step behind. It could have at least tried testing its DMCs' safeguard systems whether they could meet the Bank's standards before opening this avenue.

Meanwhile, the acceptability and equivalency assessments of the country system seem to be ADB's and the government's business. According to the draft policy, transparency would not be a requirement.

The proposed 'framework approach' is an alternative to the present "front load approach". Front load approach requires vital project documents, such as EIA, IP plans, and resettlement plans, to name a few, available as early as the designing stage. However, the 'framework approach' allows detailed designs of the projects or sub-projects after the Board approval. Although this is limited to projects under

sector lending modality and multi-tranche financial facilities (MFFs), it allows EIAs, environmental management plans, involuntary resettlement plans and indigenous peoples plans to be prepared even as late as the project implementation stage.

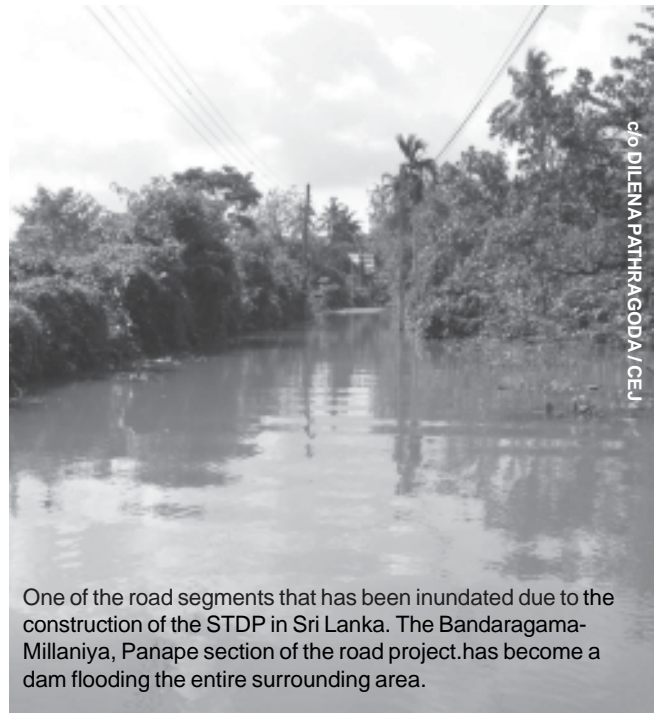
The success of the framework approach depends on many variables such as willingness of the borrowing government to submit all documentary requirements and conduct required consultation processes with affected communities prior project implementation. Without being a prerequisite for project approval, I wonder whether if they could genuinely adhere to these requirements after Board approval.

In the case of the infamous Southern Transport Development Project (STDP) in Sri Lanka, it took several years to develop an EIA only to find out that more than 70 percent of the project is out of scope as prescribed in the document. Likewise, it took three years to develop a resettlement implementation plan. Such irregularities had happened even with the use of front load approach. What more if the Bank would use the framework approach? It could give borrowing governments greater flexibility when it comes to compliance to requirements. Worse, governments would be given an opportunity to violate social and environmental safeguards.

Another serious issue would be ADB's capacity to improve the Country Safeguard Systems of its DMCs. It will require the Bank huge amount of funding to support them improve their own safeguards, build institutional resources, train experts, ensure proper implementation of projects, and establish a strong monitoring and evaluation system. There are only a few cases where countries have already developed expertise and where laws have been deemed adequate. Majority of them have laws and policies that are way below international standards. Likewise, for countries with limited or inexistent democratic space, such as China and Vietnam, the CSS would not succeed.



One of the many houses that have been under water due to the Southern Transport Development Project in Sri Lanka



One of the road segments that has been inundated due to the construction of the STDP in Sri Lanka. The Bandaragama-Millaniya, Panape section of the road project has become a dam flooding the entire surrounding area.

The draft policy vaguely discusses the resources implication of implementing the CSS and says it will be discussed in the working paper. However, it has been a known fact that the ADB does not have sufficient staff to advise, monitor and evaluate the country systems of its numerous DMCs.

The brand new safeguard policy seems to be “passing the buck” rather than increasing country ownership. CSOs have feared that ADB has been planning to weaken its Safeguards in order to release more funds without giving proper regard to the environment and rights of those that could be adversely affected by its development projects. Perhaps the harmonization and increased country ownership as promoted by the Paris Declaration could be an opening for the ADB to pass the role for greater accountability to its borrowing countries, limiting its role to a bank. Passing its responsibility to a country that dishonors internationally accepted norms, principles and practices will make local communities vulnerable to ad hoc decisions that usually result in human rights violations. The number of uncertainties, assumptions and variables in the policy will not ensure equal rights and sound safeguards for the communities and the environment. It might “boomerang” to the ADB once it fails, forcing it to take responsibility for the havoc that could have been caused by so-called bureaucrats and technocrats in the years to come.

End note

¹ Consolidation Review of the ADB Safeguard policy started in July 2005. After many delays, the draft policy is now open for a 90-day public commenting period from 13 October 2007.

Unacceptable Weakening of ADB Environmental and Social Standards:¹

Concerns regarding the proposed continuation of the public consultations based on deeply flawed and incomplete documentation

Stephanie Fried, Ph.D.
Environmental Defense

Since 2005, civil society organizations affiliated with the NGO Forum on the Asian Development Bank have engaged in discussions with the Asian Development Bank (ADB) as the Bank has proposed a process for redrafting existing ADB policies designed to provide safeguards for project-affected peoples and the environment.

The participation of civil society groups in this process has been predicated on the ADB's stated commitment to ensure that the Safeguard Review Update process and the resulting new Safeguard Policy Statement (SPS) – designed to replace existing safeguard policies – would not lead to the weakening of ADB environmental and social policies.

In July 2007, a draft “internal” version of the proposed SPS was circulated and a number of groups prepared initial analyses of this document. We were disturbed to note that this draft proposed substantial weakening of existing ADB protections. The draft was revised and, in late October

2007, a lengthy SPS “Consultation Draft” was released, ostensibly to serve as a focus for public consultation meetings beginning approximately two weeks after the release of the draft.

This report consists of a compilation brief summaries of the extent to which the ADB's SPS draft represents an unacceptable weakening of existing environmental and social safeguards and is unsuitable as a basis for continued public consultation unless it is completely re-drafted to, at a minimum, maintain existing social and environmental safeguards and meet best international practices at peer



institutions as outlined in the enclosed summary papers. Detailed analyses of various aspects of the SPS have been drafted by the Bank Information Center, the Center for International Environmental Law, Environmental Defense Fund, the Forest Peoples Programme, and the International Accountability Project. Summaries of these analyses are provided herein. Full versions of the analyses are available from each of the authors.

Dramatic weakening of existing ADB standards, despite ADB guarantee of “no weakening”

Despite the ADB’s publicly announced guarantee that the new Safeguard Policy Statement (SPS) would not lead to the weakening or elimination of social and environmental protections currently provided under existing ADB safeguard policies, the October 2007 SPS Consultation Draft represents a dramatic weakening of the majority of existing ADB safeguard policies. Essentially, this draft SPS eviscerates the ADB’s detailed and currently mandatory safeguards and replaces them with one page each of mandatory vaguely worded “policy principles” for environmental, Indigenous Peoples and involuntary resettlement safeguards. These “policy principles” are much weaker than existing requirements and subject to wide interpretation. The October “Consultation Draft” represents an even further weakening of the July 2007 draft SPS which was also, for the most part, weaker than existing standards.

Elimination of most mandatory implementation requirements?²

The detailed pages of ADB policy implementation measures which are currently mandatory have been replaced with “General Requirements” for all safeguards (Environment, Involuntary Resettlement, Indigenous Peoples) which are far weaker, for the most part, than existing safeguard implementation requirements. In the October 2007 SPS draft, these new “delivery mechanisms” for ADB safeguard policies are described in 46 pages of detailed requirements for ensuring implementation and compliance. However, due to careful language changes made in the Draft SPS, these requirements appear to be *no longer mandatory or are now so vaguely written as to be unenforceable.*

Senior ADB officials who are deeply concerned about the direction of the SPS process have indicated to us that “effectively nothing is mandatory because there is so much flexibility in what is done.” According to these officials, the SPS dramatically compromises the ADB’s ability to ensure compliance “because the entire thing is unclear, filled with vague language, with a lack of clear statements about exactly what is required and how requirements will be operationalized.” The lack of clearly mandatory, enforceable safeguard implementation measures (“delivery mechanisms”) represents a complete reversal of ADB’s core

safeguard requirements, and is a potentially devastating blow to the environment and project-affected communities.³

Strong language pertaining to compliance has been replaced with language assuring borrowers that failure to comply with requirements will not necessarily result in penalty

For example, the earlier July 07 Draft SPS stated “If compliance with the safeguard policies still is not met after these remedies, ADB will suspend financing until non-compliance is rectified or cancel the project.” However, in the October 2007 consultation draft, this language has been removed and replaced with language assuring borrowers that “Resorting to legal remedies in the event of noncompliance is not automatic or mandatory when a borrower fails to comply.” Such statements send a clear signal that borrowing countries need not be overly concerned about compliance with ADB social and environmental safeguards.

Failure to protect rights of Indigenous Peoples, weakening of existing ADB protections⁴

During the Indigenous Peoples’ consultation, deep concerns were raised regarding core flaws in the SPS document. According to the Forest Peoples Programme, the SPS “fails to meet existing standards on safeguard measures for indigenous peoples on a number of key, significant points.” In addition, the draft SPS fails to apply relevant international agreements, legal norms and laws and “represents a weakening of already unacceptably low standards within the Bank.”

The new language weakens the standard of consent currently required of Indigenous communities by the ADB and does not require free, prior and informed consent for activities which impact Indigenous Peoples. The Forest Peoples Program analysis highlights concerns among Indigenous representatives regarding the proposed application of “country systems” and “framework” approaches, finding that there is “no practical way” to implement such systems with full involvement of project affected peoples.

Environmental safeguards weakened – elimination of 120-day public comment period⁵

Environmental standards and implementation requirements (“delivery mechanisms”) have been weakened in all sectors of ADB operations, including project loans, program loans, sector loans, corporate investments, financial intermediaries, and co-financing. The current requirement that Environmental Assessments be carried out for “all project components whether financed by ADB, co-financiers, or the borrower” has been eliminated as has been the existing requirement for the assessment of “indirect and cumulative



New Ban Sop Phene. Temporary housing at the new resettlement site on the Nakal Plateau

impacts” and the requirement for a 120 day public comment period. The new policy proposes no specified minimum public comment period at all. There has also been a direct weakening of:

- the ADB’s role and responsibilities, borrower obligations
- public consultation and participation requirements
- information disclosure requirements
- monitoring, reporting, due diligence, and review requirements
- definition of “external experts” (to avoid conflict of interest problems), “project area of influence”
- requirements pertaining to changes in project scope, “uncertainties in location”, etc.

Involuntary resettlement: fundamentally flawed⁶

According to the International Accountability Project (IAP), the weakening of ADB safeguard policies and the fact that the draft SPS is far below existing international standards and comparable lending institutions “suggests a lack of good faith on the part of ADB management, and constitutes a failure to ensure that projects are designed to ensure poverty alleviation and are based on democratic decision-making processes, respect for human rights and a commitment to ensure not only a lack of harm but, indeed a benefit, to those displaced by ADB projects.”

According to IAP, “the ADB’s policy on resettlement is critically important to millions of people across Asia. It is well established that involuntary resettlement leads to impoverishment of affected people unless comprehensive measures are taken to ensure otherwise. The proposed involuntary resettlement provisions of the draft SPS endanger displaced people with much greater risks of life-threatening impoverishment.

The ADB, as a public institution with a mandate to promote poverty alleviation, must ensure that its lending activities do not result in ‘involuntary impoverishment’ of the vulnerable

populations that its projects displace. It is thus essential that the ADB establish robust safeguard policies that effectively prevent impoverishment. In this regard, the current draft SPS, as well as the process by which it was haphazardly assembled, are woefully inadequate. Given the fundamental flaws in substance and process of the SPS, we reject the proposed SPS in its entirety and call for a comprehensive overhaul of the document and revision process.”

The above analyses reveal direct violations of the ADB’s guarantee that the new SPS process will not lead to any weakening of standards, thus rendering the current draft unacceptable and unsuitable as a basis for public comment.

ADB SPS is far weaker than international standards⁷

Many of the protections provided in the current draft are, in addition to being significantly weaker than existing ADB standards, far below international standards established by peer lending institutions. According to Steve Herz with Bank Information Center, “In its Safeguard Policy Update process, ADB has stated its intent to harmonize its safeguard policies with those other multilateral development banks. In particular, it has suggested that IFC’s Policy and Performance Standards would be a key benchmark for that harmonization. However ADB’s draft Safeguard Policies fall substantially short of IFC requirements in a number of substantive areas, including:

- Environmental and Social Assessment;
- Biodiversity and Sustainable Natural resource Management;
- Pollution Prevention and Abatement;
- Greenhouse Gas Emissions;
- Community Health and Safety;
- Labor and Working Conditions;
- Community Consent;
- Extractive Industries Projects;
- Delivery of Essential Services;
- Involuntary Resettlement; and
- Indigenous Peoples.



Lafarge cement factory PT. Semen Andalas Indonesia in Lhok Nga, Aceh. It received a private project loan of USD 45 million for the reconstruction in June 2007 from ADB because the EDS believed the project proponent that there have been no people living in the 2-km area from the factory and no protests against the factory.

Giant loopholes: “Framework Approach” and “Multitranche Finance Facility”

The ADB’s proposed “Framework Approach” and “Multitranche Finance Facility” create giant new loopholes for avoiding rigorous application of environmental and social safeguards. The ADB proposes the using what it terms a “framework approach” to operations in the Asia-Pacific region as well as the use of a multitranche finance facility. These efforts would allow the ADB — prior to the development of any environment, resettlement or Indigenous Peoples’ plans — to commit to financing an entire sector or multiple tranches of a large project at a “national level,” with potential significant moral hazard implications. The only safeguard requirements would be those chosen for implementation over an entire sector or for multiple tranches of a large project which were “agreed upon by the ADB and the borrower.”

The Draft SPS proposes (C.2(b) 54) the elimination of the requirement to use standard, public, clear safeguard delivery mechanisms. Instead, “different procedures” than those specified by ADB would be used “for delivery of [safeguard] principles.” According to the draft SPS, “It is expected that frameworks could be agreed upstream with borrowers for sectors at sub-national and national levels, and then tailored to the specificities of individual projects.” Implementation commitments would be developed, apparently by the borrower, *only during project implementation after the finance has already been approved. This represents a tremendous reduction in leverage by ADB and project-affected peoples over project outcome and impacts, given the massive disbursement of finance for an entire project or an entire sector at one time.* This would mean that there would be little oversight over multiple phases of a given large-scale project since each phase would no longer have to be approved for release of funds.

Concerns regarding Country Systems⁸

An assessment by the Center for International Environmental Law of the ADB’s approach to “Country Safeguard Systems” – or the replacement of ADB standards and requirements by those of borrowing countries — identified substantial flaws and concerns with this approach, including the ADB’s omission of crucial requirements from the safeguard principles, problems in determining “equivalence” of country systems with ADB requirements, experience with World Bank country systems pilot projects which show a reduction in environmental and social standards, and increased difficulty for impacted communities to use accountability mechanisms. Substantial concerns have also been articulated by the Forest Peoples Programme in the analysis of impacts of country systems on Indigenous Peoples. South Asian and Indonesian groups have also expressed similar concerns.



Tajikistan women. The Safeguard Policy Statement neither ensures women’s participation nor guarantees that ADB operations would not result in gender inequality.

PARVIZ UMAROV / ODGCS

Failure to integrate gender concerns as required by ADB policy

According to an analysis by Gender Action,⁹ “the ADB gender policy and good practice require that all ADB operations address gender issues. Yet the Consultation Draft of the ADB’s Safeguard Policy Statement (SPS) almost entirely fails to integrate gender concerns including safeguard elements of the ADB gender policy. The ADB’s Bank Policy on Gender & Development in ADB Operations requires, “addressing gender considerations in ADB’s macroeconomic, sector, strategy, and programming work, including studies on the impact of economic reform programs on women; undertaking gender analysis in projects; and ensuring the consideration of gender issues at all stages of the project cycle, including identification, preparation, appraisal, implementation, operation and maintenance, and monitoring and evaluation.”

The ADB Operational Procedures on Gender and Development establish procedures that ADB project staff must follow to integrate gender. Staff must assess potential gender issues in the initial project impact assessment required for all ADB operations. If the project “has the potential to correct gender disparities or significantly mainstream gender concerns, or is likely to have substantial gender impact,” it is classified as Gender and Development (GAD) and an ADB gender or social development specialist must undertake a detailed gender assessment and prepare a project specific Gender Action Plan (GAP) during project design.

The SPS fails to integrate safeguard elements in the ADB’s own gender policy described above. The SPS does not

sufficiently facilitate women's participation in ADB operations, and it neglects to provide adequate protections to ensure that ADB projects and programs do not contribute to gender inequality and the marginalization of women.

The SPS does not mention any gender issues in the policy on Environmental Safeguards, despite many women's key role as custodians of the environment and many poor women's reliance on natural resources to provide household goods such as water and firewood. None of the SPS Safeguards require borrowers/clients meaningfully consult with men *and women*, take gender issues into consideration during project assessment, address gender concerns identified in project design and implementation, or monitor projects for gendered results.

Missing information: budget necessary for safeguard implementation, Operations Manuals

One of the key things that will determine the extent to which it will be possible for the ADB to implement any safeguards, including existing measures, is the budget proposed for safeguards. This section is entirely missing – no data are provided on proposed costs and budgetary support for safeguard implementation. The safeguard implementation budget must be provided prior to any meaningful public consultation process. The same is true of the Operations Manuals that are cited in the SPS text which provide implementation information. They have not been made public.

South Asia Groups Call for Boycott of January South Asia Consultation

Citing the ADB's "deeply flawed draft 'safeguard policy statement' and underscoring the fact that the ADB's draft safeguard policy "undermines its own existing policy" with a "new draft which collapses all three policies into one 'statement' of principles", South Asian groups including the Indian Social Action Forum, Ghati Morcha, National Hawkers Federation, National Forum of Forest People and Forest Workers, Urban Research Centre, and River Basin Friends have recently launched a call for a boycott of the planned mid-January SPS consultation.

The groups critique the Bank's "much touted country systems approach" which has "shamelessly evolve[d] out of "requirements for Borrowers/Clients" where "member country governments clamour for 'investments at all cost', thus betraying the affected communities and ignoring the rising tide of peoples movements demanding their governments to be more transparent and accountable." The South Asian groups express concerns about the proposed framework approach which "is turning back the clock in development lending by taking environmental and social mitigation measures out of project design to appease its

member country government and facilitate private sector participation." The groups cite "fraudulent EIAs and environmental clearances, suppression of information, gross violation of human and indigenous rights in Lafarge mining (Meghalaya, India), Phulbari (Bangladesh), STDP in Sri Lanka, West Seti in Nepal."

Conclusion

We have engaged in the SPU process to date on a good faith basis, taking at face value the commitment by ADB management that the new Safeguard Policy Statement would not entail the weakening of ADB safeguards. Unfortunately, the draft SPS presented for public comment actively promotes a substantial weakening of most of the ADB safeguard protections. This draft, as currently written, is unacceptable and is not suitable as a basis for public consultation. We urge the ADB to withdraw this draft and re-write it, prior to continued public consultation to comply with existing ADB environmental and social protection measures and international best practices. We urge the ADB to address the aforementioned failures as well as the issues raised in the more detailed analyses presented by the authors of these summaries and other members of the NGO Forum on the ADB.

Endnotes

¹ Stephanie Fried, Executive Summary of the Summary of Concerns regarding the ADB's Draft Safeguard Policy Statement, Environmental Defense.

² See ADB Eliminates Mandatory Implementation Requirements for Safeguards, Environmental Defense, stephg99@gmail.com

³ For details, see S. Fried, "Elimination of Mandatory Implementation Requirements for Safeguards?", January 2008

⁴ See detailed reports by Forest Peoples Programme at http://www.forestpeoples.org/documents/ifi_igo/bases/adb.shtml

⁵ See detailed reports by Environmental Defense, stephg99@gmail.com or <http://www.bicusa.org/en/Article.2851.aspx>

⁶ See detailed reports by International Accountability Project <http://www.bicusa.org/en/Article.2851.aspx>

⁷ For a detailed comparison of IFC and ADB standards (clearly demonstrating the fact that the proposed ADB standards fall far short of even IFC standards), see report by S. Herz for Bank Information Center at <http://www.bicusa.org/en/Article.2851.aspx>

⁸ See report by Center for International Environmental Law at <http://www.bicusa.org/en/Article.2851.aspx>

⁹ This section consists of a citation from Suzanna Dennis, "Failing to Safeguard Gender Equality: Comments on the ADB Consultation Draft of Safeguard Policy Statement," Gender Action, December 2007.



ADB, Safeguarding Its Interest: The Karnataka Experience

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Since its establishment in 1969, the Asian Development Bank (ADB) already has 67 member countries. As an international financial institution (IFI), it has an annual lending of USD6 billion, mostly for development projects in its developing member countries (DMCs).

Over the years, the Asian Development Bank has come up with many policies to ensure the proper implementation of its funded development projects. ADB claims that its policies protect the environment and the rights of the indigenous peoples, and ensure minimum displacement with the adoption of its Safeguard Policies. However, experience with the implementation of ADB-funded projects shows that the Bank's actual practices have been contrary to what it has been proclaiming, or what is written in its policies, at the least.

This article focuses on the role of the ADB in the urban development in Karnataka, India. Contrary to the claims of the Bank that it protects the interests of the people through its Safeguard Policies, in reality, it intervenes with the constitutional safeguards of sovereign countries. Its own Safeguards are an eye wash, providing instead a safety shield for its own operations. ADB-funded projects have corroded the safeguards of the people in Karnataka, making them vulnerable to exploitation.

A promise to eradicate poverty with global knowledge

India joined the ADB in 1966. The Regional Bank has approved 100 loans amounting to USD16,448.21 million since 1986 (Fact Sheet on India). Its role in the urban sector began with the Karnataka Urban Infrastructure Development Project (KUIDP) in 1995.

The core focus of the Bank's operational strategy in India has been poverty reduction through infrastructure-led growth which has reflected the evolving priorities of the Government of India. The three pillars of ADB's strategy are inclusive and broad-based growth, social development, and good governance. A close look at Karnataka, where ADB has put in lots of money and has exercised influence to bring changes in the functions of urban local governments has clearly made people vulnerable.

ADB in urban sector in Karnataka

There has been a long debate in Karnataka about the quality of ADB projects. People vehemently opposed the arrogance of 'expert consultants', completely disregarding the need for peoples' participation.

The preparation of Urban Sector Policy Analysis in 1994 by the Ministry of Urban Development, in association with the ADB, has begun the facilitation of commercializing urban infrastructure and alternative forms of service provision, including privatization and public-private partnerships. The KUIDP agreement is considered as a milestone for urban development because of the inclusion of policy reforms intended to support the central and state governments' efforts to decentralize urban management responsibilities, including resource and revenue generation and improving

Operation and Management (O&M) of assets. (ADB, RRP: IND 27132)

The second project, Karnataka Urban Development and Coastal Environment Management Project (KUDCEMP), sets a block tariff system for water supply that includes a sewerage surcharges for towns with waste water treatment facilities to promote greater cost recovery for urban services. (ADB, RRP: IND 30303)

The Safeguard Policies are only good in paper. Consultants prepare documents prerequisite to loan preparation that are 'complicated' and cannot be understood by the community. Such, including the Safeguards, are not implemented in the field.

The third project, North Karnataka Urban Sector Investment Programme (NKUISP) aims to improve the living condition in the slums through the provision of basic social services. (ADB, RRP: IND 38254) In this project, the North Karnataka Urban Sector Investment Program will assist the Government of Karnataka (GoK) in implementing its urban sector investment plan which includes the provision of water supply systems, sewerage systems, drainage, and urban road resurfacing and junction improvements. It also entails enhancement of firefighting capacity, tourism infrastructure, and lake rehabilitation. The Investment Program will introduce private sector participation (PSP) in selected sub-sectors in selected urban local bodies (ULBs) and support ongoing institutional reforms and training for ULB staff. This is currently being conducted by GoK under the Nirmala Nagar Program.

The three series of loans have been covering four, ten and twenty-eight cities, respectively since 1996, and in the process, ADB has brought legislative changes from one loan to another.

Track record of ADB Safeguards in Karnataka

ADB's implementation of its Safeguard Policies has been receiving public critique. ADB-funded urban development projects in Karnataka do not show any encouraging experience. The following provide a cursory look at the Safeguard Policy implementation in Karnataka¹:

Environment Policy

The Environment Policy (2002) is supposed to be addressing five challenges confronting the environment which has been required for the operations of the ADB in its DMCs. The Bank claims that environmental issues and considerations have been mainstreamed in its operations and country strategies (point 18). However, such have not been reflected in the case of urban development projects.

The following has been observed in the implementation of its projects:

- Only Initial Environment Examination (IEE) was required for urban development projects categorized as 'B' projects, which according to the ADB, would have posed considerable small impacts only during project implementation. Even though such projects could have accelerated urbanization process, the conduct of Environmental Impact Assessment (EIA) was not made compulsory.
- The 'external' consultants' project design resulted in over estimation of available resources and did not consider waste impacts and land use change.
- Long-term productivity of the ecosystem was ignored.
- Monitoring and evaluation of compliance on the field was weak.
- Change in legislations and market-based instruments caused tree felling.
- Public consultations were poorly conducted and the implementation of the Public Communications Policy was weak.

Indigenous Peoples Policy

The Bank did not observe its own IP Policy (1998) in the implementation of its funded projects. The following were observed during project implementation:

- The urban poor were not involved in the project
- According to project documents, 30 percent of the beneficiaries are urban poor. However, it has not been recognized that there are indigenous communities in urban areas.
- The projects neglected the scheduled castes (SC), scheduled tribes (ST) and other marginalized groups in project towns.
- The urban development projects failed to ensure the five interventions mentioned in the policy.

Involuntary Resettlement Policy

The Involuntary Resettlement Policy (1995) was brought in August 1995. The observation of its implementation reveals that:

- The ecological use of land acquired for project components was not considered.
- The delays of project implementation negated the ecological functions of the land.

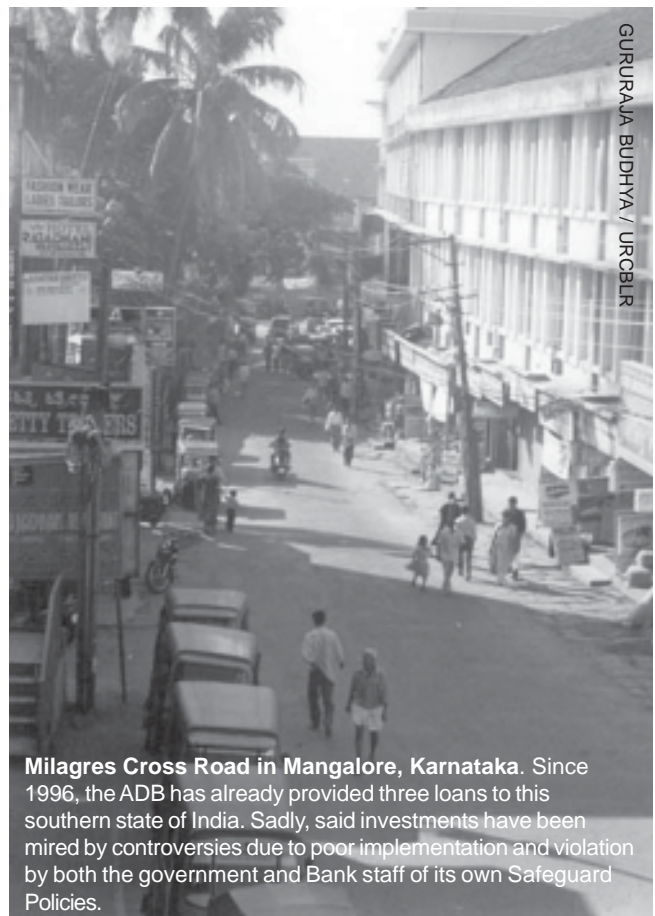
- The policy did not consider the inconveniences caused and the displacement due to the solid waste dump yards.
- The policy did not consider that the project has caused displacement.
- The policy did not consider that urban projects could create migration into cities.

Spending pattern on poor

- The slum residents in specific and the citizens in general have been excluded largely from planning and monitoring of the physical works as the tasks are managed by the Project Implementation Unit (PIU) and Design and Supervision Consultants (DSC).
- The high cost of public goods, like public toilets, construction of community toilets in private compounds and slum improvement has benefited individual beneficiaries rather than the community. This has raised the concern if the benefits would really reach the 'poor'.²

The study carried out by CURE and Water Aid on 'Evaluating Implementation of ADB's Water Policy in India' (2005) made the following observations:

- NGO involvement in the project has been inadequate and has resulted in relatively weak community



Milagres Cross Road in Mangalore, Karnataka. Since 1996, the ADB has already provided three loans to this southern state of India. Sadly, said investments have been mired by controversies due to poor implementation and violation by both the government and Bank staff of its own Safeguard Policies.

participation. The low level of community engagement can be held responsible for the lack of debate on critical issues in water supply and sanitation such as on land tenure, house services, tariff affordability, etc., which in turn meant less involvement of the community, as services do not respond to their needs;

- Despite three generations of loans, projects for the poor have continued to be designed as stand-alone packages rather than as conscious efforts to mainstream the poor by networking them to the expanding city systems; and
- Only about one third (28%) of the estimated slums in a city are reached under the slum improvement packages. Pro-poor components are generally funded out of the regular government resources and not through ADB loans since serving the poor using high cost loans is bad economics, according to officials. Further, in Karwar, sanitation services were being provided to slum dwellers under the LCS scheme (grant component) of the GoK and not from the ADB loan. Karnataka RRP does not have a separate budget head for Slums. Karnataka RRP does not provide a separate budget for slum services.

The Safeguard Policies are only good in paper. Consultants prepare documents prerequisite to loan preparation that are ‘complicated’ and cannot be understood by the community. Such, including the Safeguards, are not implemented in the field. ADB staff in the local office neither has the expertise to conduct a thorough investigation nor follow a comprehensive process to implement Safeguards plans.

Safeguarding people OR safeguarding itself?

A) Conditionalities of loans, converting functions to services:

The conditionalities of ADB loans have gradually changed the functions of urban local governments. New legislations to raise additional income and control its expenditures have been passed, influencing the way government carries out its anti-poor measures.

The conditionality for GoK attached to KUIDP, the first ADB loan, was ‘cost recovery’ of water supplies in all towns of Karnataka. This has translated to increased water tariffs and sewerage charges to ensure full cost recovery for O&M of water supply and sanitation services. (RRP: IND 27132)

For the second loan, KUDCEMP, the conditionalities attached to it include revenue augmenting measures through new taxes, e.g. self assessment of property tax, solid waste cess and motor vehicle cess; reduction of non-revenue water;

increased water charges; and drainage surcharge, among others. (RRP: IND 30303)

The third loan, NKUISP, has the following conditionalities: creation of adequate funds for O&M of project facilities; creation of PSP fund³ to mitigate non-payment risks to private sector contracts; revision of water tariffs from flat rate to volumetric metered tariff; imposition of sewerage tariff; and cutting of water supply due to non-payment, among others. (RRP: IND 38254)

The ADB claims to have improved the capacity of state and local implementing agencies in the urban infrastructure sector in Karnataka as well as in other states. But in reality, although the state agency has gained upper hand in controlling “everything” about the project, the urban local governments have been sidelined. The Councilors, who are elected representatives, neither have been consulted nor informed about their role in the entire process. People claim that passage of local resolutions is not complicated for loan

The ADB has influenced and made conscious efforts to convert constitutional obligations of urban local governments into “chargeable services” which has resulted in a crisis.

projects which are state-controlled. However, this has not been the case for other local projects.

The series of ADB loans since 1996 have systematically given the power to GoK to increase water tariff, bring new legislations to charge people additional taxes, and control public spending, to name a few. There is no doubt that governments have to judiciously spend their limited resources. However, it does not mean that their constitutional mandates be cunningly given up to promote private sector interests. The ADB has influenced and made conscious efforts to convert constitutional obligations of urban local governments into “chargeable services” which has resulted in a crisis.

B) Removing constitutional safeguards and weakening elected governments

The ADB has continuously promoted centralized, special purpose vehicle to conceive, design and implement the urban development projects in Karnataka. In the last ten years, implementation of ADB projects has undermined the

autonomy of urban local governments and the importance of citizens' participation. ADB's promotion of centralization in the implementation of its projects is in stark contrast to the provisions of the 74th Constitutional Amendment, which enhances the efficiency and effectiveness of local government units.

As an outside arrangement, the project implementation unit (PIU) of an implementing agency is usually limited by its inability to engage effectively with municipalities. Therefore, the post project scenario in Karnataka only involves state agencies' capacities being enhanced through the implementation of funded projects, leaving municipalities even without a sense of ownership over completed projects by the PIU.

Recently, the ADB has approved a technical assistance (TA), "Umbrella Grant for Project Processing and Capacity Building," (TA-39654-01) to improve India's capacities for project preparation and implementation. A cluster of about eight TAs covering multi-sector groups would eventually end up strengthening state agencies and increasing the role of consultants, with the helpless local governments in the receiving end. This clearly indicates how contradicting what the ADB does from what it has been claiming.

Though the ADB talks about social development and poverty eradication, the Karnataka experience shows that existing legislations have been relaxed to promote private sector participation. ADB claims its projects would promote the welfare of the "poor." But in reality, the real cost for their projects would be shouldered by the government.

The people of Urban Karnataka would have to pay for increased user charges. Thanks to ADB, the people of Karnataka would be at the mercy of private contractors and remain indebted in their lifetime.

C) Safeguard Policies of the ADB

The existence of Safeguard policies of ADB has benefited itself rather than the project affected people and the people of recipient countries. The preparation of matrices, framework, and other documents by "qualified" or "recognized" consultants is the first step. The reports remain a mute witness to all that don't happen, but claim to have happened. Now the review of the Safeguard Policies is moving towards "weakening" for easy disbursement of funds.

The ADB stands accused of watering down the Safeguards which were supposed to protect the villagers who are forcibly resettled by its funded projects. In fact, four members of the Safeguard Policy Update (SPU) Team, which has been

tasked to review the Safeguards, have resigned from the unit in July. They have claimed that the policy which they had worked for two years had been altered at the behest of the Bank's Management.⁴ This has also brought the credibility of the ADB to question and has created a crisis within the Bank.⁵ This only shows how committed the ADB is from within.

Final words

The implementation of urban development projects in Karnataka shows that the ADB Safeguards have not been addressed rather has created more complications. The poor have not been part of decision-making, institutional changes are top-down, the regional environment have been deteriorated in the long-run, stakeholders are not engaged with, and such have not been internalized by the Bank's staff.

One can conclude the following:

- The policies exist, but are not functional.
- The conditionalities attached to the projects and programs have undermined the "Constitutional Safeguards" of the people.
- The citizens are converted into customers and debtors.

The ADB is busy safeguarding its interests rather than the interests of the poor and their sovereignty.

Endnotes

¹ For a detailed critique, read "Safeguard policies of ADB in urban development: The case of urban infrastructure development projects in Karnataka, India," in Untold Realities: How ADB Safeguards have been violated in Bangladesh, India, Lao PDR and Pakistan, NGO Forum on ADB, October 2006.

² Refer Exhibit 1, 2, 3, KUDCEMP – ADB Blunders Unearthed, in Mangalore Today, Vol.8, Issue 7, October 2004.

³ The GoK has set up a Trust Fund – Karnataka Water and Sanitation Pooled Fund Trust (KWSPF Trust) to protect debtors from municipality defaulters (under GBWASP). The government also set up a Bond Service Fund (BSF), a State Intercept Commitment and a USAID guarantee. This arrangement is intended to enable municipalities to get a credit rating.

⁴ ADB review sparks resignations, by Alan Beattie in London, Financial Times, 12th September 2007. http://www.ft.com/cms/s/0/17251fa4-6143-11dc-bf25-0000779fd2ac.html?ncklick_check=1

⁵ ADB officials quit protesting policies, by Richard Mahapatra, Down To Earth, Vol.16, No.10, Monday, October 8, 2007. http://downtoearth.org.in/full6.asp?foldername=20071015&filename=news&sec_id=4&sid=14

Extraterritorial State Obligations and the ADB

Ulrike Bey/Asienhaus

The Asian Development Bank is currently in the process of reviewing and redrafting its Safeguard Policies in order to improve “the clarity and effectiveness” of its policies. The Safeguards on Involuntary Resettlement, Environment and Indigenous Peoples are in place to minimize the environmental and social impacts of development projects which are financed by the Bank. They shall ensure that the ADB is accountable for the environmental and social impacts of its projects. Also, they serve as a tool for affected communities to complain to the ADB management in case Safeguard Policies are not followed.

Weaknesses and problems with the existing Safeguard Policies are manifold, well-documented and analysed. Often, the Safeguards have not been adequately implemented and many projects caused harm to the affected communities through loss of land, livelihood, insufficient compensation and in turn increased poverty. Thereby they are in breach of fundamental human rights treaties. The principles of universal respect for all human rights and of international cooperation to protect and promote human rights are fixed in the UN Charter.

This brings further questions into focus – who is responsible for human rights violations when, as in the case of Pakistan’s Chashma Right Bank Irrigation Project, thousands have lost their land and livelihood? Is it the governments in the countries where the projects take place, the ADB, or the shareholding members of the Bank which are involved in financing the projects?

One approach to answer these questions has been developed by the development and human rights organisations Bread for the World, Church Development Service (EED) and FoodFirst Information and Action Network (FIAN).

A study carried out by the organisations¹ discusses the “extraterritorial human rights obligations” of donor governments as members of international financial institutions. The concept of extraterritorial state obligations describes the human rights standards these states should preserve towards people in third countries.

The study argues that multilateral development Banks like the ADB have to respect international standards on human rights. A government that has signed and ratified the UN Covenant on Economic, Social and Cultural Rights (CESCR)

is obliged to respect and implement these rights not only in its own country. It also has to avoid negative impacts of projects in other countries.

For a shareholder in the ADB, they should avoid approving projects that most likely will cause abuses of human rights. A classic case are large infrastructure projects that include resettlement. Resettlement bears a great risk of affecting the livelihoods of the people unless they are adequately compensated.

Out of the 19 non-regional members of the ADB, 18 have ratified the CESCR. Out of all the 67 ADB member countries, only 45 did, or 67 percent. Showing this commitment these donors have the obligation to implement and guarantee the economic, social and cultural rights in countries where the ADB is active.

The ADB, or any other multilateral development Bank, cannot sign such a UN covenant. However, as an international legal personality, it is subject to international law and bound by international agreements and general rules of international law, including human rights law.²

ADB could also promote that all its members sign the CESCR, as well as other UN human rights treaties like the Convention on the Rights of the Child and Convention on the Elimination of all Forms of Discrimination against Women (CEDAW). This could increase the commitment of its member countries to respect extraterritorial state obligations.

The above mentioned study rightly concludes that the shareholder governments should acknowledge their extraterritorial obligations to respect, protect and fulfill human rights in MDBs such as the ADB. They should increase their capacities to analyze possible human rights impacts before project approval and report their activities to the UN Committee on Economic, Social and Cultural Rights.

One precondition for development based on a human-rights approach is the recognition of project-affected people as rights-holders. The use of inspection, monitoring and grievance mechanisms as mere management tools leads to a disempowerment rather than empowerment of project-affected people because they are seen as objects rather than subjects in the process.³

...cont. on p. 18

Safeguarding Business, Not the Community

Avilash Roul

The objective of the Safeguard Policies is to prevent and lessen undue harm to people and the environment caused by development interventions. The multilateral development financial institutions like the World Bank and Asian Development Bank (ADB) have formulated their own safeguard mechanisms to execute their three (3) Ps: projects, programs and policies.

In its 40 years of existence, the ADB has initiated to reformulate its Safeguard Policies in the wake of changing client needs and new business opportunities. It seems the ADB is more interested in managing its own survival by disbursing more unrestricted funds to developing member countries (DMCs) than strengthening its Safeguards in the pretext of updating.

After initiating a process strengthening its existing Safeguards, the ADB subsequently emphasizes the Country Safeguard System (CSS) approach which at least is not up to the level of existing ADB Safeguard Policies. By propagating the CSS approach, the ADB is trying to transfer the responsibility of the ill-effects of its funded projects to the borrowing country.

Since its institutionalization in 1966, the ADB has gradually pronounced the three pillars of its Safeguard Policies: Involuntary Resettlement (1995), Indigenous Peoples (1998) and Environment (2002). However, the implementations of these existing policies with borrower countries have a miserable track record.¹ The best example of impacts of ADB-funded projects can be assessed in the Compliance Review Panel (CRP) which received six new grievances against ADB projects besides Southern Transport Development Project (STDP) in Sri Lanka and Chasma Right Irrigation Bank Project in Pakistan in a single year.² Most grievances do not reach ADB's mechanisms. Likewise, the random selection of the grievances may reduce the number of grievances as it has been shown in the 2006 CRP Annual Report.

In July this year, four senior officials quitted the Safeguards Policy Update (SPU) Team over the dilution of the Environment and Involuntary Resettlement Policies, causing right-based groups to vociferously oppose the process of the ongoing Safeguards Review. Though serious concerns have been raised over the draft policy statement on the Safeguards, it seems the ADB has improved its environmental categorization, eliminating category B

sensitive. However, the apprehension remains if this will hold true in implementation.

Environmental Category

The Draft Safeguard Policy Statement says "ADB will carry out screening at the earliest stage of project preparation when sufficient information is available for this purpose."³ By merely saying, "at the earliest stage of project preparation" would not be enough to empower local communities to interact with parties involved in screening and scoping work. The ADB should clearly mention a timeline for such purpose. Likewise, the ADB must make all relevant documentary requirements of a project available for public comments prior its preparation, especially those posing environmental threats on real and imaginary environmental threats.

Borrowing countries usually have very poor track record when it comes to the conduct of public consultations. The ADB must establish a mechanism where, at least during the screening and scoping process, proper consultation should be carried out. People's involvement in environmental assessment is necessary to promote transparency which minimizes lopsided results.

120-day disclosure rule for Category A projects

This period differs from one MDB to another. However, there is no merit in reducing the number of days for disclosure. ADB's move to lessen the number of days for disclosure is almost equivalent to avoiding its responsibility for the harsh environmental impacts brought by its funded projects. This should be strongly opposed. In fact, a period of four months is not enough for local communities to assess a project's environmental and social impacts. The disclosure period for category 'A' projects should be much longer. Likewise, such reports should not only be made available in their website since majority of affected people do not have access to internet. The draft documents should also be made available in local languages. Borrowing countries must make all reports available at the lowest governance structure in the project area and accessible to local people.

Resettlement plan

The implementation of resettlement plans in ADB-funded projects has never been satisfactory. The draft policy must include a special compensation for physically challenged persons, protect social institutions, and must be gender sensitive. The glaring example can be found in the ADB-JBIC funded STDP. The existing policies never speak of these social aspects of the involuntary resettlement. While building infrastructure for economic growth, the ADB should not dismantle the social fabric of the community. The draft resettlement plan is silent on this aspect.

Country Safeguard System

In India, the executing line agencies are more confident about India's legal and institutional framework, consisting of its national, sub-national, or sectoral relevant laws, regulations, rules, and procedures than the ADB Safeguards. After discussing with dozens of executing agencies in India, I believe that the Country Safeguard System (CSS) is actually being pushed and lobbied by the line agencies in the borrowing countries. However, the CSS in all developing member countries are only good in papers and highly vulnerable to manipulations by local agencies. There are even large chunk of DMCs like India and China which don't have any transboundary environmental policies.

To address the capacity and capability of host countries on CSS approach, the ADB will follow the World Bank by setting two criteria of equivalence and acceptability test for borrowing countries. The ADB would consider a borrower's CSS to be equivalent to its own set of Safeguards if the borrower's system is designed to achieve the objectives and adhere to the applicable policy principles set out in ADB's Safeguard Policies. The Bank will also assesses the acceptability of borrower/client's implementation capacity, including track record and practices, before deciding on the use of the borrower's system.

The process of equivalence and acceptability tests will undoubtedly improve the borrower countries' general policies but the intention is unclear. It seems that the ADB would just use the CSS to get rid of costs and responsibilities. It has to clearly mention the projects which are under relevant tests, so that CSOs would be able to monitor from the conceptual stage of the project to its final stage. Simultaneously, the experiences of international CSOs should be used to strategically support grassroots campaign as well as send feedback to the ADB, which is the ultimate evaluator

of the tests. Otherwise, the ADB and the borrowing countries could agree on the result of the tests that the CSS is very close to ADB's Safeguard Policies even if it is not the case. There is a huge possibility of blatant violation or disorientation of existing ADB Safeguards by state officials during the test.

With the advent of CSS approach, there is a mixed reaction from national and international CSOs. For International CSOs, the country system will weaken the strength of their lobbying with the Bank. However, for some national CSOs like in India, they want the CSS approach since it could give enable them engage with their respective government agencies. It would be best for both international and national CSOs to strategize a coordinated advocacy approach on the ADB.

The flagship report of United Nations Environment Program (UNEP) Fourth Global Environment Outlook (GEO-4) Report reveals that the 20 Years of sustainable development has not at all been well. The ADB has claimed to be dedicated in providing its professional and technical know-how including financial support to eradicate poverty in Asia and the Pacific Region. It is commonly believed that without the Safeguards, the status of the people and their environment would have remained vulnerable to development projects. The ADB must learn from the lessons of its past experiences in Asia the Pacific region.

Endnotes

¹ Oxfam Australia (2007), Safeguarding or Disregarding: Community Experience with the ADB's Safeguard Policies, Australia: Oxfam Australia.

² ADB (2006), Compliance Review Panel-2006 Annual Report, Manila: ADB.

³ ADB (2007), Consultation Draft of the Safeguard Policy Statement, Manila: ADB.

Continued from p. 16 / Extraterritorial State...

In view of the current Safeguards Policy Update, the notion of extraterritorial obligations might be a way to hold all parties involved – the national state, the ADB and its shareholders – responsible for human rights violations in the context of a development project.

The current draft of the Safeguards Policy Statement reveals a significant weakening of the existing Safeguards. If implemented they would pose a serious threat to the environment and affected communities. Shareholders in the ADB that have committed themselves to respect, protect and promote human rights by ratifying the CESRC must not agree to these weak standards far below international standards and best practice.

Source:

Brot für die Welt, EED, FIAN Germany's extraterritorial human rights obligations in multilateral development Banks. Introduction and case study in Chad, Ghana, and Pakistan. October 2006; available at <http://www.fian.org/resources/documents/others/germanys-extraterritorial-human-rights-obligations-in-multilateral-development-Banks/>

Endnotes

¹ Brot für die Welt, EED, FIAN Germany's extraterritorial human rights obligations in multilateral development banks. Introduction and case study in Chad, Ghana, and Pakistan. October 2006

² Ibid. p8

³ Ibid. p25

Serene water. What appears to be a lake is actually an inundated paddy field. As a result of the construction of the STDP, vast land area has been under water due to poor construction and faulty design, destroying the livelihood of the local communities.

Global Accountability Report 2007: A Green Wash for the ADB

Hemantha Withanage
NGO Forum on ADB

The Global Accountability Report 2007 published by the UK-based One World Trust (OWT) is a green wash for the Asian Development Bank which is responsible for many social and environmental disasters in Asia and the Pacific region.

Among 30 organizations assessed in the so-called report, OWT gives the ADB 100 percent score for transparency score to the United Nations Development Programme (UNDP). Among the transparency good practice principles, the ADB was given a perfect score in terms of responsiveness to all information requests and justification for rejection of some; timeliness in responding to such requests; narrow conditions for non-disclosure; and appeal mechanisms. The Bank also received 86 percent for having a civil society engagement policy. It was also given 81 percent for its overall accountability which is second to the UNDP, the latter being given 88 percent.

These figures are highly questionable. It gives an absolutely erroneous picture of ADB's accountability and transparency. NGO Forum, which has been engaging in ADB monitoring since 1992, challenges the credibility of this report for giving such a high ranking to the ADB.

The inconvenient truth with ADB's business is that, local affected communities have been struggling to achieve justice

in the past 40 years for the destructive impacts of the Bank's policies and the projects. And yet, One World Trust has managed to come up with such a report which is a direct insult to the long struggle of those communities.

Limited transparency

The ADB Public Communication Policy (PCP) has not been established overnight. Many civil society groups, including NGO Forum, have made this possible through their struggles and continuous lobbying. However, our experience from our day-to-day engagement with the Bank and the lack of implementation of the PCP clearly show that the ADB is not as fully transparent in practice, a stark contrast to what is written in the Global Accountability Report.

The ADB PCP itself states that "Full disclosure is not always possible for legal and practical reasons. For example, ADB needs to explore ideas, share information, hold frank discussions internally and with its members, and consider the special requirements of its private sector operations. ADB shall safeguard the privacy of its staff and protect

nonpublic business information of itself, private sector sponsors, and clients.”²¹

Among many other information mentioned in its policy, page 22 and 23, section 104 of the Strategy states, “ADB shall not make private sector legal agreements entered into by ADB, or amendments to such agreements, publicly available.”

With regard to the Corruption Policy, section 100 states that, “ADB may share the results of investigations, including identities of the subjects of investigations and names of parties debarred, with governments of ADB member countries.” This means that the ADB has limited transparency in its policy.

In many occasions, the ADB uses said provisions to refrain from releasing vital information about a certain project. Most recent cases include the Lafarge Cement Company mining in the Meghalaya and Phulbari Coal mining in Bangladesh. The ADB has denied the request of local communities and CSOs’ request for a copy of its legal agreement with the LaFarge Surma in accordance with the PCP.

In another occasion, the ADB Resident Mission denied the request of the Azerbaijan-based Oil Workers Rights Protection Organization for a copy of the summary initial environmental examination (SIEE) in Azeri Language for the Urban Water Supply and Sanitation Project. The ADB Resident Mission wrote, “English is the only official working language of the Asian Development Bank, and we can not provide your the requested document in Azeri or Russian language.” This is not true and totally contradicts what is written in the PCP.

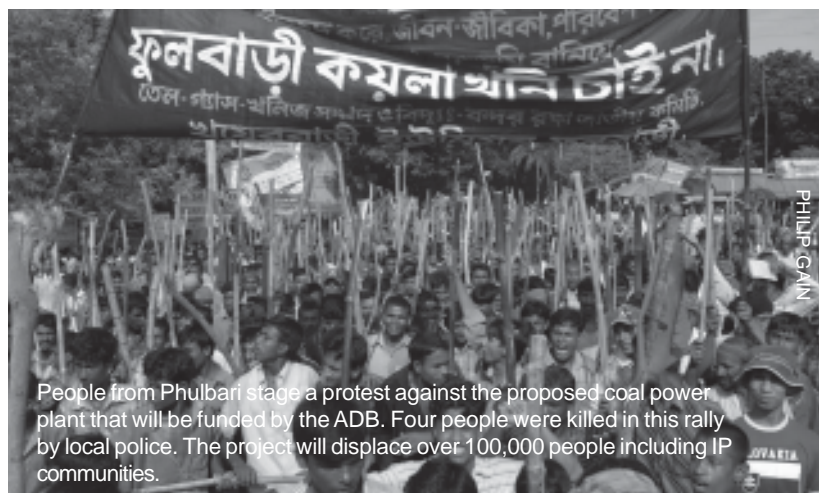
Hence, while the PCP is one of the best policies available for public disclosure, it doesn’t provide 100 percent transparency.

Stalemate accountability

The ADB Accountability Mechanism has been a product of the hard work of many groups, including civil society organizations. However, it only holds the Bank internally accountable. It does not go beyond that. The ADB has no legal accountability for the negative impacts its funded projects bring since it has immunity from national laws.

Therefore, the new Accountability Mechanism is only a “window dressing.” It does not really protect the local people from being adversely affected by its projects. For example, while the Compliance Review Panel has found many violations of ADB’s policies in the Southern Transport Development Project (STDP) in Sri Lanka as it has stated

in its 2005 report, the ADB management has not yet settled the problem on the ground and implemented the 17 recommendations of the CRP. One bureaucratic hurdle in the STDP is lack of coordination between its major co-financers – ADB and JBIC – and the Government of Sri



People from Phulbari stage a protest against the proposed coal power plant that will be funded by the ADB. Four people were killed in this rally by local police. The project will displace over 100,000 people including IP communities.

Lanka. Though the CRP has done its best to bring up the irregularities in the STDP to the ADB Board of Directors, it has not served its primary purpose of solving the problems surrounding the STDP.

There is a similar tug-of-war in the case of the Chasma Right Bank Irrigation Project (CRBIP) in Pakistan. Affected people have made it harder for the CRP and the local authorities by not participating in the process and by not paying irrigation taxes to the Pakistani Government. Perhaps, they believe that such could be better alternative ways to ADB’s Accountability Mechanism in achieving justice.

“It is unfortunate that ADB’s Accountability Mechanism has become a jailbird of bureaucracy. Project compliance has become a duty of the CRP instead of all parties. How long will CRP policing among co-financers, executing agency and the ADB management continue?”²²

Within the two arms of the Accountability Mechanism, the Office of the Special Project Facilitator (OSPF) believes that they are in the best position for dispute resolution. However, the OSPF has failed to meet such expectations based on its previous handling of complaints that have clearly shown its bias towards the ADB. On the other hand, although the CRP has produced good reports and recommendations, such have been unpromising because of its failure to effectively enforce them.

The ADB needs to end its poor legacy if they are really committed to its accountability. It has been a known fact

that the OSPF only settled a case in Indonesia out of the 17 complaints they have received. They use the silly eligibility process to keep their gates closed for local communities' complaints as well as from reaching the CRP. In this respect, the Global Accountability Report is quite contrary to ADB's own experience.

On greater accountability, the ADB does not have a clean track record. ADB's development projects have displaced over 1.77 million people in the last decade. 25,000 people living in 26 villages around Khulna Jessore Drainage Rehabilitation Project in Bangladesh are under water for more than nine months a year. Apart from other physical and social damages, at least eight people have died in STDP due to construction-related accidents. One Vietnam highway project displaced 86,000 people, although the original plan was to only remove only 6,000 people. To date, the Mae Moh Coal Power Plant has already killed at least 600 people.

In addition, the ADB is planning to support the Phulbari Coal Mining Project in Bangladesh which will be implemented by the UK-based Asian Energy. The project will displace more than 100,000 people. When the people have opposed the project, the police came to the rescue, killing at least four people. Worse, the ADB has been keeping relevant documents from local communities and CSOs citing the provisions in the PCP which does not provide access to certain private sector project-related document.

Never judge the ADB by its paper work

One should not purely rely on good reports that usually serve as green wash for an institution's wrong doings, such as the ADB. Local communities who have been struggling against the problems that the ADB has brought them know the truth behind the glossy reports of the ADB.

One World Trust's Global Accountability Report 2007 has only been a product of a desk study on ADB's policy. The score on transparency and accountability that it has given the Bank clearly show it and are highly questionable. It is wrong to assess an institution, such as the ADB, which has been involved in thousands of projects, by simply reading its documents. As mentioned above, the policy itself identifies ADB's limitation to make itself fully transparent. Hence, the ADB cannot receive a perfect score unless there is an error in OWT's methodology, or worse, due to some hidden agenda.

No one has the capability to judge ADB's transparency and accountability without looking into its practice. On the other hand, issues highlighted above show that ADB's transparency and accountability policies have no direct impacts on the project-affected people. In my experience, affected people are not interested about ADB's paper work

but in achieving justice instead. Therefore, giving the ADB a high score on its accountability is a total betrayal of their continuing struggle.

The report has only referred to ADB policies and internal reports. It has not looked into other documents. Considering other reports, such as the Operations Evaluations Department's (OED) special evaluation studies, one could easily see that OWT's findings are not true.

Likewise, though the report looks into the transparency and accountability of other development organizations and aid agencies, OWT's own process has not been transparent. They have neither consulted people, who are continuously suffering due to development projects, and the numerous CSOs working on and monitoring the ADB.

According to many unimpeachable sources, the ADB president has been making decisions without respecting the Bank's Board of Directors. The president's continuous involvement in the selection of the members of the CRP and the OED has curtailed the independence of these divisions. ADB's score for its transparency and accountability is a complete mockery given the present non-transparent hiring process.

In recent times, ADB's consultation and participation process have been gravely mishandled by its own staff. The consultations on the Energy Strategy Review, Long-Term Strategic Framework, and Aid for Trade that were held this year has not been satisfactory. In most cases, the ADB has already made up its mind on how a policy will look like even before the conduct of the consultation. Civil society's participation has been purely a rubber stamping; but in essence, effective public participation has been absent all along.

There are millions of people out in Asia and the Pacific region who continuously struggle because of the destructive impacts of ADB-funded project and policies. They have been long struggling to attain justice, transparency, accountability and good governance. One should have these facts before listening to a non-conclusive report that clearly provides a green wash for the environmental degradation and social rights violations brought by ADB's development intervention.

Endnotes

¹ Asian Development Bank. "The Public Communications Policy of the Asian Development Bank Disclosure and Exchange of Information." Sec. 35, Manila, March 2005.

² Hemantha Withanage. "Accountability Mechanism: A Jailbird of Bureaucracy." 2006.

Greenwash and How to Encourage It: One World Trust studies what ADB says, not what it does

Chris Lang / WRM

In its more than 40 years of existence, the Asian Development Bank has financed projects that have dammed rivers, bulldozed forests, pumped pollution into the air and rivers and evicted Indigenous Peoples and local communities. Since 1994, 1.77 million people have been evicted from their homes to make way for ADB-financed projects. The Bank is fundamentally unaccountable to the people affected by its projects.

Yet in its 2007 “Global Accountability Report”, the UK-based NGO One World Trust gave the ADB an accountability score of 81 per cent, ranking the Bank ADB second out of the 30 organisations studied. “Independent Report Gives ADB High Marks for Accountability,” gushes the ADB’s press release. ADB Vice-President C. Lawrence Greenwood Jr. describes One World Trust’s report as a “useful tool that can help ADB measure its effectiveness as a development institution in promoting transparency and other dimensions of accountability through its policies and work.”

One World Trust’s report only looks at policies on paper. “Inevitably,” states the report, “variation between policy commitments made by an organisation and what happens in practice on the ground may occur.” One World Trust makes no attempt to address this problem. “The study therefore does not claim to offer a full and definitive assessment of an organisation’s accountability.”

The ADB’s press release is in breach of its own Public Communications Policy which states that “ADB has a responsibility to provide the public with a clear, balanced picture of its work.” A balanced picture would include reference to the thousands of people whose livelihoods have been destroyed by the Bank’s projects and to whom the Bank is a remote, non-transparent, unaccountable organisation.

One of the problems with One World Trust’s report is that it is a desk study. The researchers did not get in contact with anyone directly affected by the ADB’s projects. But that isn’t the only problem. The report looks at 30 organisations: ten intergovernmental organisations, ten NGOs and ten corporations. Google is the least transparent organisation of the the 30 studied, with an overall score of 17 per cent. ADB scored 81 per cent. Attempting to compare the ADB to Google is meaningless. While there are serious concerns regarding privacy and Google’s storage

of information, as well as concerns about its pandering to notoriously undemocratic regimes such as China, it has not funded projects which evicted villagers, bulldozed forests or dammed rivers.

Another problem is that the One World Trust report only looks at accountability. Among the other companies in the 2007 report are Suez, DynCorp, General Electric Company, GlaxoSmithKline, Petrobras, HSBC Holdings, TATA Group, Coca-Cola and Interpol. DynCorp’s record of aerial spraying of lethal herbicides on coca crops and neighbouring communities in Columbia is ignored, as are reports that the US government cannot account for the billion dollars that it gave to DynCorp to provide training services in Iraq. One World Trust makes no mention of the accusations against a Coca-Cola bottling plant (47 per cent owned by Coca-Cola) in Colombia of hiring paramilitaries to kill, kidnap, torture and disappear trade unionists working for the bottling plant. Or the water depletion and drought linked to a Coca-Cola factory in India. There is no mention Suez’s role in privatising water supply in El Alto, Bolivia, which failed after massive protests by local people. Instead, the report describes Suez as a “TNC designing solutions for the management and provision of energy, water, sanitation and waste utilities”. Coca-Cola is a “TNC engaged in the manufacture and sale of beverages,” and DynCorp is a “TNC providing training, logistical and operational support to military and civilian government institutions.”

Similarly, One World Trust’s report makes no mention of problems with any ADB projects. To One World Trust, ADB is simply a “Multilateral development bank promoting economic and social progress in Asia.” Had One World Trust’s researchers looked at some of the Bank’s actual projects they may have come up with a more accurate description. Case studies documenting the 42,000 people with severe respiratory problems living near the ADB-funded Mae Moh lignite-fired power plant in Thailand, or the tens of thousands of people who have protested against the

proposed Phulbari coal mine in Bangladesh would have revealed another side of the ADB. A case study of the Theun Hinboun dam in Laos would have revealed the failure of the ADB to address the destruction of local communities' fisheries and riverbank vegetable gardens. Case studies of other projects, such as the the Samut Prakarn Wastewater Management Project in Thailand, would have revealed problems of corruption and lack of transparency associated with Bank projects.

This is the fourth report in One World Trust's "Global Accountability Project". Reports from previous years have promising sounding titles: "Power without Accountability?", "Pathways to Accountability", and "Holding Power to Account". One World Trust uses a Global Accountability Framework to compare the accountability policies of the various organisations. Drawn up over a five years period involving extensive consultation with stakeholders, the Framework includes four dimensions: transparency, participation, evaluation and complaint and response mechanisms. "Within each dimension, an organisation's capabilities are measured by assessing the existence of key accountability values and principles in policy commitments and supporting management systems," explains One World Trust in its report.

It sounds great, doesn't it? Well, sort of. "How do we hold these organisations to account for their actions?" asks One World Trust. Certainly not by ignoring the organisations' track records.

One World Trust defines accountability as "the process through which an organisation makes a commitment to respond to and balance the needs of stakeholders in its decision making processes and activities, and delivers against that commitment." An organisation may have a series of beautiful sounding accountability policies and procedures in place. It may have an "NGO Centre" and a "Public Information and Disclosure Unit". But One World Trust does not look at whether the organisation is accountable in practice. It does not look at the experience of NGOs or local people in trying to access information, or whether the organisation can be held to account when the organisation tramples on the rights of local communities or workers, or when its activities result in major environmental damage. One World Trust cannot say whether any organisation "delivers against" its "commitment".

One World Trust assumes that accountability policies on paper "reflect an already existing organisation-wide commitment to the issue, or [are] an indication that the headquarters / international secretariat recognises that these stated values and principles should be applied throughout the organisation as a matter of good practice." One World

Trust fails to look at the incentives for staff within the organisation to apply accountability policies. ADB staff are rewarded for completing large projects and getting large sums of money out of the Bank. They are not rewarded for upholding local communities' rights to stop unwanted projects on their forests and farmlands. Without incentives for staff to apply policies, they are meaningless. Instead, One World Trust assumes that if the policies are in place, Bank staff will apply them: "Equipped with relevant accountability policies and systems, an organisation has the internal capabilities to implement these principles and values across the wider organisation, network, federation, or group to ensure it is accountable to affected communities and the public at large."

When looking at the ADB and other intergovernmental organisations, One World Trust does not include "affected communities" in its list of "external stakeholders". "External stakeholder engagement" refers to how the ADB "cooperates" with NGOs. There is no mention of how the Bank attempts to relate to the people on the receiving end of its projects - local communities, who often do not speak English (the predominant language for Bank reports) and often do not have access to the internet.

"We distrust One World Trust's findings," responded the NGO Forum on ADB in a public statement. NGO Forum pointed to the thousands of people evicted to make way for ADB projects and the mismanagement of Bank operations which "has brought suffering to displaced communities and Indigenous Peoples groups as well as degradation to the environment."

NGO Forum pointed out that the Bank's Accountability Mechanism has rejected more than 10 complaints at the eligibility stage, most of which on purely technical grounds. The Compliance Review Panel has produced only one report since it was established in 2003. Two other complaints, the Southern Transport Development Project in Sri Lanka and the Chashma Right Bank Project in Pakistan remain unresolved after four years. Communities were evicted without compensation to make way for the Chashma Right Bank Irrigation Project. Design failures have exacerbated floods, villagers have lost drinking water, crops, farmland and access to health facilities. The Chashma communities eventually withdrew their claim to the Bank's Accountability Mechanism. "It was sheer absence of transparency and manipulation of [the] accountability claim which caused the Chashma claimants to withdraw from their inspection request," notes Mushtaq Gadi of the Pakistani NGO MAUJ.

One World Trust appears not to understand that giving credit to the ADB simply for having policies on paper effectively undermines local struggles. In response to a letter from

Hemantha Withanage of the NGO Forum on the ADB, Robert Lloyd, one of the authors of One World Trust's report, repeats what he wrote in the report: "[T]here will inevitably be a discrepancy between commitments made in a policy and what happens on the ground." However, Lloyd writes, "we are confident that we published an objective assessment of the existence and quality of ADB's accountability policies and systems."

The history of the ADB's proposed new forest policy suggests that in fact One World Trust published little more than ADB propaganda. In June 2000, the ADB started work on a new forest policy to replace its 1995 policy. The Bank produced a working paper and held a series of consultations on the working paper. Bank staff then drafted a revised working paper, which was not made available to the public. In June 2003, the Bank posted a new draft version of its forest policy on its website.

This draft was rejected by the bank's board in July 2003. Since then, the proposed forest policy has disappeared into the black box of the ADB's headquarters in Manila. The Bank posted notes on its website promising a new draft in January 2004, then in July 2004, but no new draft appeared. Bank staff made a series of promises of new drafts, none of which made the light of day. Despite repeated requests for information, the Bank has provided no satisfactory explanation of what discussions have taken place within the Bank over the past four years or even whether the Bank will actually produce a new forest policy.

In February 2007, a new note appeared on the ADB's website, this time promising that a "synthesis report" would be available in November 2007. Two months later the "synthesis report" is still not available.

The ADB needs a forest policy. It needs a forest policy that provides a safeguard to protect the rights of Indigenous Peoples and local communities living in and near forests. It needs a forest policy that prevents ADB-financed roads, dams and mines from destroying forests and livelihoods. It needs a forest policy that prevents the destruction of forests and commons to make way for industrial tree plantations. It needs a forest policy that prevents the Bank from trading Asia's forests for carbon emissions in the North. It also needs an open discussion about its forest policy.

On 21 December 2007, I wrote to Javed H. Mir, the ADB's Senior Natural Resources Specialist (Forestry), to ask for a copy of the "synthesis report". I asked for an explanation of the process that the Bank intends to follow from now on to develop a new forest policy. I asked why the most recent draft forest policy available on the Bank's website is dated June 2003. I asked for information about the

discussions which had taken place within the Bank about the proposed forest policy. I asked what the Bank's latest thinking is regarding its proposed new forest policy, and whether the Bank intends to abandon its forest policy and attempt to incorporate forest issues into its ongoing Safeguard Policy Update.

I copied the email to the ADB's InfoUnit. "Mr. Mir informed us that the draft synthesis report is being revised and is expected to be ready by April 2008," replied Robert Paul S. Mamonong, the ADB's Senior Public Information and Disclosure Coordination Assistant. Mamonong did not attempt to explain why the Bank had failed to produce a new forest policy, why the synthesis report was not released in November 2007, or what the process would be when the draft synthesis report is released in April 2008.

Regarding the Bank's latest thinking on its forest policy, Mamonong referred me to a Technical Assistance Completion Report for the Bank's "Regional Study on Forest Policy and Institutional Reforms". The Technical Assistance was completed two years ago. The Completion Report, which was written by Javed H. Mir, confirms that, at some point the Bank produced a "draft ADB Forest Policy R-paper". This R-paper (the "R" stands for "restricted") is not available to the public. "However, new draft ADB forest policy was not adopted," notes Mir in the Completion Report. Mir's only attempt to explain why the Bank's board rejected the R-paper, is the statement: "Different perceptions on the role of forestry in poverty reduction, and ADB's comparative and competitive advantage in the sector, caused difficulty and delay in finalizing the TA outputs including the draft R-Paper."

Nevertheless, the Completion Report rates the Technical Assistance as "partly successful", and claims to have "provided the necessary information and framework for policy dialogues with the ADB's internal and external stakeholders." The Technical Assistance "promoted participatory institutional review and policy development" in the countries in Asia receiving Bank loans. "A website was developed and maintained," writes Mir in the Completion Report, "to inform the public on the implementation process, and seek their feedback." True, there is some information on the ADB's website and the Bank did invite comments (but the comments are not available on the ADB's website). The only version of the draft forest policy on the ADB's website is more than four years old and it has already been rejected by the Bank's board.

Javed H. Mir did not reply to my questions about the Bank's internal discussions on its proposed new forest policy. So much for transparency. So much for accountability.

WE DISTRUST “ONE WORLD TRUST’S” FINDINGS

NGO Forum on ADB Statement on the 2007 Global Accountability Report

We are appalled to see the “2007 Global Accountability Report” issued by One World Trust, a UK-based organization that glowingly rates the institutional accountability and transparency of the Asian Development Bank (ADB). The Report found the Bank to be 100 percent transparent as well as 81 percent accountable.

The NGO Forum on ADB vehemently disagrees with these findings! Since 1992, our network members have fought the long struggle against the malpractices of the Bank in terms of supporting several ill-conceived and poorly implemented programs and projects in Developing Member Countries (DMCs). These projects have displaced thousands of peoples and the further mismanagement of a number of its operations has brought sufferings to displaced communities and Indigenous Peoples groups as well as degradation to the environment and natural resources.

Collectively, our coalition of community-based organizations, national and international NGOs, has consistently pressured the ADB to be more accountable to and responsible for the flawed projects and programs that it has funded over the years. We have consistently called on the Bank to respect and follow its own operational policies concerning the implementation of its activities in DMCs to avoid negative impacts on the affected environment and people. A number of Forum’s publications i.e., “Untold Realities”, “Development Debacles”, and “Snapshots of ADB Disasters” have documented/reported cases wherein the basic rights of affected peoples have been egregiously violated while the state of precious ecosystems have been seriously harmed.

In terms of transparency, specifically concerning disclosure, the ADB has its Public Communication Policy (PCP) that makes several claims on paper. However, local community groups that have been engaging in ADB-funded public and private sector projects have encountered hindrances in getting basic information. For example, our network members working closely with affected communities in projects like the Lafarge Surma Cement Mining in Meghalaya, Northeast India; Phulbari Coal Mining Project in Bangladesh; Southern Transport Development Project in Sri Lanka, Tsunami Reconstruction Project in the Fisheries Sector in Aceh, Indonesia, and Urban Water Supply and Sanitation Project in Azerbaijan among others have experienced several difficulties in getting project-related documents from the ADB’s operations department and

resident missions. In fact, under the PCP, private sector project-related documents cannot be disclosed to the public. How One World Trust could have possibly rated the ADB as a 100-percent transparent institution is beyond our comprehension.

Although ADB’s Accountability Mechanism is an improvement of the previous Inspection Panel Policy, we feel that it has not served its purpose. Except for one case in Indonesia that has been successfully settled/mediated by the Bank, more than 10 other cases/complaints lodged before the Office of Special Project Facilitator have been dropped at the eligibility stage, most of which are purely on technical grounds. This prevents the complainants from elevating their cases before the Compliance Review Panel. Further, the Compliance Review Panel has so far prepared only one report but has yet to settle the two issues that it has been handling since 2003. These are the Southern Transport Development Project in Sri Lanka and Chashma Right Bank Project in Pakistan. Specifically, it was the sheer absence of transparency and manipulation of accountability claim that caused the Chashma claimants to withdraw from their inspection request. The statement of Chashma claimants is still posted on the ADB website.

Likewise, we have been informed by unimpeachable sources inside ADB that the Bank is filing up its strategic high level positions including the Compliance Review Panel Secretary and OED Director General posts in a very non-transparent manner. This practice goes against the Asian Development Fund IX agreement of 2005. A number of Bank officials and staff are very much concerned about the current non-transparent nature of staff hiring. Therefore, we question One World Trust’s 81 percent rating of ADB’s transparency.

We believe that the Report is not actually anchored on experiences and realities on the ground. Our seasoned campaigners who have lobbied and dialogued with the Bank Management, Board and Staff for years regarding serious and urgent issues that concern its operations in Asia and the Pacific region can attest to how sorely lacking is the ADB in terms of transparency and accountability. Even more damning are the testimonies of project affected communities who have been worn out and manipulated by the ADB’s so-called “civil society consultations” on its policies, but still await justice for project-related damages to their lives and livelihoods.

We are gravely disappointed that your Report has given the ADB such an undeserved credit.

We question the credibility and competence of One World Trust in carrying out the entire study. We question the

objectivity and inclusiveness of the process and methodology employed by this organization to arrive at such dubious findings. We believe it is incorrect to rate an institution like the ADB without considering its actual practices on the ground and without the inputs of important development actors and stakeholders.

Did One World Trust even go out of its way to do actual field visits to communities and places that have been severely impacted by ADB-funded projects? Has One World Trust sufficiently interacted with Civil Society Organizations (CSOs) that actually represent affected peoples as well as advocate environmental preservation concerning their views on the Bank's accountability and transparency? Did One World Trust largely base its findings on ADB's well-prepared but self-serving paper work? These are but a few of the many questions that beg to be answered and clarified.

As ADB campaigners for more than one and a half decade, we have worked hard to press the Bank to be more transparent and accountable in terms of its operations and decision-making process. The Report made by One World Trust is insulting to the communities that have suffered due to and have long struggled against the poor implementation of ADB policies and projects throughout the Asia and the Pacific region. The Report also trivializes the concerted and collective efforts of CSOs in advocating ADB transparency and accountability.

Again, we voice our serious disagreement and strong protest over this Report! We urge One World Trust to explain to us as soon as possible, its very basis for these highly questionable findings. Similarly, we urge the civil society to remain vigilant in their efforts to make the ADB a truly accountable and transparent institution.

Comments on ADB's Accountability

Shalmali Gural / Focus on the Global South

It is indeed shocking that the One World Trust (OWT) has rated the ADB 100 percent transparent and 81 percent accountable in its recently released 2007 Global

Accountability Report. For decades, the ADB has promoted, financed and supported policies and projects that have brought grievous harm to communities across Asia.

ADB projects have displaced thousands of people and have been shown to have severe negative impacts on communities and environments. ADB projects are generally poorly designed and implemented, very expensive, rife with mismanagement of funds, and implemented without the prior, informed consent of local communities, especially indigenous communities. We have so many examples where local communities and advocacy groups have asked the ADB for full disclosure of project and policy related information but have not got the information they asked for and need.

The ADB only releases information that suits its institutional purposes and at times convenient to its own timetables. ADB staff routinely hide behind their government counterparts and claim that it is governments, and not the ADB, that makes final decisions on projects. ADB also refuses to disclose information about its contractual agreements with private contractors by claiming commercial confidentiality. For the ADB, the only actors to please are government and the private sector; ordinary people—especially those who are poor and don't have political clout—just don't seem to matter.

But the ADB is a public institution. Its subscription capital comes from tax-payers money and it has AAA rating on international capital markets because it is backed by governments. It must be accountable to the public. After all, tax payers in its so-called "client countries" have to repay the debt created by ADB loans while local communities bear the brunt of the social and environmental costs of its projects.

If the ADB is not accountable and transparent to those who are most impacted by them, how can anyone give this institution such a high ranking?

Evidence over the past few decades shows that the ADB has practically no external accountability to the general public and especially to those worst affected by its operations. Any and all changes that the ADB has made in its policies and projects in response to the demands of project affected peoples and advocacy groups have been minimal. The Public Communication Policy barely recognizes the general public and project affected communities as deserving of information about ADB loans and programs.

The new Safeguard Policy that is currently being drafted will safeguard the ADB against social and environmental responsibilities rather than provide any real protection to project affected communities. The ADB does not acknowledge internationally accepted human rights conventions or the rights of indigenous peoples—which are now protected through the International Declaration of the Rights of Indigenous Peoples. It does not apply legal or ethical norms and standards for material liability; on the contrary, its founding charter gives the ADB legal immunity from national and international laws. In fact, every so called 'accountability' related operational policy of the ADB is designed to protect the ADB from genuine, legal, external accountability rather than to provide the public—especially the poor and vulnerable—with avenues for redress when their rights are violated by ADB policies and operations.

One really has to question the competence and interests that guide the OWT from giving the ADB such high ratings. Who did they talk to? What data gathering methods did they use? What evidence did they find that led them to their entirely inaccurate conclusions?

The OWT report is an assault on the integrity of communities who have been struggling for justice, transparency and accountability in ADB projects.

Bali Declaration on International Financial Institutions

Debt and Climate Change

December 8, 2007 Sanur, Bali

We, debt and development activists from different social movements and non-government organizations from Asia-Pacific join the growing calls of the international community to decisively address the paramount issue of climate change.

The climate crisis is the most blatantly repulsive result of a flawed development paradigm imposed on us by global institutions, northern governments and transnational corporations with the acquiescence and collaboration of our local elites and neo-liberal economic apologists

We assert that debt has been used only as an instrument to dominate government and peoples of the South but also to finance projects and promote policies that have greatly contributed to the exacerbation and escalation of climate change.

We call on international financial institutions like the IMF, the World Bank, the Asian Development Bank and other regional development banks, northern governments and their export credit agencies – **TO STOP ALL FUNDING AND ALL PROGRAMS THAT HARM PEOPLES and the ENVIRONMENT.**

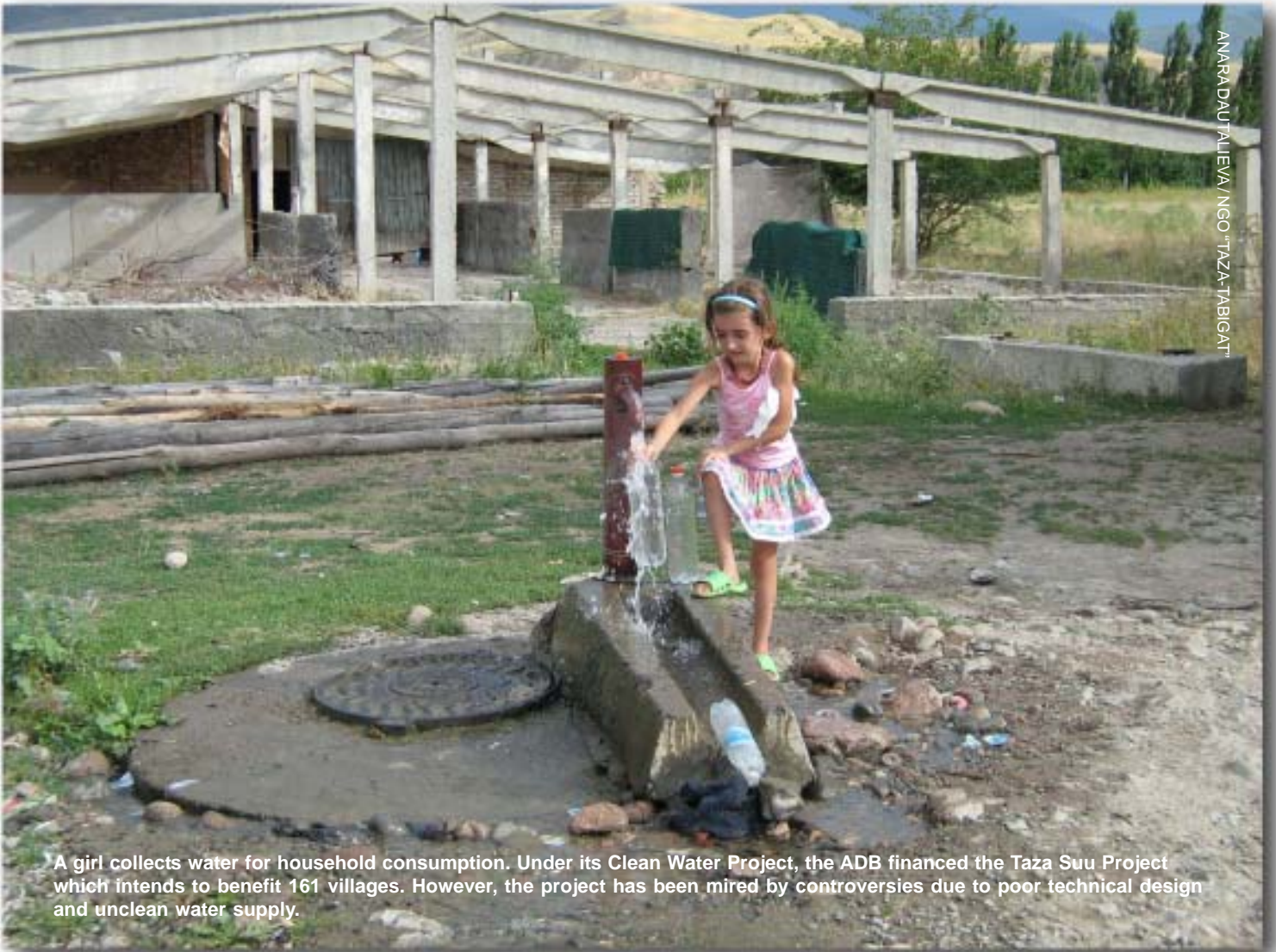
We reject all IFI loans and “aid” supposedly for adaptation measures and renewable energies as hypocritical measures - when these same institutions continue to promote a development framework and pour several times more of their funds towards projects and policies that aggravate climate change.

We oppose carbon trading as a false solution that allows transnational corporations and rich countries to buy the right to pollute at the expense of impoverished peoples and countries. Worse, carbon trading has spawned new and despicable instruments to extract profits from pollution.

We demand the following:

- Redirection of existing dirty energy financing to adaptation and mitigation measures and energy efficiency projects as a form of reparation to the decades of ecological debt owed by the north to the south;
- Financing of renewable energies as one form of restitution for countless years of debt domination that hampered Southern countries capacity to develop alternative technologies and development strategies;
- The sovereign and democratic management and control of funds for mitigation, adaptation and the development of clean, safe and renewable energy; And for the World Bank, ADB and other similar institutions with a horrible track record to be kept from any form of control and involvement over the disposal and use of these funds.
- Stop to all false solutions such as agro-fuels and carbon trading
- Rejection of all loans, aid and subsidies for fossil fuel extraction, dirty technologies and exploitation of natural resources that violate our national patrimony and the rights of indigenous peoples.
- An end to imposition of all conditionalities (e.g. privatization, liberalization and deregulation) by international financial institutions and northern governments through loans, aid and debt cancellation
- Total and unconditional cancellation and repudiation of debts that have contribute to climate change, and all other illegitimate debts and “obligations” claimed from us by the north and lending institutions

Signed: Jubilee South Asia/Pacific Movement for Debt and Development * GARPU Indonesia * KRUHA Indonesia * Freedom from Debt Coalition Philippines * Rural Reconstruction Nepal * Equity and Justice Working Group Bangladesh * Indian Social Action Forum * Action Aid Bangladesh * Action Aid Nepal * Community Development Library Bangladesh * Womyn’s Agenda for Change Cambodia * Nadi Ghati Morcha India * Independent Fishworkers Forum Kerala * BUP Bangladesh * GCAP Philippines * Sfcetan Bangladesh * LDC Watch * South Asia Alliance for Poverty Eradication * Save Our Seahorses(SOS) Action Committee Malaysia * Philippine Rural Reconstruction Movement * Democratic Action Party, Malaysia



A girl collects water for household consumption. Under its Clean Water Project, the ADB financed the Taza Suu Project which intends to benefit 161 villages. However, the project has been mired by controversies due to poor technical design and unclean water supply.