

# BANKwatch

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## Who *is safeguarding the* Safeguards?

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## Notes from the Executive Director

**T**his edition of Bankwatch comes in a very challenging time. The Post 2015 Millennium Development Goals agenda is waiting to be released and there has been the emergence of the Chinese-led Asian Infrastructure Investment Bank (AIIB) and BRICS New Development Bank (NDB) as financing institutions in the current development landscape.

The articles in this edition of the Bankwatch have come from civil society minds during this time of transition. We have a critical piece from Stephanie Fried from the Ulu Foundation that tackles the ongoing World Bank (WB) Safeguards Policy Review in the context of the Asian Development Bank's (ADB) own Safeguard Policy Statement (SPS), and looking at the Safeguards from the lens of binding requirements and responsibility of international financial institutions (IFIs). Then we have an article from Annabel Perreras from the Forum Secretariat that addresses the issue of ADB and WB pushing the environmental and social safeguards implementation towards the systems of their borrowers. Her piece focuses on the key issues of equivalency of Country Safeguard System (CSS) with the policies of the ADB and WB and whether they remain a viable mechanism for Safeguard delivery in the current context of development projects. Annabel's second article looks at the ADB's own shift in portfolio management. Due to the emergence of the AIIB and Chinese financing in infrastructure, the ADB is looking to merge its two main lending windows--Asian Development Fund and Ordinary Capital Resources--into one portfolio. This write-up addresses how these financial decisions will affect borrowing nations in their pathway to development.

Tanya Lee from International Rivers elaborates on Associated Facilities as projects which needs to be under Safeguard guidelines. She focuses on a particular ADB project which looks to support transmission lines as associated facilities to a larger dam. Her paper describes the challenges that civil society faces in trying to establish Environmental and Social Safeguards on associated facilities due to the ambiguity in the policy and rigidity in the norms of the projects. Her analysis is from the perspective of the indigenous people who are to be most affected by the project. We have a specific case on the Phulbari Coal Project Resistance penned by scholar and development practitioner, Ms. Farhat Jahan, which looks at the ADB's role in the Phulbari project and the resistance from a mass movement in Bangladesh. Benjamin S. Bernandino of Life Haven, Inc. and Lauro L. Purcil, Jr. of the Philippine Coalition on United Nations Convention on the Rights of Persons with Disabilities submit their position paper that cites how disabled groups are often neglected from the mainstream development agenda. They have referred to this invisibility to encompass the collective blindness and apathy which surrounds development processes when it comes to addressing the rights of the disabled.

I hope our contributions in this Bankwatch will inspire you and add to your knowledge base for furthering our common advocacy. Happy reading!

**Rayyan Hassan**  
*NGO Forum on ADB*

# Lessons Learned?

## The Implications of the ADB's Review of Safeguard Policy Implementation for the World Bank and the Asian Infrastructure Investment Bank

Stephanie Fried  
*Executive Director, Ulu Foundation*

The Asian Development Bank (ADB) has long been known for supporting projects – including those in the energy, transportation, water and natural resource sectors – which have had substantial negative impacts on local communities and the environment. Communities which are likely to be harmed by ADB projects are, at times, able to lessen the harm, seek redress or prevent future negative impacts by, among other things, forcing the ADB to adhere to its own social and environmental safeguard policies. A number of the ADB's environmental and social safeguards are, at least on paper, stronger than those of other multilateral development banks and, if implemented, can provide tools that communities are able to use to prevent or reduce potential substantial harms.

For example, the ADB requires that potentially affected communities must be allowed 120 days prior to project approval by the ADB Board to comment on proposed ADB-funded public or private sector activities which may impact their lives and environment. This provides potentially affected communities, including those in isolated regions, enough time to obtain, read, discuss and formulate a response to often complex and multi-volume impact assessments of projects which may deeply impact their communities. It provides a way to make their input directly known to the ADB's Executive Directors and can strongly influence whether adjustments are made to a project in order to prevent harm, prior to the release of funds. A project which is shown to have potentially significant negative impacts on communities or the environment may be modified based on community input or, if the project appears to do more harm than good, the Board may refuse to fund it. Preventing communities from having sufficient time to analyze and provide input on projects affecting their lives and livelihoods, ahead of the Board's vote on funding, would lead to a significant increase in negative outcomes for local communities and higher costs to borrowers left

struggling to deal with the legacy of environmental destruction, social displacement and conflict associated with such projects.

At the ADB, and other multilateral institutions such as the World Bank, the post-disbursement monitoring of projects and the implementation of appropriate safeguards has long been problematic, underscoring the importance of robust implementation of safeguards and safeguard plans prior to the disbursement of funds. In this context, given the difficulty and poor track record of post-disbursement monitoring, any weakening of "up-front" safeguards requirements is likely to have a devastating impact on vulnerable and resource-dependent communities. Yet this is what the World Bank now proposes to do, something which may lead to a dangerous "race to the bottom" at other financial institutions.

This article examines the ADB's Safeguard Policy Statement, the current effort by the World Bank to vastly reduce its "up front" safeguard protections, replacing them with promises of post-disbursement monitoring and implementation, the findings of the ADB's Independent Evaluation

Department (IED) review of the implementation of the ADB's safeguards, and reflects upon the implications of these findings for the World Bank, the ADB and new financial institutions such as the Asian Infrastructure Investment Bank (AIIB).

### **The ADB's Safeguard Policy Statement (SPS)**

In 2005, the Asian Development Bank launched a review of its environmental and social safeguard policies. The review was initially intended as a way to vastly weaken the ADB's environmental and social protections. A massive groundswell of protest from affected communities, peoples' movements, and local, national, regional and international NGOs brought the Bank's plans to a halt. After a five-year battle, the ADB was forced to strip most of the weakened language from the new Safeguard Policy Statement and to ensure that, at least on paper, the ADB maintained some of the strongest safeguards of any multilateral bank. Some of the areas where the ADB's safeguards are stronger than those of other multilateral finance institutions include:

- The mandatory disclosure to potentially affected communities of environmental assessments for projects and subprojects likely to have significant impacts 120 days prior to ADB Board vote on a project or ADB-sponsored activity and the ability of affected communities to make their concerns heard to the Board prior to the Board vote on the approval of funds;
- The requirement that environmental assessments be conducted for all components of all projects, regardless of funding source;
- The requirement that the ADB, itself, conducts due diligence and ensures client compliance with environmental and social requirements;
- ADB rules for Financial Intermediaries which necessitate ADB management approval of category A financial intermediary subprojects;
- Improved consultation procedures and detailed and widespread language pertaining to gender.

It should be noted, however, that by failing to require the use of core labor standards, the ADB safeguards for workers lag behind other institutions in terms of labor protections.

### **World Bank Safeguards Review**

In 2010, after the ADB completed its Safeguard Policy Update, the World Bank announced that it would be conducting a "Safeguards Review." As was the case during the ADB review, and despite the public commitment by the president of the World Bank to "no dilution" of protections for impoverished and vulnerable communities and the environment, the Bank's draft safeguards framework, released in mid-2014, proposes a devastating weakening of existing environmental and social protections,

including by:

- weakening Bank mechanisms for transparency, oversight, and accountability;
- eliminating mandatory time-bound requirements for safeguard implementation;
- eliminating the right of communities to obtain information on and provide their assessment of projects likely to affect their lives and livelihoods prior to project appraisal (currently approximately 120 days prior to World Bank Board vote);
- reducing access by affected communities to the Bank's Inspection Panel; reducing the ability of the Inspection Panel to function;
- initiating an overreliance on the borrowers' national systems and even those of financial intermediaries, in place of World Bank safeguards, while reducing the due diligence currently required under the Bank's Country Systems Safeguard which ensures that the environmental and social protections of client countries are least as strong as those of the Bank if they are to be used instead of Bank safeguards;
- weakening protections for those forcibly displaced by Bank-funded operations;
- making safeguards for Indigenous Peoples optional;
- substantially weakening existing protections for biodiversity and forest-dependent peoples, including a reversal of the existing World Bank ban on the destruction of critical habitat, protected areas and nature reserves;
- removing clear and mandatory safeguards for projects with "substantial risk" of harm to communities and the environment (In the World Bank's draft, safeguards appear to apply primarily to projects with "high risks" and are quite vague regarding projects generating "substantial risk.");
- reducing safeguards for opaque financial intermediaries, including those which may be domiciled "offshore" in secrecy jurisdictions such as the British Virgin Islands;
- introducing narrow labor standards, excluding third party contractors, collective bargaining, and freedom of association.

The World Bank proposes to eliminate clear and mandatory "up front" safeguards requirements – potentially including oil spill clean-up plans, various environmental and social assessments – which would normally be presented to the Bank's Board prior to project approval. The Bank claims that an increase in monitoring and supervision on a project-by-project basis, after the disbursement of funds, will make up for the lack of "up front" safeguards. No budget has been described for this enormous monitoring effort which would apparently be launched during a period when the Bank is facing significant staff cutbacks and budgetary retrenchment. As both the World Bank's Independent Evaluation Group (IEG) and the ADB's

IED have found, post-disbursement monitoring and supervision of bank projects and investments have traditionally been weak. Various World Bank Vice Presidents have commented that the World Bank's new draft safeguards make it appear that the Bank will be "lending more, lowering standards", creating "more problem projects" and setting a "bad precedent."<sup>1</sup>

### **The ADB's Evaluation of Safeguards Implementation<sup>2</sup>**

The World Bank's efforts to weaken environmental and social protections have led to a massive outcry from affected communities, peoples' movements and NGOs. Interestingly enough, the World Bank's efforts have also raised concerns at the ADB where the IED has completed a study on the implementation of the ADB's new safeguards. The IED's findings are relevant not only for the ADB, but also for the World Bank as it conducts its Safeguards Review, as well as the AIIB which has yet to develop safeguards.

The IED found that, "Safeguards are vital for redressing the collateral damage that can be caused by development projects, especially large-scale ones such as dams and roads. Yet safeguards are often inadequately implemented by governments and businesses, even as it makes economic sense to mitigate against spill-over damages." According to the IED, "the case for stronger enforcement and supervision of safeguards is compelling, especially in Asia where the push for high economic growth has taken a huge toll on the environment."

The IED identified "serious gaps" in post-disbursement project implementation and supervision at the ADB, similar to the gaps found by the IEG at the World Bank. The IED findings raise significant concerns that any push – including by the World Bank -- to remove "up front" safeguards and replace them with a (theoretical) increase in monitoring and supervision could bring substantial harm to affected communities and the environment, generate conflicts, and result in substantially increased costs to borrowers, given the traditional failure of post-disbursement monitoring and supervision efforts at multilateral financial institutions.

Raising additional concerns about "substantial risk" projects, the IED called for "greater attention to the implementation and supervision of not only

high risk projects, but also those posing lesser albeit still substantial risks to communities and the environment", something that the World Bank proposes to eliminate in the Bank's new safeguards.

Based on its investigation, the IED called for improved monitoring of the safeguards that apply to financial intermediaries. The World Bank's draft safeguard framework proposes to weaken safeguards for financial intermediaries.

Based on research, the IED urged that "First, there needs to be progress on the adequacy of country safeguard systems and their subsequent use." Despite this, the World Bank proposes to eliminate the due diligence requirements of the Bank's Country Systems Safeguard which ensures that the environmental and social protections of client countries are least as strong as those of the Bank if they are to be used instead of Bank safeguards.

If "national systems" are deemed to be adequately strong, that is that they provide protections for communities and the environment equivalent to those of the ADB, the IED recommends "legally binding indicators for social and environmental impacts, such as air and water pollution levels" as well as publicly disclosed monitoring and verification by a "reliable and independent third party."

The IED concluded that, given the rising social risks and environmental threats, the "continued use of a requirements-based safeguards system as used by ADB, rather than a switch to an aspirational one of safeguards standards as is being proposed at the World Bank Group" would be of the utmost importance.

In addition, the IED raised concerns that a dilution of safeguards at the World Bank could have a ripple effect and lead to a push for weakened safeguards at other institutions. Such institutions could potentially include the ADB or the newly-founded Asian Infrastructure Investment Bank.

### **US Congress reacts to weakening World Bank safeguards**

After months of global criticism of the World Bank's proposal to weaken longstanding environmental and social safeguards, including case studies highlighting high-conflict and high-cost environmental and social problems with projects in ADB member countries in Asia, the US Congress weighed in forcefully through the 2015 Omnibus

1 World Bank Vice President memoranda on proposed draft safeguards, May 2014, pg. 19; also cited in, Ulu Foundation, Friends of the Earth-US, "World Bank Safeguards Draft Proposes Elimination of Environmental and Social Protections," July 2014.

2 For summary of IED findings, see "ADB's Social and Environmental Safeguards, with Improvements, can be a Benchmark", ADB IED News Release, 11/11/14, [www.adb.org](http://www.adb.org). Citations below are from this site. See also: Safeguards Operational Review: ADB Processes, Portfolio, Country Systems, and Financial Intermediaries, 10/16/14, [www.adb.org](http://www.adb.org). Complete findings also available at [www.adb.org](http://www.adb.org).

Appropriations Act and instructed the US Treasury department to oppose any World Bank policy that provides less protection than the Bank's current safeguard requirements. This budget bill specifically requires the United States to vote against any new loans or grants if the World Bank weakens its safeguard policies.

In addition, the US now requires its representatives to push for 'rigorous human rights due diligence' at all multilateral financial institutions -- including the ADB -- and including for projects likely to involve displacement of local communities. The law requires that the US call for the International Finance Corporation and other multilateral institutions to publish the identities of the "beneficial owners" of private companies receiving public funds, including the names of the shadowy owners of offshore funds supported by the IFC and other public financial institutions.

Given that this bill is now law, communities impacted by ADB or World Bank projects or proposed projects can make their objections known to the US Treasury Department which is now forced, by law, to seek "rigorous human rights due diligence" and to seek the hidden names of owners of shadowy financial intermediaries. Since the US is the largest shareholder of the World Bank and one of the two largest at the ADB, this law may prove of benefit to affected communities and their allies who may be able to raise issues pertaining to harmful projects through this new channel.

## **AIIB**

In October 2014, representatives from 21 Asian nations met in Beijing and signed an agreement to establish the Asian Infrastructure Investment Bank, with an initial capitalization of \$50 billion, largely provided by China, and with a goal of a total capitalization of \$100 billion, making the Bank two-thirds the size of the \$175 billion ADB. After China,

India will be the second largest shareholder. Other countries that have signed the agreement include Thailand, Malaysia, Singapore, the Philippines, Pakistan, Bangladesh, Brunei, Cambodia, Kazakhstan, Kuwait, Laos, Myanmar, Mongolia, Nepal, Oman, Qatar, Sri Lanka, Uzbekistan, and Vietnam. The negotiation of the bank's articles of agreement is expected to be completed by the end of 2015.

To date, no safeguards have been developed at the new institution which will focus on infrastructure investments, a sector with unusually high impacts on communities and the environment. Jin Liqun, a former Vice President of the ADB and also formerly with the Chinese Executive Director's office at the World Bank, is expected to take a leading role in the AIIB. Despite concerns raised repeatedly that the AIIB may fail to require sufficient environmental and social safeguards for investments, Chinese officials have insisted that the AIIB will adopt the best practices of other international institutions. With the exception of safeguards for labor, many of the ADB's environmental and social safeguards would be "best practices" compared to those at other institutions.

These developments demonstrate that the ADB does not exist in isolation. Those currently focused on the ADB or interested in ensuring appropriate safeguards for financial flows in order to protect the livelihoods, rights and environment of project-affected communities throughout the Asia-Pacific region would do well to work to ensure not only that the ADB's safeguards remain strong and are increasingly well-implemented, but also that the World Bank strengthens its safeguards and does not lead a multilateral "race to the bottom" by radically weakening its safeguards, and that the development of safeguards at AIIB is based on the strongest existing safeguards, including those of the ADB as well as the ILO Core Labor Standards.

# Country Safeguards System: Can It Thrive in Countries with Serious Political Issues?

Annabel S. Perreras  
Policy Officer, Forum Secretariat

*A young  
Cambodian boy  
joins the protest  
of villagers  
affected by  
the Railway  
Rehabilitation  
Project at ADB's  
Resident Mission.*



**T**aking into account the political realities in Asia, adequate policy frameworks, capacity and political will to effectively guarantee the protection of the ecosystem, as well as the rights and interests of project-affected people, remains to be an uphill struggle. It is also against this backdrop that we continue to witness real stories of project-affected people forcibly displaced from their lands and homes; their livelihoods taken away to make way for large scale development projects.

Oftentimes, they are the poorest and most vulnerable sectors of the society, and thus, the least equipped to cope with the different facets of displacement. As a result, it drives them further into deeper impoverishment and social exclusion.

This, however, does not undermine the significant milestones in the Asian Development Bank's (ADB) Safeguards Policy Statement (SPS). Accordingly, it recognizes the need to strengthen the Country Safeguard System (CSS). Secondly, it recognizes adherence to the prerequisites for equivalence and acceptability assessments, as well as the Bank's commitment on disclosure and consultation processes among others.

However, the use of CSS in countries with repressive governments—where there are still restraints on freedom of speech, particularly on internet freedom; with track records of both grave human rights violations and corruption—raises legitimate concerns from the civil society on whether the rights of project-affected communities will be safeguarded. It is also in this context that we pose the question to the ADB on how the civil society and local communities can be able to enhance and

influence their respective national policy-making processes under such circumstances and be protected in the course of doing so.

## Background

As a network of civil society organizations in Asia, the Forum has maintained a constructive engagement with the Bank. The Forum has been closely monitoring ADB's safeguards, particularly the Safeguard Policy Update (2005 – 2009) process. In the course of that period, the Forum had expressed its apprehension that the ADB is following the lead of the World Bank in gearing towards the use of "country systems" for safeguard frameworks and implementation. We had strongly argued that the said approach would bear huge potential risks for affected people. While acknowledging the use of CSS could potentially prove beneficial, civil society argued that it would only be so if several conditions were met. These conditions include:

- Prioritization by recipient governments of the environmental and social well-being of communities affected by ADB-financed projects;

- Strengthening of country environmental and social safeguards and local capacity to implement these safeguards over the long term;
- Upward harmonization of strong environmental and social safeguards policies across the range of development banks.<sup>1</sup>

It is interesting to note that after several years, there is a consolidated sentiment across various civil society actors that if upward harmonization will be undertaken, it must follow the lead of ADB, at least in terms of policy pronouncements. Adopted in 2009, the SPS as it stands now, defined country safeguard systems as pertaining to “a country’s legal and institutional framework, consisting of its national, sub – national or sectoral implementing institutions and relevant laws, regulations, rules and procedures that pertain to the safeguard policy areas (para. 68).”

Specifically, there are pre – requisites required for the use of CSS mainly: **equivalence and acceptability assessments**. That “CSS is equivalent to ADB’s (standards)... and borrower has the acceptable implementation practice, track record, capacity and commitment to implement the applicable laws, regulations, rules and procedures in the country (ibid.).”

These comments and recommendations of the Forum were anchored on the experiences of local communities adversely impacted by projects supported by the ADB and other international financial institutions (IFIs). The use of “country systems” to implement an IFI project under repressive or corrupt governments raises alarming concerns on whether project-affected communities and the environment can be adequately safeguarded. Notwithstanding the fact that the SPS provides that CSS will not be applied to highly complex and

sensitive projects financed by ADB (ibid. paragraph 68 [v]).

Thus, we maintain our position that the application of a country systems approach without careful consideration of the governance system of a borrowing country has significant potential of triggering human rights violation, environmental destruction and loss of livelihoods as has been the case in several countries where IFIs operate.

### The Case of Lao PDR Resettlement Policy

The Decree 192 on the Compensation and Resettlement of the Development Project is subject to revision. As such, its equivalence with ADB standards may be difficult to ascertain. Nonetheless, the decree does contain provisions related to livelihood restoration and requirements of disclosure. According to Tanya Lee of International Rivers, the decree is perceived to have weaker standards in the calculation of compensation which is merely based on government- mandated rates. Secondly, while the decree stipulates disclosure requirements, experiences on the ground show that these requirements are hardly implemented.

There is also no requirement for a free, prior, informed consent (FPIC) for the indigenous peoples which is not recognized under the law. The Constitution of Lao PDR defines the country as a multi – ethnic state, with equality among all ethnic groups (Article 8). However, socially and culturally, many of the more remote Lao Soung and Lao Theung communities feel disconnected with mainstream Lao culture and the Lao Loum – dominated government. The representation of the ethnic minority politicians is also not proportionate to their population.<sup>2</sup>



A demolished house in the impacted community of Tuol Sangke A in Cambodia.

EQUITABLE CAMBODIA

1 NGO Forum on ADB, a letter to Executive Directors, ADB, Concerns with the SPS W – Paper, Manila, February 20, 2009.

2 Country Technical Notes on Indigenous Peoples Lao PDR. International Fund for Agricultural Development and Asia Indigenous Peoples Pact (AIPP). 2012.



*A family living downstream of Nam Theun 2 Hydropower Project in Laos.*

Furthermore, Decree 192 lacks the following legal clauses: (i) requiring for the conduct of meaningful stakeholder consultation and participation, (ii) requirement for an independent assessment panel/ external experts or civil society partnerships, and (iii) provision for dealing with unanticipated impacts of development projects.

We have learned that some members of the civil society have tried to carry out community legal education initiatives wherein discussions are undertaken with villagers about resettlement requirements. However, these NGO workers have reported feeling intimidated by government watchers who are required to go along with them at all times during field work. Furthermore, they also received threats from the authorities for carrying out their work.

On the other hand, some NGOs who do have legal education components in their work have reported that villagers themselves typically feel it is too risky to try to raise concerns to headmen or district officials. There is a notion that they would be excluded and/or labeled as nuisance in the community. Hence, though some bold NGO workers have risked doing rights - based education work, they are often times constrained by the realities they feel on the ground.

The message is clear that though there may be rights enshrined provisions in the resettlement decree, anyone who dares to seek implementation will risk their own safety and that of their family and colleagues.

### **Cambodia Case**

The Draft Sub – Decree on Informal Settlers is a draft under the Ministry of Economy and Finance. Incidentally, the said sub-decree is also an

offshoot of existing interventions on land- related laws of Cambodia particularly of the 2010 Law on Expropriation. The said law complements the provisions of the country’s 1993 Constitution and 2001 Land Law. The Expropriation Law further stipulates that private property is to be compensated based on market price or replacement value. The law however, only extends protection to legal and rightful owners of land.

In the case of the ADB and AusAID-funded Rehabilitation of the Railway Project, civil society groups opposed the contention that the vast majority of affected people do not have legal rights to the land (required for the railway rehabilitation) because the land is classified as State Public property under the Land Law and relevant regulations. Accordingly, there is currently no comprehensive law or regulation to govern evictions, compensation and resettlement processes for people living on State property, whose tenure status thus falls outside the scope of the Expropriation Law.

This position is further reinforced by a provision in the ADB loan agreement which states that:

*The Borrower shall implement the approved, updated Resettlement Plan in accordance with Borrower’s relevant laws, regulations and procedures, and ADB’s Policy on Involuntary Resettlement (1995). In the case of discrepancies between the Borrower’s laws, regulations, and procedures and ADB’s policy on Involuntary Resettlement, ADB’s policy shall prevail.*

In 2009, the rather vague 1995 Involuntary Resettlement policy was replaced with more detailed Safeguard Requirements on Involuntary Resettlement, within an omnibus Safeguard Policy Statement. The objective of the 2009 SPS with respect to people, who are unavoidably displaced, is to “enhance or at least restore the livelihoods of

all displaced persons in real terms relative to pre-project levels; and to improve the standards of living of the displaced poor and other vulnerable groups.”<sup>3</sup>

### Recommendations

1. These issues on land system and resettlement hurt everyone but it hurts the poor disproportionately. We constantly reiterate to the ADB that we respect the national sovereignty of borrowing countries and of the principles enshrined in the Paris Declaration on Aid Effectiveness and the Accra Agenda for Action. While we do not oppose to the use of CSS and highly welcome the participation of civil society and of the local communities who will largely benefit from these processes, we maintain our position that there should be a thorough assessment of the readiness of a borrowing country and presence of an enabling environment for CSS to thrive. *This is evidenced by functional judiciary systems, strong environmental and social safeguards and the capacity for its judicious implementation that are set in place to ensure that the affected local communities will be guaranteed equal protection*<sup>4</sup>. It is also important to note that striving for “country ownership” alone in the absence of ensuring that governance is inclusive, transparent and accountable, is not enough and may even contravene to the principles espoused under aid effectiveness.
2. Corollary, we ask the Bank to exercise serious due diligence in the conduct of its equivalence

- and acceptability assessments. Enforcing stronger safeguards systems and the conduct of these assessments per the SPS should become cornerstone principles to its stringent application.
3. Identification of affected people and meaningful consultations must be undertaken on genuine resettlement options.
4. We also ask the ADB to reconsider the use of CSS project in countries with repressive governments, and with track record of human rights violations and severe corruption. The determination of these factors should be comprehensively assessed by the Bank to ensure the protection of CSOs and local communities under such environment.
5. Lastly, that an action plan should be developed for restoring the livelihoods of communities affected by any CSS project, in the event that a CSS approach failed to protect the environmental and social well – being of project affected communities

There is an imperative to strengthen country systems in its genuine sense of empowering governments to determine their respective national development agenda. However, unless these conditions have been achieved, we strongly believe that the ADB must guarantee the protection of local communication and the environment above all else through mandatory enforcement of strong environmental and social safeguards.



EQUITABLE CAMBODIA

*Affected communities protest in front of the ADB office in Phnom Penh.*

<sup>3</sup> *Bridges Across Borders Cambodia. Derailed: A study on the Resettlement Process and Impacts of the Rehabilitation of the Cambodian Railway. 2012.*

<sup>4</sup> *Forum on ADB, a letter to Executive Directors, ADB, Concerns with the SPS W – Paper, Manila, February 20, 2009.*

# Risks and Implications: Merger of the Asian Development Fund and Ordinary Capital Resources

Annabel S. Perreras  
Policy Officer, Forum Secretariat

At the 47<sup>th</sup> Annual Governors Meeting of the Asian Development Bank (ADB) held in Astana, Kazakhstan in May 2014, President Takehiko Nakao formally announced an “innovative” scheme to augment the Bank’s financial resources. This is the merging of its two main lending operations: the Ordinary Capital Resources (OCR) and the Asian Development Fund (ADF) in consonance with its anti-poverty agenda.

Expected to be operational by 2017, ADB combines the OCR, which is offered at near-market terms to middle and low-income countries, with the ADF, its concessional window. The Bank will retain the ADF as a grant – only operation. Currently, OCR comprises majority of the Bank’s lending resources while the ADF offers grants and loans at very low interest rates to ADB’s poorest borrowing countries<sup>1</sup>. The proposal increases OCR equity from a projected USD 17.1 billion to USD 54.1 billion. ADB, through OCR, will continue concessional lending with the same terms and conditions as currently provided to ADF countries, while ADF will now provide grant assistance only.

The Bank says the proposed combination will have multiple benefits for all its stakeholders. First, it will strengthen support to ADF countries to better address their future development needs. ADF countries will benefit from receiving enhanced financial assistance of concessional loans and grants on the same terms as currently provided. Second, it will strengthen OCR lending and ADB’s risk – bearing capacity. Third, it will also significantly reduce the future financial burden on ADF donors and enable larger transfers from OCR to ADF grant operations.

In light of this development, we express concern and reservation regarding the potential impacts of this proposal, particularly to the poor and marginalized sectors in ADF countries and Developing Member Countries (DMCs) in transition. The supposed strengthening of the Bank’s financial capacity, in our view, should be seriously considered vis-à-vis ADB’s commitment to stringently enforce its safeguards and other protective measures against social and environmental threats posed by its projects.

## Risks and Implications

So far, civil society has not registered strong opposition to the proposed ADF-OCR merger in order to facilitate ADB’s ability to support the transition of “ADF only countries” to “blend status countries”. The merger is also supposed to assist the consequent graduation of countries from “blend status” to “OCR status.”

However, this lending combination elicits our grave concern primarily because the proposal seeks to “increase support for private sector operations, especially in ADF countries” (ibid.)<sup>2</sup> Under its Strategy 2020, the Bank intends to scale up its private sector operations to as high as 50% of its annual operations by year 2020. Given the weak

1 ADF only: Afghanistan, Bhutan, Cambodia, Kiribati, Kyrgyz Republic, Lao PDR, Maldives, Myanmar, Nauru, Nepal, Samoa, Solomon Islands, Tajikistan, Tonga, Tuvalu, Vanuatu

Blend (ADF and OCR): Armenia, Bangladesh, Georgia, Micronesia, Mongolia, Pakistan, Palau, Papua New Guinea, Sri Lanka, Timor Leste, Uzbekistan, Vietnam

2 ADB, *Enhancing ADB’s Financial Capacity for Achieving Poverty Reduction in the Asia and Pacific Region, August 2014, Executive Summary*



*In ADF-only categorized Laos, one of ADB's biggest private sector projects is the Greater Mekong Subregion (GMS) Nam Theun 2 Hydroelectric Power, which started commercial operations in 2010.*

institutional frameworks, higher susceptibility to financial vulnerabilities and political instability of ADF countries and in some middle income countries (MICs), we believe that ADB is contradicting itself by providing heightened support to private sector operations that prove to be even detrimental to its DMCs.

In 2013 alone, ADB approved some USD 1.82 billion projects, with the following sectors receiving the largest shares: energy (37%); water and other infrastructure and municipal services (27%); and transport and information and communication technology.<sup>3</sup> Aside from these infrastructure projects, the ADB has historically taken a significant advisory role in the restructuring of power and water sectors of Asian countries as far back as the early 1990s. Previous projects have demonstrated the pivotal role of ADB in privatizing the power sector of some DMCs. These projects include ADB's 1992 Technical Assistance (TA) on Corporatization of Dhaka Electric Supply Authority in Bangladesh. ADB supported power sector reforms in Gujarat and Madhya Pradesh that led to the corporatization and commercialization principles of the power sectors of these Indian States in 2000. The USD 300 million for reconstructing the Philippine power sector that led to the Power Industry Restructuring Act

(EPIRA)<sup>4</sup> in 2001 is another example. In December 2014, the ADB approved a results-based lending loan for the Senior High School Support Program in the Philippines. One of the components of the said program loan is a voucher program, which further promotes privatization. Simply, this makes education not affordable to the poorest of the poor Filipinos.

A 2013 Development Effectiveness Committee (DEC) report has disclosed a breakdown of projects by safeguard classification from 2002-2013. There were 58 projects or 93% for the Environment projects for capital markets classified under financial intermediaries (FIs). This reechoes the Forum's position that calls for stronger Bank oversight and due diligence on its operations. We raise the question of whether the ADB is indeed bearing the onus of ensuring that its Environmental and Social Management Systems (ESMS) are responsibly undertaken by its staff and the project implementers at the ground level, especially those under the private sector operations department (PSOD). Private sector operations should mitigate, if not totally avoid, potential environmental and social risks.

**Privatization, in our opinion, has failed to deliver the public benefits it has promised.** Education, power and water sector reforms should never burden the people with higher cost of

<sup>3</sup> ADB, *Development Effectiveness Committee Report (DEC) 2013, Private Sector Operations*

<sup>4</sup> *A Handbook on the Asian Development Bank: The ADB and its Operations in Asia*

education, electricity and water rates. Privatization should not result in the loss of adequate government regulation mechanisms and the transfer of corporate debt. Without stretching the argument and the alarm bells on the direction to which ADB is headed, we pose these legitimate concerns. We urge the ADB revisit its past hard lessons so that these will not be duplicated in the ADF-borrowing countries.

It is also disturbing for the ADB to arrive at this generalization: *“the differences in social and economic indicators of these countries (OCR countries, ADF countries and donors) are not as stark as they used to be.”* The draft consultation paper further adds that the *ADF and OCR countries made good progress in poverty reduction but extreme poverty incidence remains higher in ADF countries (23% in 2010) than in OCR countries (20% in 2010).* We recognize that the per capita income and credit worthiness of a DMC are established indicators for development. However, we have long argued for the need to arrest the increasing disparity on income inequality in Asia. We consistently argue against the grim reality of OCR countries showing high growth rates but still registering high poverty incidence. A case in point is the Philippines, which has an average economic growth rate of 5.1% since 2000. But only the elite few are benefitting from the said growth.<sup>5</sup>

In the same manner, we strongly caution the ADB from making diagnosis such as: *“key factors that constrain growth include weak infrastructure, weak education and health outcomes, weak governance and a weak environment for private sector development (PSD)”*<sup>6</sup>. We recognize the rationale for massive infrastructure projects on energy, water, municipal services and transport in the context of providing more access for people to social services. However, we cannot not reconcile

such rationale with or should ADB justify it at the expense of poor implementation of the safeguards and high operational standards. Secondly, our reservation on the approach that implementation and ownership of public services and utilities will be left at the disposal of the private sector strongly remains.

## Recommendations

The Forum retains its strong position that health, education and basic sectors should be provided for by the State’s tax revenue and should not be appropriated to debt financing modalities of international financial institutions (IFIs) including the ADB. We urge the ADB’s Strategy and Policy Department (SPD) to conduct a policy impact assessment on the proposal. Specifically, this will serve in the interest of ADF countries and DMCs that will graduate to “blend status” per the projections made in the draft consultation paper. We note that the (i) anticipated benefits such as enhanced ability to leverage, efficient management of liquidity, etc., and (ii) the feasibility of the proposal from the Bank’s end are well tackled in the proposal. However the said policy impact assessment will also be a useful tool to ensure that the proposal will work primarily for the benefit of ADF countries and DMCs in transition.

Further, ADB should also look into the lending merger’s consequent effects from the perspective of DMCs and ADF countries. The Bank must reflect on whether the ADF-OCR combination best serves its poverty reduction agenda. Alongside measures to enhance the financial capacity of the Bank, **we constantly call for the judicious implementation of environmental and social safeguards in all its operations.**

<sup>5</sup> Raquiza, Marivic. *Poverty and Inequality: After the rhetoric of the Past, a Look into the Future. Social Watch Philippines Report 2014.*

<sup>6</sup> *ibid.* (para.13)



*Uncertain  
future for affected  
people of Xekaman  
1 Dam*

International Rivers

## **Not Just Semantics: Holding the ADB Accountable for Impacts of Associated Facilities**

Tanya Lee, International Rivers  
*Program Coordinator, International Rivers*

The Asian Development Bank (ADB) has an influential role in determining energy policy and the development of power grids across the vast regions of South, East, Southeast, West and Central Asia and the Pacific. As a propagator of knowledge, development institution, and financier, the Bank is involved in initiating technical assistance studies on national and cross-border energy development, convening high level inter-governmental meetings on power trade, and providing loans for cross-border transmission line projects. The ADB has been advancing the formation of regional integration frameworks that include the Brunei Darussalam-Indonesia-Malaysia-Philippines East ASEAN Growth Area, the Greater Mekong Subregion, Central Asia Regional Economic Cooperation Program, Indonesia-Malaysia-Thailand Growth Triangle, and the South Asia Subregional Economic Cooperation Program. A key component of the assistance concerns energy-sector planning and implementation of cross-border power grid trade. By promoting regional power trading schemes, the ADB is providing institutional backing and legitimacy for large-scale hydropower development.

## Power Lines Need Power Projects

The centralized cross-border energy models envisioned by the ADB require large-scale power-producing projects. Hydropower dams, in particular, are seen as a panacea that can offer such volumes of power. The bank asserts that integrated power trade schemes will allow electricity costs to be lowered for consumers, and energy security for participating countries to be ensured. However, this myopic view of what constitutes energy ‘security’ and ‘cheap’ energy fails to take into account the human rights violations and ecological impacts that typically accompany such large-scale projects.

Offering loans for the infrastructure development to facilitate power trade allows the ADB to dodge direct blame for controversial hydropower projects that connect to the grids they finance. Consequently, the Bank can promote their transmission line projects as clean, economical conduits of energy, that help to lower overall carbon footprints of power generation, despite the social and environmental impacts associated with the dams attached to the grid (including dam reservoir emissions and greenhouse gases emitted during the construction phase). Yet, funding for transmission lines does directly increase the economic and material feasibility of the dams they are proposing. The ADB’s 2009 Safeguard Policy Statement defines that impacts within the project’s area of influence will be considered for due diligence, including “associated facilities that are not funded as part of the project (funding may be provided separately by the borrower/client or by third parties), and whose viability and existence depend exclusively on the project and whose goods or services are essential for successful operation of the project” (Safeguards Requirements 1: Environment, D.1.6). Accordingly, leveraging the ‘associated facilities’ clause is one channel through which it is possible to call on the ADB to withhold a loan until dams planned to connect to ADB financed transmission lines comply with all of their safeguard policies.

## Precedent in the Mekong Region

This year, a precedent for demanding that ADB project funding should be conditional upon safeguard compliance of all associated facilities was set in the Mekong Region in relation to dams and power grids. The ADB has been considering funding a cross-border transmission line that would connect a series of eight dams along the transboundary Sekong River and its tributary, the Sekaman River, for export of power to Vietnam. The Southern Lao PDR-Viet Nam Power Interconnection Project is currently being considered as an integral part of the Greater Mekong Subregion Regional Power Master Plan. ADB support for the transmission lines, originally proposed in 1994 as part of the Mekong power grid, would make the development of the dams more viable and attractive for private and public investors.

The area to be covered by the transmission line



*Ethnic minority families at Xekaman 1 site*



*Families now living beside Xekaman 1 Dam*

project encompasses the Don Ampham National Protected Area and the homelands of Indigenous ethnic minority communities who have depended for generations on gathering wild foods and fishing in the rivers. Many of the fish species that flourish in this area are endemic highland species only breeding and migrating within these watersheds, with some types thought to be new to scientific typologies. The dams would block fish migratory routes, and changes in hydrology could further decimate fish populations. Villages in the area have not been informed about the dams and how they might be expected to live in the future. To date, the eight dams proposed to connect to the transmission lines have no environmental impact assessments, social impact assessments or resettlement action plans available to affected communities or the general public. In some cases, the existence and completion of these plans is in question. Furthermore, no cumulative or transboundary impact assessments appear to have been done to document the potential impacts on communities living downstream in Cambodia. Already, entire communities of Indigenous People have been forced to abandon the lands of their ancestors to make way for the proposed dams. In the process, they have not been offered compensation



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*Downstream of Xekaman 1 construction site*

or support for livelihood restoration, and typically are instructed by authorities to live on small plots of land with limited access to potable water. Violations of the ADB's Indigenous Peoples, involuntary resettlement, and environment safeguard policies are all evident.

Over a span of more than six years, International Rivers has campaigned to call on the Bank's management to acknowledge that *if* financing for the GMS power grid is to be approved, the dams proposed to be connected to the grid ought to (a) be considered as associated to (and dependent on) the grid; (b) undergo a due diligence review, and (c) be required to be in compliance with their safeguard policies.

In April 2014, in an email communication from senior staff in the Southeast Asia Energy Division, International Rivers was informed that due to significant safeguard violations noted at one of the dam sites associated with the Southern Lao-Vietnam grid, "ADB will not commit further resources [to the transmission line project] until we are satisfied that the significant safeguard gaps have been addressed." As of August 2014, the ADB has confirmed that safeguard violations at dam sites associated with the Southern Lao-Vietnam Interconnection Project remain unaddressed, and as a result, the proposed loan for the power grid has been (temporarily) shelved.

The ADB's acknowledgement of a hydropower project to be connected to a grid as an associated facility can be considered an initial – but tenuous – break-through. Until NGOs and community representatives begin to test it as a reference point from which to assert the position that the ADB is accountable to all project-affected people and ecosystems, the significance of this policy-level



International Rivers

*A villager shares her thoughts on the proposed Sekong 3 Dam*

recognition remains limited. It is yet to be seen whether there is the political will within the ADB to accept the potentially far-reaching implications of confirming dams as associated to transmission lines.

### **Affirming and Expanding the Scope of "Associated Facilities"**

When the ADB's 2009 Safeguard Policy Statement is opened up for revisions, representatives of NGOs, community groups, social movements and other advocacy initiatives working to avoid dilution will need to be aware of the practical - albeit limited - opportunities for leverage the 'associated facilities' clause provides. At that time, it will be important to advocate not only for the language about the project's 'area of influence' to be retained, but for the application of the associated facilities term to be further clarified and expanded upon. Hopefully, future efforts to make loans conditional upon whether associated facilities are safeguard compliant will not end up being multi-year battles or limited to semantics only. Neither affected communities nor the environment can afford to wait.

# Phulbari: Where Grassroots Gathered Against Global Capital

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## Background

The introduction of neoliberal agendas in the development process constantly sharpens the debate towards social democracy; at the same time pushes people to protest against destruction caused by development. From a capitalistic perspective, neoliberal agendas have pushed people towards resistance, which is denoted from scholars view as “grassroots globalization.” In this instance, the resistance is considered in the state system as a primary interrogator to demand human rights. In one view, the State uses as means to facilitate the flow of funds and ideas (i.e., nationalism, decentralization, responsible governance, etc.) while transnational politics are not embedded in United Nations (UN) human charters or other international human rights instrument. Through the implementation of neoliberal agendas, people have found themselves in multiple directions.

In Bangladesh, people’s lives are threatened due to the introduction of eco-park, extraction of natural resources, overture of commercial agriculture, and corporatization of services. To promote global capital expansion during the 1980s, Bangladesh adopted neoliberal policies and development initiatives. These are directed by the conditionalities of the World Bank (WB), International Monetary Fund (IMF) and other International Financial Institutions (IFIs). In this context, the Phulbari Coal Mining Project is a classic case of neoliberal agenda implementation. Conversely, the Phulbari Movement is a classic protest action to resist neoliberal intervention. These are demonstrated in the “Phulbari Case”.

By overlooking all the environmental, ecological and livelihood impacts, the Asia Energy (now named as Global Coal Management or GCM) started to conduct surveys and studies, as well as drillings in a few points across the Phulbari area. As a consequence, the people of Phulbari organized themselves protest against the project to save their lives and lands. They succeeded in postponing the project implementation. Though the current government is making initiatives to start the project anew, a wide range of public opinion has been gathered against the project. The movement created new questions toward democratizing development and resisting the neo-liberal process of development.

This article attempts to describe the movement’s perspective and discloses the polarization of development models.

## Critical concerns on the project

To enhance the national energy sector, the state invited the multinational company Asia Energy/GCM to extract natural resources in Phulbari. It is one of the biggest mining projects in Bangladesh history. The Phulbari Coal Mining Project area covers the sub-districts of Birampur, Nawabganj, Parbatipur along with the Phulbari. These sub-districts are situated under the Dinajpur district in the northern part of Bangladesh. It is projected that the Phulbari Coal Mining Project will acquire about 135 square kilometers.

The project will physically and economically displace around 220,000 people, mainly farmers and indigenous households. It will destroy 14,660 acres (around 23sq. miles) of land, 80 percent of which is farmland, 1,577 ponds (where people source their income by cultivating and selling fish), 80,000 fruit and timber trees, 928 local businesses, 36,052 homes, 106 schools, 48 health facilities, 138 mosques, temples and churches, 692 graveyards and two (2) ancient archaeological sites. In fact, the displacement will occur in one of the most populated places in the world.

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It will destroy the country's significant agricultural region that will turn thousands of farmers into wage laborer and will threaten food security in the region. Due to the opening of the pit acid mine drainage system, the project will be linked to hundreds of small rivers. These will travel long beyond the mining footprint. To keep an open pit mining, the company will also need to deplete water levels, which will lead to water scarcity for communities around the mine area. The United Nations Educational, Scientific and Cultural Organization (UNESCO) projected that the impact will carry up to Sundarban's mangrove forest, a sanctuary for endangered species and livelihood resource for fisherfolk and other communities.

Local communities, civil society, national and international development organizations have been opposing the project. Grassroots resistance and protest against the project were carried out through different actions. In 2006, three people were killed by the security force of Bangladesh Government and as many as 200 people were injured. When the 50,000 people were performing a peaceful protest, various civil rights were abused and human rights seriously sullied during the people's demonstration. It has been clearly stated that displacement is being planned for the most fertile land and densely-populated part of the country. Likewise, coal mine contributes to greenhouse gas emission, global warming and carbon emission of the world. Rehabilitation expert Jennifer Kalafut commented that "... the physical and economic displacement in this project will leave hundreds of thousands of people vulnerable to homeless, joblessness, food insecurity, and disruption of traditional community and social safety nets." In fact, it is a risky project in relation to human rights and environment; and it will be implemented at the expense of people's lives and environment.

### **IFIs interference**

The project will construct at least one 500 MW power plant. The Asian Development Bank (ADB) projected that about eight (8) million tons of coal will be transported by rail and barges. An additional four (4) million tons will be exported to India while the rest of the three (3) million will be utilized for domestic use. Though the project clearly threatens social, environmental and human rights risks, ADB provisioned considerable financing in the range of \$300 million to the project sponsor, the UK-based Asia Energy and now known as GCM. While ADB's contribution is about 10 percent of the total fund requirement, ADB did not properly evaluate the project's accountability despite causing involuntary resettlement and disregarding its safeguard policies. NGOs and CSOs have campaigned globally for ADB to withdraw its financing of this project.

In fact, ADB goes hand in hand with other IFIs in pursuing neoliberal agendas. So far, ADB has funded numerous projects in Bangladesh

such as a forestry project in Chokoria that created deforestation, increased salinity and promoted commercial shrimp cultivation. It destroyed the natural environment of the coastal region. In Madhupur, ADB introduced a rubber plantation that ruined a natural forest and land crops of indigenous people. Likewise, the Madhupur Eco Park is another project that has destroyed the forest along with the lives and livelihoods of indigenous peoples. In the southern region of Bangladesh, ADB-funded water and irrigation projects have caused water logging, which uprooted people from traditional livelihoods. About two million (2) people are now living in danger. In the energy sector, the ADB is particularly serving the interest of multinational companies to extract natural resources and destroying national institutions in order to push its neoliberal agendas as evidenced by the Phulbari Case.

### **National concerns**

Yet, Bangladesh has no comprehensive energy policy that will include national interest, and environmental security. The Phulbari coal extraction issue begun in 1994 with an Australia-based company called Broken Hill Proprietary (BHP). The Bangladesh Government signed a contract with the BHP with a royalty of 20 percent. However, BHP eventually left Bangladesh after realizing that the project would not be profitable for them. Later on in 1998, it was transferred to the UK-Australian Asia Energy. The contract with the government revealed that the Asia Energy/GCM will give royalty as 6 percent of the production.

During the 30-year project span, around 50,000 people will be relocated. However, the affected people may go beyond 220,000. They will be pulled out from their traditional employment sources as well. Asia energy said the mining period will create employment opportunities for the people: 2,100 short-term jobs and 1,100 long jobs. Within 30 years, Asia Energy/GCM will profit more than USD 200 billion. In contrast, Bangladesh will only receive USD 7 billion as royalty and taxes. The country will receive royalty per annum of about 1500 cores (USD 150 million) but it would not include the project's environmental and social costs. The National Committee to Protect Oil-Gas-Minerals-Resources-Power and Ports estimated that Bangladesh will lose USD 300 cores (30 million USD) per annum. Moreover, Asia Energy/GCM was supposed to get a tax allowance for nine (9) years, which will also increase amount of loss. In fact, by the invitation of global capital investment the country will deprived of tax benefits and royalty rates. The open-pit mining also has a massive human cost. Finally, the project will create adverse effect on economy and environment.

### **Recent statement**

The Phulbari Coal Mine Project was rejected by the Bangladesh government in the last eight (8) years.

The project was postponed in 2006 due the death of three (3) people resulting from police firing during peaceful mass protest. In 2011, the government of Bangladesh has tried to re-initiate mining activities in the country. Thus, Asia Energy/GCM re-initiated discussion with the government for the Phulbari open-pit coal mining project. In February 2012, a United Nations panel of independent human rights experts had requested the government to withdraw the project given the project risks. That same year, the people of Phulbari had a series of protest actions and called for the banning of the project. In November 2012, the protesters came together on the street to protest against project but the government banned the gathering by imposing Section 144 (the section prohibits gathering of five or more persons). The government assembled some 500 armed forces in Phulbari. The people of Phulbari continued to express strong opposition over the establishment the Phulbari Coal Mining project. That is why in January 2013, the CEO of GCM cancelled his visit in Phulbari.

In August 2014, the prime minister's energy advisor Dr. Tawfiq-e-Elahi Chowdhury stated that "we are now examining all aspect of developing the local coal sector, not just the Phulbari mine project." He also added that the experience of Barapukuria open-pit coal mine project will help to initiate other large scale coal projects. The Asia Energy/GCM executive director in Bangladesh Gary Lye has provoked the government to take immediate decision in this regard.

### Closing note

When it was discovered that the Phulbari area has huge coal reserves, Asia Energy/GCM was given environment clearance by the government even before it received "environmental impact assessment" EIA report. While the Phulbari coal mining area has a considerable population of indigenous peoples, the issue of people's mandate was ignored in this case. The Bangladesh government has claimed that the project will bring massive economic growth to the area. However, it emerged as an autocrat in trying to implement it. The people of Phulbari found themselves helpless and in a vulnerable position. Thus, they organized themselves to protest against the project in order save their lives. This people's movement accelerated activism in the region. The experiences recall that all development projects including Phulbari must be ensure the free, prior informed consent of the local people, as well as meaningful participation of affected communities in the decision-making process.

Most people's movements in the global South have challenged conventional development approaches. On the other hand, modern social

movements have been criticized as organized by civil society or NGOs rather than class, political parties or oppressed people. In final round, people's movements negotiate with the prevailing power structure or the international capitalist class. In Bangladesh, political parties are serving the interest of capitalists. They have no role in people's or social movements though some left-wing political parties have shown solidarity with these movements. Nevertheless, the people of Phulbari organized themselves against the project and disputed development models which were proposed by the IFIs and the international capitalist class. The movement also raised strong public awareness on the issue of participatory democracy that needs to be ensured by the government in contrast to the five-year voting-based synthetic democracy. Based on the Phulbari movement experience, the so-called developments models of IFIs and capitalist class in the context of the democratization of development need to be redefined and reviewed.

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# Persons with Disabilities and ADB's Safeguards Policy

The Sector of Persons with Disabilities recognizes the important role of Asian Development Bank (ADB) in the development of the region. It is very significant that ADB is not only driven by obtaining development but also by the pattern and equitable distribution of benefits of development. It is also significant that ADB have seen that in terms of economic benefits and access to social services, large numbers of people are being left behind or left out.

The Sector of Persons with Disabilities understands the great importance of ADB Social and Environmental Safeguards to protect people and environment in developing countries. We appreciate the opportunity to engage in the Safeguard review process to help make the Safeguards stronger for persons with disabilities, who are especially vulnerable to the detrimental effects of poverty.

The needs and rights of persons with disabilities have not been addressed in the current Safeguards. Consequently, persons with disabilities are not systematically consulted nor considered in the planning and design of projects which have wide-ranging and cross-cutting negative impacts on persons with disabilities, nor do persons with disabilities have the opportunity to proportionately share in project benefits.

It is vital the Safeguards recognize that the sector exists; the sector has inherent characteristics and certain peculiarities to be considered; and persons with disabilities have rights as stated by the Convention on the Rights of Persons with Disabilities (CRPD) that need to be acknowledged and protected. These will ensure inclusion of persons with disabilities in all phases of projects.

Without explicit definitions of key terms, persons with disabilities cannot be effectively engaged stakeholders fully benefitting from ADB projects. It is therefore imperative that the ADB:

- Explicitly mention “persons with disabilities”

LIFE HAVEN INC.



*A support group activity of PWD*

as one of the marginalized and vulnerable group which is a stake holder and has rights to be protected

- Specifically defines “persons with disabilities” using the definition outlined in the United Nations Convention on the Rights of Persons with Disabilities (CRPD);
- Defines “inclusion” to include persons with disabilities as persons “who are often excluded”;
- Defines “meaningful consultation” to include accessibility to ensure full participation of persons with disabilities in the ADB project lifecycle;
- Definitively links the definition of “disadvantaged or vulnerable” to adverse impacts by projects, inability to fully share in the project benefits, and the requirement of specific measures to participate in the consultation process; and

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*PWD peer counseling seminar*

LIFE HAVEN INC.



*PWD in the Philippines*

The inclusion of the aforementioned in the ADB Social and Environmental Safeguards will enable the ADB and the Borrower to assess the unique and differentiated impacts of ADB projects on persons with disabilities, who span all groups, and not just on “disadvantaged or vulnerable groups.” This must include not only the unique needs of persons with disabilities in the project and/or project area of influence but also in stakeholder engagement.

The needs and rights of persons with disabilities as outlined in the CRPD must be upheld by the ADB and the Borrower. The ADB cannot achieve its mission to end extreme poverty in the region without ensuring that persons with disabilities benefit from

and are not harmed by ADB projects. Achieving that outcome is only possible if the Safeguards address the specific and unique impacts of projects on persons with disabilities and are included in all relevant issues.

Signed:

**Benjamin S. Bernardino**  
*Secretary General – Life Haven Inc. (Member – Philippine Coalition on UNCRPD)*

**Lauro L. Purcil Jr.,**  
*Convenor - Philippine Coalition on United Nations Convention on the Rights of Persons with Disabilities (CRPD)*

# Forum Welcomes New International Committee Members

The general membership elected its International Committee (IC) / Board of Trustees for 2014 – 2016 at the Forum Annual Meeting held in July 2014 in Manila, Philippines. Hemantha Withanage from Centre for Environmental Justice was reelected as convener and South Asia Working Group representative. Eduardo C. Tadem from the Freedom from Debt Coalition was selected as new treasurer and Philippine Working Group representative. The new officers are the following:

- |                            |   |
|----------------------------|---|
| ■ Convener / South Asia    | Hemantha Withanage<br>Centre for Environmental Justice (Sri Lanka)              |
| ■ Treasurer / Philippines  | Eduardo C. Tadem<br>Freedom from Debt Coalition                                 |
| ■ Central Asia & Caucasus* | Urantsooj Gombosuren<br>Center for Human Rights and Development<br>(Mongolia)   |
| ■ Southeast Asia           | Titi Soentoro<br>Aksi! for Gender, Social and Ecological<br>Justice (Indonesia) |
| ■ Mekong                   | Eang Vuthy<br>Equitable Cambodia (Cambodia)                                     |
| ■ South Asia               | Kazi Zaved Khalid Pasha<br>Initiative for Right View (Bangladesh)               |
| ■ Australia & Japan        | Yuki Tanabe<br>JACSES (Japan)   |
| ■ Europe & United States   | Ryan Schlieff<br>International Accountability Project<br>(United States)        |

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\* The election for Central Asia and Caucasus seat has been deferred.

Please visit:  
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