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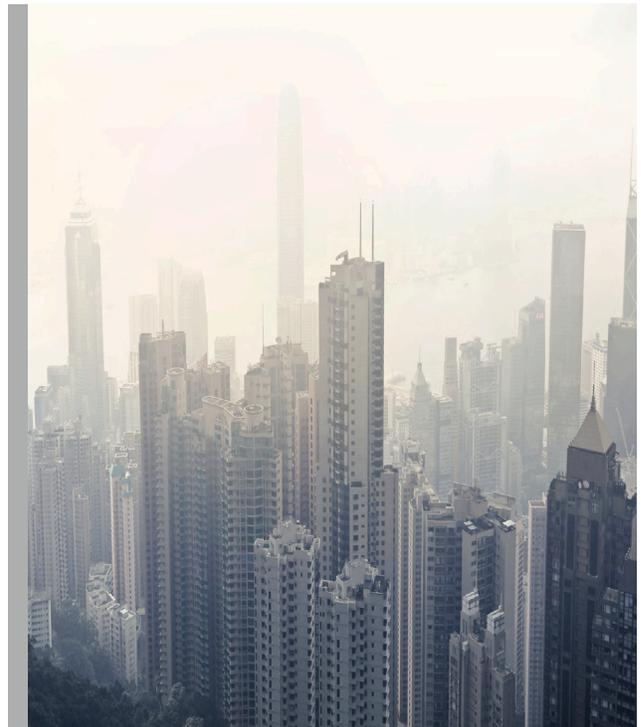
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WORDS FROM THE EXECUTIVE DIRECTOR

Dear Readers,

We are happy to publish the 2018 September issue of Bankwatch.

The articles in this issue are submissions and discourses collected from the membership during the advocacy period of July to August 2018.

This issue is headlined by a thought-provoking article on the future of development finance in Asia, followed by pieces of writing ranging from ADB's accountability mechanism to China's infrastructure financing and emerging issues in Asia, it also features an interesting take on the ADB funded Mannar 100 Mw Wind Power Project In Sri Lanka altering bird migration.

An article comparing the ADB and AIIB policies and objectives is also part of this period's publication as well as a piece from our partners in Indonesia that discusses the ADB's assessment of environmental and resettlement safeguards in Indonesia's country system.

We hope that you will find the contributions informative and useful in your ongoing campaigns for economic and environmental justice.

Sincerely,



Rayyan Hassan

Executive Director



DOES ADB'S ACCOUNTABILITY MECHANISM WORK?

Annabel S. Perreras,
NGO Forum on ADB

International organizations enjoy broad immunity from suit and other judicial processes in domestic courts. Simply put it is a “functional necessity” designed to protect the autonomy and independence of international organizations including the Asian Development Bank (ADB) against interference in discharging its entrusted functions effectively. In *Liang vs. People in the Philippines*, G.R. No. 125865, it is contended that the immunity under the ADB Charter and the Headquarters Agreement is absolute. The jurisprudence further contended that only when there is an implied or express waiver or when a statute expressly limits the said immunity can be considered as an exception.

However, the United Nations Guiding Principles on Business and Human Rights describes how international financial institutions (IFIs) veer away from their human rights due diligence and provide access to remedy. Needless to say, there are increasing number of literatures on recent trends articulating the immunity of international organizations before domestic courts. In the case of the European Court of Human Rights (ECtHR), it has allowed many domestic courts in Europe to refrain from the functional necessity argument, which is heavily in favor of the organization but rather espoused a human rights approach. In quite a few cases against international organizations before domestic courts, the aggrieved party can argue that granting immunity to the organization violates the right to an effective remedy before a court as

guaranteed by relevant international or regional human rights provisions.¹

In a [commentary](#) by ADB's General Counsel, accordingly immunity does not mean that project affected persons adversely affected by the Bank's projects are left without recourse or that their rights are ignored. ADB's Accountability Mechanism serves as the only institutional platform through which project – affected households can elevate their grievances on any breach in the Bank's own policies and procedures. While this is the intent of the Policy, does ADB's Accountability Mechanism work?

WHAT IS THE ACCOUNTABILITY MECHANISM?

The Accountability Mechanism (AM) has two primary functions: the problem – solving function led by the Special Project Facilitator (SPF) and the compliance review function spearheaded by the Compliance Review Panel (CRP).

Project – affected communities can either opt to proceed with the problem – solving or the compliance review function to address their concern. The problem – solving function is responsible in addressing the problems of local people affected by ADB – assisted projects. Accordingly, it assists people who are directly, materially and adversely affected by problems caused by the ADB – assisted projects.

¹ Ryngaert, C. *The Immunity of International Organizations before Domestic Courts: Recent Trends*. Katholieke Universiteit Leuven Faculty of Law. Institute for International Law. December 2009.

**“In the last
50 years of
ADB’s operations,
it had financed
projects that caused
massive destruction
of the environment
and loss of livelihood
for the affected
households”**

On the other hand, the compliance review function investigates alleged non – compliance by ADB on its own operational policies and procedures including violations on the safeguard policy. The Board of Directors considers and approves the recommendations of the CRP Final Report and allows the ADB Management to propose remedial actions in order to bring the project back into compliance.

However the Accountability Mechanism significantly poses restraints and limitations on its complex and highly bureaucratic processes that prevent communities from filing a complaint:

1. The legitimacy of the AM is also compromised whenever a potential conflict of interest arises at the ADB Board Compliance Review Committee (BCRC) level. As per the policy, the “CRP will investigate alleged non – compliance by ADB with its operational policies and procedures in any ADB – assisted project”. Furthermore, it will “not investigate the borrowing country, the executing agency or the private sector client” (emphasis supplied). The Accountability Mechanism also outlines nine functions of the BCRC (para. 134) with respect to the investigation on the alleged non – compliance by the Bank.

However, complaints in the past e.g. Samoa: Promoting Economic Use of Customary Land and Samoa Agribusiness Support Project (2016); Mundra Ultra Mega Power Project (2013) and the Integrated Citarum Water Resources Management Investment Program (2012) posted risks of conflict of interest when a BCRC members is also representing the constituency of where the project is located. While in principle the BCRC is sitting in that capacity and the focus of the investigation is on the ADB (and not the borrower), this kind of structure poses undue influence and may affect the outcome of the investigation as well as the corresponding monitoring of the CRP.

1. The role of the Office of the General Counsel (OGC) is another pitfall in the current structure of the AM that can also give rise to potential conflict of interest and question the independence of the mechanism. While the OGC

is part of the Management, it can also provide legal advice to CRP and SPF. The provision for separate legal counsels to the Management, ADB Board of Directors and to the AM should be explicitly stipulated either in the policy or in the Operations Manual in order to avoid any potential conflict of interest and to retain the independence of the AM.

2. In addition, the filing of a complaint to the AM will not suspend or otherwise affect the formulation, processing or implementation of the project unless agreed to by the borrower concerned and the Bank.² The functions of what the mechanism can and cannot do should be fully conveyed to the complainants and project affected households.
3. Limited awareness on how the Policy works particularly among the local communities largely contribute for the low turnout of complaints received. While some cases filed are deemed eligible,
4. the long process, which focuses merely on bringing the project into compliance, dampens the principles of accountability and transparency, which the Bank is strongly asserting.
5. The notion that the complainants should exercise “good faith efforts” in attempting to solve the problems and issues beforehand at the Operations Department (OD) including at the Resident Missions is also concerning. First, the burden of proof for the complainants to provide evidence on likely, direct and material harm should not be as rigid on its face – value. Once determined eligible in the case of compliance review, the full investigation would be able to ascertain the extent and evidence of the harm caused or will be caused due to non – compliance on ADB’s policies and procedures. Secondly, the rationale for the complainants to reach out first to solve the problems and issues with the OD can at one point be considered reasonable. However better clarity and guidance should also be provided, as this language on the policy

² *Glass Half Full Report: The State of Accountability in Development Finance*. 2016.

appears to be confusing if not contradictory to some provisions in the AM.

- Accordingly, the complainant should indicate “a description of the complainants’ good faith efforts to address the problems first with the OD concerned and the results of these efforts” [para. 151 (vii)].
 - However as the complainants are also given the option to choose whether or not to go through the problem solving or compliance review function. Having the clause that requires complainants to address the problems first with the OD presupposes a sequential approach when there should be none. This also adds an unnecessary burden for the complainants to prove that they should have done “good faith efforts” to resolve the issues being raised.
6. Lastly, the Compliance Review Panel to propose remedial actions is now with the Management. Taking away this function that the Panel previously had before the current 2012 Accountability Mechanism policy poses limitations on what the panel should be able to pro-

pose in the first place after taking into account the outcome of its investigation and findings.

WHAT DO THE FIGURES SHOW?

From 2004 - present, there has only been 15 complaints filed in ADB’s Accountability Mechanism through the Compliance Review Panel whereas 68 were filed through the Office of Special Project Facilitator (OSPF). Out of the bulk of complaints filed, there were only 19 or 27.94% of eligible complaints filed under OSPF and 11. On the other hand, the number of eligible complaints filed under CRP was higher at 11 or 73.33%.

Using the same period, the ADB on average approves roughly 348 projects in a year. The number of complaints filed to the Accountability Mechanism may either mean that ADB is doing a decent job in ensuring due diligence in all phases of the project implementation or when project affected communities are adversely affected they are not aware that such a redress mechanism is available.

Arguably, to put it in either of these two interpretations does not reflect the complexities of each project and the realities of the potentially affected



The Cambodia Railway Rehabilitation Project of the ADB.
Photo retrieved from inclusivedevelopment.net



Marcopper mining disaster
Photo retrieved from ejatlas.org

persons who will benefit or unfortunately suffer harm from these ADB – funded projects.

Be as it may violations on the safeguard policies of the ADB have been raised to the Accountability Mechanism and at the center of these complaints tackle issues on inadequate compensation, loss of livelihood, cost of economic and physical displacement; health risks and project affected families left to further state of poverty.

ADB FINANCED PROJECTS OF DESTRUCTION

In the last 50 years of ADB's operations, it had financed projects that caused massive destruction of the environment and loss of livelihood for the affected households. To name a few, these include the loss of indigenous variety of fish and crop biodiversity in the Khulna – Jessore Drainage Rehabilitation Project (KJDRP) in Bangladesh; more than 10,000 people affected by the

downstream impact of the Nam Theun 2 Hydropower Project in Laos; Marcopper mining disaster in Marinduque, Philippines as a result of mine tailings that contaminated the river system; displacement of affected households and inadequate compensation in the Cambodia Railway Rehabilitation Project; and loss of livelihood opportunities including access to fishing and agriculture in the Tata Mundra Coal Power Plant Project in India. These cases mirror hundreds if not thousands of ADB projects if left unmonitored that may have potential adverse and irreparable damage particularly to the vulnerable and marginalized sectors at the local level.

IS ADB'S ACCOUNTABILITY MECHANISM ENOUGH?

"I was evicted in my own home," Srey Van recounted. He is a public school teacher forcibly displaced in the [Cambodia Railway Rehabilitation Project](#).

Upon visiting the resettlement site in Battambang a few years back, he narrated that it has been 8 years since the project has been implemented yet there are still families who have not received additional compensation. There is still shortage in potable water in some of the relocation sites and communities are still experiencing difficulty of going to the city for lack of public transportation.

“There are still families who have not been paid in full,” he added. Some of the families are still reeling off from indebtedness and the difficulty of transferring land titles to the evicted families continues. Despite the complaint filed, the issues faced by the communities are not yet resolved.

In 2009, the ADB supported the Project through a USD 84 million loan. 4,000 affected families were displaced to relocation sites with no basic services including adequate housing, health facilities and without access to livelihood.

Contrary to ADB’s policy that displacement of communities should be avoided whenever possible and to even improve the standards of living of the displaced poor and other vulnerable groups, the families affected are left to further impoverishment and with no adequate compensation.

“I fear for my children’s health in the future,” according to Maribeth Garcia, a mother of five who raised reservations in the then construction of [Visayas Baseload Development Project](#) in the Philippines.

In 2009, the ADB approved USD 100 million loan for the construction of the 200 MW Visayas Base-load Power Development Project with the use of clean coal technology (CCT). Notwithstanding this rhetoric from the Bank, CCT is still tainted with social acceptability, health and environmental concerns.

As early as 2003, CSOs in Cebu, Philippines have put up resistance to the construction of new coal - fired power plants that would add to the existing coal plants in the province. While ADB promotes these so – called clean coal technology, the complaint filed against ADB argues that it is worse than conventional coal plants as it will employ four times more coal combustion wastes or coal ash.

Despite the findings on the gross negligence on ADB’s own policies, the Bank in effect still supports the operation of the plant. In 2013, the CRP held a consultation with the affected people and disclosed that ADB does not have the power to shut down the power plant nor impose sanction on the project implementer.

CONTINUING TO CHALLENGE ADB’S IMMUNITY

There have been attempts of filing cases on domestic courts and form a narrative of challenging immunity of international financial institutions. Environmental and human rights group EarthRights International (ERI) on behalf of the affected fishing communities [sued the International Finance Corporation \(IFC\) in a federal court in D.C. over the IFC – funded Tata Mundra Coal Power Plant](#). ERI also filed a [federal lawsuit](#) on behalf of Honduran farmers on the IFC investment on Corporación Dinant S.A. de C.V.

In a [statement](#) by Rayyan Hassan, Executive Director of NGO Forum on ADB, lashed out that the ADB should be stripped off its immunity. The ADB continues to peddle on the illusion that it is an institution committed in the principles of transparency, accountability and responsible development financing. However time and again it has contributed in the perilous situation Asia is facing in the midst of the rising inequality, [illegitimate debts](#), environmental degradation, displacement and increasing vulnerability of the poor.

The ADB has hidden behind the cloak of immunity and the perceived notions that its accountability mechanism is working. This however needs to be challenged and hold the ADB responsible before national and international laws.

Disclaimer: Due to the sensitivities of the complaints and in order to protect the identities of the project - affected persons, their real names were not used in this article.

PILLARS FOR THE FUTURE OF DEVELOPMENT FINANCE IN ASIA

Stephanie Amoako
Accountability Counsel

AFTER MUCH ANTICIPATION, THE ASIAN DEVELOPMENT BANK (ADB) RECENTLY RELEASED [Strategy 2030](#), its long-term corporate strategy to respond effectively to Asia's changing needs. As the ADB looks to the future of development finance in Asia, it must keep community engagement, including access to effective remedy, at the forefront.

Strategy 2030, then in draft form, was heavily showcased during May's ADB [annual meeting](#) in Manila, Philippines. The strategy includes [plans](#) to increase private sector lending as well as the use of country systems in lieu of ADB safeguard policies for public sector operations. Strategy 2030 also cites the bank's commitment to the [Paris Agreement](#) and the [Sustainable Development Goals](#) as the overarching objectives of the strategy document. However according to the [joint submission](#) of [NGO Forum on ADB](#), a close partner of Accountability Counsel, Strategy 2030 still lacks adequate guidance on how will ADB concretely contribute in achieving the targets set forth in these key global agreements.

Importantly, although Strategy 2030 does contain some commitments to [work with civil society organizations](#) (CSOs) in the design and implementation of projects, little mentioned in the strategy is how the ADB plans to ensure that local communities direct the course of development in Asia and have access to accountability and remedy in the event of any negative impacts from financing.

Of course, the ADB is not the only actor in the region, and questions about the future of development in Asia span various institutions. China's ["One Belt, One Road"](#) initiative will pour over \$1 trillion dollars into the region and beyond. The Asian Infrastructure Investment Bank, a China-led multilateral bank that opened in 2016, is ramping up operations. How can the ADB and other financial institutions ensure that communities' rights are respected in the course of undertaking projects in the region? When rights are violated or communities have concerns about projects, how can these institutions ensure that communities have effective venues to raise and address these concerns? Not focusing sufficiently on community input can



Rayyan Hassan, executive director of NGO Forum on ADB during the dialogue with the ADB president, ADB AGM 2018

be disastrous. As Rayyan Hassan from NGO Forum on ADB raised during a session in Manila hosted by the ADB's [independent accountability office](#), communities often lack information about projects that may negatively impact them, owing to ineffective consultation and information disclosure processes. Fear, insecurity, and anger then build into grievances.

Accountability Counsel has seen this scenario play out [time and again](#) through our casework, both in Asia and across the world. For example, the World Bank's [accountability office](#) confirmed that the [communities](#) in Sindhuli, Nepal affected by the 220 kV Khimti-Dhalkebar Transmission Line had not received proper information and consultation about the health, safety, and economic impacts of the bank's project, leading to misunderstanding, violence against peaceful protesters, and significant project delays. Similar concerns are being raised by [communities](#) in Lamjung, Nepal who are affected by the European Investment Bank (EIB)-funded [Nepal Power System Expansion Project](#), which is integrated with the ADB's [South Asia Subregional Economic Cooperation Power System Expansion Project](#). Given the local communities' recent [advocacy](#) with the EIB, it appears here again that international financiers have to do more to ensure that their development projects maintain a high standard of information disclosure, consultation, and participation in order to "do no harm" and truly improve lives in Asia.

As the ADB and others look to the future of development in Asia, they must put measures in place to ensure that communities' voices are fully respected in the course of projects. This includes strong environmental and social safeguard policies surrounding project design and implemen-

ation. As CSOs [highlighted](#) during the ADB annual meeting, strong environmental and social protections are particularly important as these institutions increase the focus on private sector investment, which has historically received less oversight. This also includes comprehensive and accessible project information for communities and ongoing inclusive consultations, right from the project design phase.

Crucially, respecting community voices also entails ensuring that communities have access to an effective accountability office to address any project-related harm, including the denial of information and consultation around the project. To be effective, these offices must operate according to principles including legitimacy, transparency, and fairness. The ADB's accountability office, comprised of the Compliance Review Panel and the Office of the Special Project Facilitator, is well established but could be improved, particularly in the area of structural independence from the ADB. As the ADB rolls out Strategy 2030, the bank should place particular attention on strengthening the accountability office to ensure that it is an effective, legitimate avenue for community engagement and provides meaningful remedy for the harms communities have suffered or will potentially suffer.

Through Strategy 2030, the ADB seeks to achieve a prosperous, inclusive, resilient, and sustainable Asia and the Pacific. This is only possible if the ADB, and other financial institutions and actors in the region, put communities first. Community engagement, including access to an effective accountability office, is vital for ensuring that future development in Asia reflects the needs and priorities of its people.

A nighttime aerial view of a city. On the left, a large, illuminated, lattice-like structure, possibly a stadium or arena, glows with warm light. To the right, several modern high-rise buildings are lit up, with some displaying logos. The foreground shows a street with a crosswalk and some lower-rise buildings. The sky is dark, suggesting dusk or night.

**“Through Strategy 2030,
the ADB seeks to
achieve a prosperous,
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This is only possible
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put communities first”**

BRIEF OVERVIEW OF THE ADB'S ASSESSMENT OF ENVIRONMENTAL AND RESETTLEMENT SAFEGUARDS IN INDONESIA'S COUNTRY SYSTEM¹

LEMBAGA STUDI DAN ADVOKASI MASYARAKAT (ELSAM),
INDONESIA LEGAL RESOURCE CENTER (ILRC),

THE ECOLOGICAL JUSTICE,

WAHANA LINGKUNGAN HIDUP INDONESIA (WALHI),

WALHI SULAWESI SELATAN,

WALHI JAWA BARAT,

YAYASAN PUSAKA,

TUK INDONESIA,

DEBTWATCH,

THE INSTITUTE FOR NATIONAL AND DEMOCRATIC STUDIES (INDIES),

ULU FOUNDATION

THE ADB AND OTHER INTERNATIONAL FINANCIAL INSTITUTIONS (IFIS) ARE INCREASINGLY PROMOTING THE USE OF "COUNTRY SYSTEMS" OR "BORROWER SYSTEMS" AS A REPLACEMENT FOR THEIR OWN ENVIRONMENTAL AND SOCIAL SAFEGUARD POLICIES.¹ THE NGO FORUM ON ADB FINDS THAT THE USE OF "COUNTRY SYSTEMS SAFEGUARDS" (CSS) TO REGULATE MULTILATERAL DEVELOPMENT BANK (MDB) FINANCE MAY POTENTIALLY PROVE BENEFICIAL IF, AND ONLY IF THERE IS PROOF THAT A RECIPIENT GOVERNMENT CURRENTLY PRIORITIZES THE ENVIRONMENTAL AND SOCIAL WELL-BEING OF COMMUNITIES AFFECTED BY IFI-FINANCED PROJECTS, AND ²

1. There is clear evidence of the full implementation of the rule of law, including a function-

¹A "country system" or "borrower system" may be defined as "a country's legal and institutional framework, consisting of its national, subnational, or sectoral implementing institutions and applicable laws, regulations, rules, and procedures." World Bank, OP 4.00 - Piloting the Use of Borrower Systems to Address Environmental and Social Safeguard Issues in Bank-Supported Projects, footnote 3. <https://policies.worldbank.org/sites/ppf3/PPFDocuments/Forms/DispPage.aspx?docid=1564&ver=current>

²NGO Forum on ADB, letter to Executive Directors of the ADB, Concerns with the SPS W-paper, Manila, February 20, 2009

- ing and independent judiciary;³
2. Strong mandatory national and local environmental and social safeguards, certainly no weaker than those required by the ADB (including requirements for meaningful consultation free of coercion and disclosure requirements for draft assessments 120 days prior to decision-making for projects with significant impacts); and
3. A clear track record of evidence of implementation of national and local safeguards over the long term.

The NGO Forum on ADB underscores that the use of "borrower systems" for IFI-supported projects should not occur in countries with military governments, or those with a track record of human rights violations or high levels of corruption -- all of which make the implementation and monitoring of safeguards difficult, if not impossible.⁴

It is in this context that we briefly examine the ADB's first large-scale attempt to assess the "country system" of Indonesia in the energy, wa-

³ According to Transparency International, in 2016, Indonesia ranked 37 of 100, where 100 means "clean" and where 37 means "endemic corruption in a country's public sector", a clear sign of the lack of "rule of law."

⁴NGO Forum on ADB, letter to Executive Directors of the ADB, Concerns with the SPS W-paper, Manila, February 20, 2009



ter, transport, and urban settlement sectors with a focus on environmental and resettlement safeguards. The ADB assessment was conducted in secrecy – without any public consultation or input on recommended field sites from December 2013 to March 2017. Portions of the draft were first made public a few days prior to socialization seminars in Jakarta and Makassar in March 2017.

Despite the ADB’s own findings which demonstrated the repeated lack of equivalence between ADB environmental and resettlement requirements and Indonesia’s “country system” and underscored the poor implementation track record, the ADB’s “conclusions” bore little relation to their findings. The field studies conducted on the four sectors show that none of the environment or resettlement assessments examined involved any focus on or efforts to involve participation of vulnerable people (including the poor, the landless) or women or any attention to identifying those impacted by a project, nor any monitoring of the impact of forced resettlement on those resettled - a gross violation of the most fundamental ADB safeguards.

Despite the clear track record demonstrating a fundamental lack of equivalence with ADB Safeguard Policy Statement (SPS) requirements, the

draft assessment declares that “level of equivalence for Indonesia’s CSS [with ADB SPS requirements] for environment is high”⁵, that the “Indonesian CSS [for resettlement] is fully equivalent with 8 of the 12 policy principles (67%) of the SPS for involuntary resettlement.”⁶ The deeply flawed draft concludes, despite ADB’s field assessments that show otherwise, “that the energy sector (PLN) has strong implementation capacity in most areas both for environment and land acquisition/involuntary resettlement and would be an appropriate candidate for ADB use of CSS in the near term. The water resources sector (DGWR) shows strong to moderate capacity for environmental safeguards and moderate for land acquisition/involuntary resettlement ... [and] would be an appropriate candidate for ADB use of CSS in the medium term. Based on this assessment, it is recommended that the energy and water resource sectors should be prioritized for

⁵ADB, Country Safeguards Review (CSS): Draft Final Report Indonesia, March 2017, para24.

⁶ADB, Country Safeguards Review (CSS): Draft Final Report Indonesia, March 2017, para 26. By further manipulating the analysis, the ADB report claimed equivalence with 86% of the ADB’s resettlement safeguards, despite no requirements for assessments of vulnerable populations, women, no requirements to monitor impacts of resettlement on affected communities, no meaningful support for those without land certifications (majority of Indonesia’s population, vast majority of the poor, and women), etc.

ADB's use of Indonesia's CSS for environment and involuntary resettlement."⁷

ADB Requirements for Country System Assessment: Equivalence and Acceptability

The ADB requires a mandatory, clear, and extensive review to ensure that there is equivalency of a Country Safeguard System (CSS) with ADB safeguards, prior to ADB agreement for the use of a Country System in place of ADB mandatory safeguards. According to the ADB's Safeguard Policy Statement:

"Equivalence and acceptability are two prerequisites for deciding on the use of CSS. ADB would consider a borrower's CSS to be equivalent to ADB's if the former's system is designed to achieve the same objectives and adhere to the policy scope, triggers, and applicable principles set out in ADB's Safeguard Policy Statement. ADB also assesses the acceptability of borrower's implementation practice, track record, and capacity, before deciding on the use of the borrower's system."

The ADB notes that the use of a client's "country system" is not automatic or mandatory and requires public consultation and review of equivalence assessments (and to "seek agreement" on any proposed "gap-filling measures"). In addition, the ADB bans the use of borrower systems for "highly complex and sensitive projects" and underscores that the ADB is responsible for assessing and determining the equivalence of the CSS and the acceptability of the borrower's implementation practice and capacity."

The ADB's requirements prohibit the use of a "country system" unless the ADB can "ensure that the implementation of country systems in ADB projects will not compromise the goal and policy principles of ADB."

ADB's assessment of Indonesia's Country System

In 2013, the ADB initiated a "Technical Assistance" project designed to, among other things, assess the "Equivalency and Acceptability" of Indonesia's borrower system compared to the ADB's Environment and Resettlement Safeguards in four priority sectors: (1) water resources; (2) road and transportation; (3) energy; and (4) urban/settlement planning.⁸ The process surrounding the development of the ADB's assessment was kept secret from the public between late 2013 and March 2017.

A number of violations of ADB SPS requirements are immediately apparent:

- 1) Violation of ADB requirements for meaningful consultation and disclosure of documents in a timely manner: In October 2016, Indonesian NGOs heard rumors that the ADB had scheduled a consultation meeting with the Indonesian Government on the ADB's draft CSS assessment which had still not been made public. Local NGOs wrote to the ADB and asked to participate in the consultation session and requested a copy of the draft assessment. Despite the fact that the ADB had spent years (under a TA beginning in late 2013) preparing hundreds of pages of documents, the invitations to the "consultation" on the ADB's assessment of Indonesia's Country System and the links to "consultation" documents were only sent to selected members of the public a mere three working days before the "public consultation" in Makassar and six working days before the "public consultation" in Jakarta on March 30 2017.
- 2) Violation of ADB requirement to fully disclose consultation documents: The results of the field research on the track record of implementation of environment and resettlement safe-

⁷ADB, Country Safeguards Review (CSS): Draft Final Report Indonesia, March 2017, para 62,63

⁸Technical Assistance: Republic of Indonesia: Aligning ADB and Country Systems for Improved Project Performance", Project: 47287-001, December 2013

“The ADB’s assessment fails to analyse the significant role of violence by security forces in land seizures, forced evictions, and the long and well known record of human rights violations”

guards in Indonesia, Appendices 8 – 11 (more than 100 pages), a core part of the mandatory equivalence and acceptability assessments required by ADB, were not disclosed to the public prior to the so-called “consultations.” These Appendices, which contained proof of the lack of implementation of the most basic safeguard requirements (including the lack of consideration of, consultation with, or monitoring of impacts on project-affected people, the vulnerable, and women, who make up 50% of those impacted) were only made public after NGO protests. Clearly, with 3 or 6 days to analyze 250 pages of materials and with the suppression of all of the field reports assessing Indonesia’s track record of implementation, the meetings in March 2017 were not public consultations.

- 3) Extremely poor translation, leading to a failure to comply with the ADB requirement to make materials available in a language understandable to those being consulted. English and Indonesian documents featured significant repeated differences of meaning. The Indonesian language documents featured reversals of and material changes to meanings in the English original versions, and included the elimination of important words (such as “prompt”, “all”) related to key ADB requirements, i.e. requirements for prompt compensation prior to resettlement for all affected people, including those without land title. We note that Indonesian law and track record does not require “prompt” compensation for “all” affected people.
 - 4) The ADB’s assessment fails to analyse the significant role of violence by security forces in land seizures, forced evictions, and the long and well known record of human rights violations. In all sectors “researched” by the ADB consultants, forced evictions involving security forces (military, police, Sat Pol and armed thugs) have led to an increase in conflicts, and devastating impacts on the lives and livelihoods of project-affected peoples, but there is no analysis of this in the study.
- There are at least 450 recent cases of land conflicts, of which 100 cases occurred in the infrastructure sector.⁹
- 5) Despite ADB’s clear requirements for gender-sensitive assessment, no gender analysis was provided of the policies that were reviewed or in the CSS implementation track record studies for each sector. While the report noted repeatedly that no gender-disaggregated data was used, women were not consulted nor were impacts on women monitored in any of the four sectors examined by the ADB, there was no examination of gender injustice commonly associated with forced resettlement, environmental impacts and implementation of the notorious Law 2/2012 on Land Acquisition for Public Interest. The country track record demonstrates that women, in addition to losing home-based livelihoods and those in their residential areas, frequently experience violence, intimidation, and oppression as a result of the policies and projects that forcibly displace them in the name of development. None of this is featured in the ADB analysis.
 - 6) Routine failure of rule of law. Neither the ADB CSS conclusions nor the ADB’s matrix of “equivalence” between Indonesia’s CSS and ADB Safeguards describe the routine failure of the rule of law and the resulting destruction of the environment and negative impacts upon the poor, women, and other vulnerable populations from forced evictions which are currently occurring in Indonesia, some of which was documented in the field studies in the Appendices of the report.
- For example, the ADB’s “assessment” of the track record of Indonesia’s entire energy sector (contained in one of the appendices not made public prior to the “consultations”) consisted merely of an assessment of a small 14-kilometer transmission line which, one would hope, might have minimal impact. No assessment was made of the

⁹Data Konsorsium Pembaharuan Agraria, Catatan Konflik Agraria Tahun 2016.

track record of the energy sector in general, for example, the recent construction of the two controversial 1000 MW Batang plants which were plagued by the use of security forces against the local population, intimidation, lack of consultation or compensation prior to eviction.

The ADB's own assessment of the "small" transmission line project found that it impacted 800 people and no attention was paid to those affected by the project. The field study documented the routine violation of the most fundamental requirements of ADB's environmental and social safeguards. In a clear demonstration of the way that compliance with Indonesia's controversial Land Law 2/2012 fails to meet ADB SPS requirements, the ADB's CSS report found that:

"167. The project generally complies with Law 2 of 2012– Land Appropriation for Public Use and other supporting regulations. However there is no particular attention paid to Indigenous Peoples, women, children, the elderly, and other vulnerable populations to be protected from the adverse impacts of development projects."¹⁰

Yet, throughout the report, the ADB repeatedly praises the controversial Law 2 of 2012 which, according to civil society assessment, has done extraordinary damage to the rights and livelihoods of project-affected peoples and has introduced major loopholes to assist project proponents to avoid meaningful consultation and proper compensation for assets seized for a project.¹¹

"Land conflicts in Indonesia have risen over the last ten years, as private investors and the government have acquired large tracts of land without respecting the rights and interests of local users. In 2013 alone, land conflicts in Indonesia caused 22 deaths due to violent clashes and in-

¹⁰ADB, Country Safeguards Review (CSS): Draft Final Report Indonesia, March 2017, Appendix 11: Acceptability Assessment for Involuntary Resettlement by Sector, para 167.

¹¹ADB, Country Safeguards Review (CSS): Draft Final Report Indonesia, March 2017, para 22 etc.

involved almost 140,000 households, according to Agrarian Reform Consortium (KPA) figures. [In the past 10 years], the organization recorded 1391 land conflicts causing 70 deaths, involving five million hectares of disputed land and 926,700 households."¹²

Given rapacious land-grabbing for projects and plantations, other observers have identified "conflict over land rights in around 18,000 villages in Indonesia."¹³ A coalition of Indonesia's most prominent environmental and human rights organizations filed a case with Indonesia's Constitutional Court in an effort to overturn the new Land Acquisition Law 2 of 2012, arguing that under the new law, the government does not involve the public or the party entitled to the land in the land acquisition planning process and, instead, only involves the parties that seek to take over the land.¹⁴ To no one's surprise, given the record of the judiciary in Indonesia, the court rejected civil society's claims in 2013.

Obviously, the basis of sustainable development and the rationale behind public development finance (and a core ADB requirement) is to pay particular attention to vulnerable peoples and women likely to be impacted by a project.

In line with civil society assessment, as argued to the Constitutional Court, that the rights of project-affected peoples and impacts on local communities from development projects is almost universally ignored, ADB findings from the fieldwork assessment of the track record of Indonesia's CSS implementation in the energy sector include observations that:

➤ "The baseline data was weak on social

¹²Inside Indonesia, "An agrarian reform agenda for Jokowi", December 2014. See also Mongobay, "Inside Indonesia's highest profile land conflict", 7 December, 2015.

¹³Rob Finlayson, "Rapid Land Tenure Assessment adopted by the Indonesian Ministry of Forestry", August 7, 2014, <http://blog.worldagroforestry.org/index.php/2014/08/07/rapid-land-tenure-assessment-adopted-by-the-indonesian-ministry-of-forestry/>

¹⁴Jakarta Post, Land Acquisition Law in line with the Constitution: Court, Feb. 14, 2013.

and economic data.”¹⁵

- Project analysis had been based on a census with “no breakdown of those households that were affected and those not affected.”¹⁶
- Project analysis contained:
 - “no separate socioeconomic profiles of the affected persons”¹⁷
 - “did not mention if there was assistance offered for livelihood restoration”¹⁸
- The ADB found that, “During field visit interviews, it became clear that, with the government focusing primarily on acquiring the land needed for the project, insufficient attention was paid to vulnerable groups during the planning stage.”¹⁹
- No monitoring of impacts on the 800 people affected by this small project: “Monitoring and evaluation is limited to the land acquisition process and does not include the affected households.”²⁰ Instead of pointing out that the lack of impact monitoring showed a clear lack of equivalence with ADB requirements and demonstrated unacceptable practice, ADB consultants merely made the suggestion that, “Ideally, the monitoring should be extended to the land acquisition impacts to the affected households.”²¹

- The discussion of compensation to affected people made no mention of land for land compensation and appeared to focus solely on cash compensation. The only land for land compensation discussed was for land owned by two villages, where replacement land was sought for officially owned village land.

7) Conclusions unrelated to research results. Despite the obvious violations of core ADB safeguard requirements and the clearly non-existent safeguard protections for vulnerable resettled populations demonstrated in the energy sector, the ADB concluded, based a 14 km transmission line, that the environmental and resettlement track record of Indonesia’s entire energy sector was “strong.” This case - where the conclusions clearly do not match the data gathered – was used to represent Indonesia’s entire energy sector and was used as a basis for the ADB’s conclusion that Indonesia’s ‘country system’ is suitable for use in the energy sector as a replacement for ADB environmental and involuntary resettlement Safeguards. These conclusions bear no relationship to ADB’s own field data in the appendices, nor to civil society field observations over many years. This pattern continued in the assessment of the other sectors as well as in the equivalence assessments with ADB’s Environment and Resettlement Safeguards.

8) Poor Quality Comparative “Analysis” of Indonesia’s ‘Country System’ and ADB SPS requirements. The quality of the ADB study is extraordinarily weak and focuses primarily on policy at the level of Acts/Laws which nominally provide environmental and social protection. However, the study does not thoroughly examine the underlying regulations that undermine these laws. The ADB states on the front page that “the materials are prepared by consultants; hence, ADB does not guarantee the accuracy, reliability or timeliness of these materials and therefore will not be liable in any capacity for any damages or losses that may result from the use of these materials.” We

¹⁵ADB, Country Safeguards Review (CSS): Draft Final Report Indonesia, March 2017, Appendix 9, Acceptability Assessment for Environmental by Sector, para 17(b)2

¹⁶ADB, Country Safeguards Review (CSS): Draft Final Report Indonesia, March 2017, Appendix 11: Acceptability Assessment for Involuntary Resettlement by Sector, para 134, 162.

¹⁷ADB, Country Safeguards Review (CSS): Draft Final Report Indonesia, March 2017, Appendix 11: Acceptability Assessment for Involuntary Resettlement by Sector, para 134, 162.

¹⁸ADB, Country Safeguards Review (CSS): Draft Final Report Indonesia, March 2017, Appendix 11: Acceptability Assessment for Involuntary Resettlement by Sector, para 162.

¹⁹ADB, Country Safeguards Review (CSS): Draft Final Report Indonesia, March 2017, Appendix 11: Acceptability Assessment for Involuntary Resettlement by Sector, para 135.

²⁰ADB, Country Safeguards Review (CSS): Draft Final Report Indonesia, March 2017, Appendix 11: Acceptability Assessment for Involuntary Resettlement by Sector, para 151.

²¹ADB, Country Safeguards Review (CSS): Draft Final Report Indonesia, March 2017, Appendix 11: Acceptability Assessment for Involuntary Resettlement by Sector, para 152.

agree that the CSS assessment is neither accurate nor reliable and, indeed, if approved, this weak and insufficient draft, developed in violation of ADB consultation requirements could lead directly to significant damages and losses to local communities impacted by the use of ADB funds for projects implemented under poorly assessed “country systems” in the absence of ADB safeguards. The SPS binds the ADB to take full responsibility for a CSS assessment due diligence and to provide meaningful consultation on materials that the ADB can guarantee are accurate and reliable. This has not yet happened.

9) Additional SPS violations in the draft assessment: The following additional observations provide clear documentation of the lack of equivalence and “acceptability” (track record of implementation) of Indonesia’s Country System compared to ADB Safeguard Policy Statement requirements:

- Indonesian requirements for Public Consultation do not meet the ADB’s requirement for “meaningful consultation” free of coercion and do not include the required 120 day public comment period required prior to decision-making regarding a project with significant impacts. In addition, ADB’s field research for “Acceptability” assessment found that more officials than affected people attended the (fake) consultation meetings.^{22 23}
- Land acquisition and evictions: Unlike the ADB’s SPS requirements, the Indonesian legal system and track record of implementation provide no mitigation hierarchy to meet the ADB’s requirement to “avoid involuntary resettlement wherever possible.”

The ADB requirement for compensation prior to forced resettlement is routinely circumvented with the increasingly prevalent strategy facilitated by the controversial Law 2 of 2012 on Land Acquisition where a project proponent, instead of providing replacement land for those with land-based

²²ADB, Country Safeguards Review (CSS): Draft Final Report Indonesia, March 2017, Appendix 9, page 5, para 6.

²³ADB, Country Safeguards Review (CSS): Draft Final Report Indonesia, March 2017, Appendix 9, page 7, para 9b.



Indonesian requirements for Public Consultation do not meet the ADB’s requirement for “meaningful consultation” free of coercion and does not include the required 120 day public comment period

livelihood or providing prompt asset compensation equivalent to asset replacement cost, simply places a unilaterally determined sum of money (not replacement cost of assets) in an escrow account at a district court, despite:

- No meaningful public input into the location/siting of a project;
- No agreement with a community regarding resettlement;
- No agreement regarding asset valuation or method (i.e. land for land versus cash);
- No agreement regarding amount of compensation; The Indonesian requirement for compensation does not meet the ADB's requirement of "replacement of assets with access to assets of equal or higher value" but, instead, uses a value determined by the government.
- No decision by affected communities to engage with Indonesia's notorious court system.

With the deposit of funds in an escrow account, "compensation" is considered "paid" and eviction occurs prior to receipt of compensation by affected communities, a clear violation of ADB SPS requirements to prioritize land-for-land compensation and all compensation must be made at asset replacement value prior to resettlement.

The ADB field studies of the country track record of implementation yielded a "Summary of issues in the land acquisition process"²⁴ including:

- Poor to moderate quality of most land acquisition plan documents and no proper feasibility study
- Incomplete data on land acquisition objects, including remaining land
- Budget allocation is often less than necessary to pay compensation
- Monitoring does not cover land acquisition impacts to the affected persons/entitled parties

²⁴ADB, Country Safeguards Review: Indonesian Consultation Draft, March 2017, Appendix 10: Acceptability Assessment for Involuntary Resettlement Safeguards, Table A.10.2

- Disclosure of land acquisition report is not required"
- Gender, Vulnerable Groups. ADB SPS Principle 2 requires an assessment of all impacts on all parties, with special attention to vulnerable groups and gender issues. Since there is no requirement in Indonesian CSS for specific impact assessment practice on vulnerable groups or gender issue (as already documented by ADB in detail in Annex 8 to 11), a lack of resettlement assistance, livelihood restoration and augmentation documented by the ADB, and the country track record demonstrates the tremendous impacts on vulnerable groups and women, it is clear that the Indonesian Country System is not equivalent with ADB SPS requirements.²⁵ The majority of Indonesians and the vast majority of the poor and women do not have title to land, so the lack of support for those without land title has devastating impacts. All of the ADB's field study cases (Appendices 8 – 11) demonstrate that there is a complete lack of any analysis regarding gender issues, impacts on women, or monitoring of the fate of the women impacted by the projects in any of the four sectors that were studied.²⁶
- EIA lack of equivalence and poor track record: ADB's field studies of implementation track record found that AMDAL (EIA) requirements were not equivalent to ADB SPS and AMDALs examined showed a track record of poor quality and weak assessments "fo-

²⁵ADB: "14. Law 2 of 2012 requires detailed analysis of the risks and impacts to affected communities; it does not explicitly discuss the need for analysis of affects to particular community groups (such as vulnerable groups). As such, it does not specifically require gender analysis." ADB, Country Safeguards Review: Indonesian Consultation Draft, March 2017, Appendix 6: Equivalence Assessment for Involuntary Resettlement Safeguards, para 14; For Indonesia's Environmental Impact Assessment (AMDAL) law "Public Consultation and Participation: **Representation of women and vulnerable groups is not explicitly required** in planning and decision making." ADB, Country Safeguards Review: Draft Final Report Indonesia, March 2017, Appendix Table A.6.3

²⁶ADB, Country Safeguards Review: Indonesian Consultation Draft, March 2017, para 28, 35, 56

cluding on general environmental problems in a sector rather than on the project under consideration.”²⁷, ²⁸,²⁹ According to the ADB, the governmental body which carries out the majority of the AMDAL is “structurally, institutionally, and functionally ... weak.”³⁰ ADB field research found “With regard to transparency of EIA study, it does not carry out explicit measures to encourage participation of women and vulnerable groups. Due to poor scoping, the assessment does not cover all matters comprehensively (partial scoping).”³¹

The ADB’s field assessment for the (supposedly “strong”) energy sector of the Central Java Transmission Line found that “The methodology has not been optimally applied in a consistent manner with regard to types of impact assessed. Baseline data on social and economy is weak. Environmental Impact Statement (AMDAL) does not cover concern about the risks ...voiced out by people who reside around the project location.”³² ADB research identified vested interests in the implementation of the AMDAL EIA: “Authority for Approval of AMDAL: Authority for reviewing KAANDAL and AMDAL based on project location creates problems (e.g., vested interest pronounced in projects whose permits are issued by [local officials] Bupati/Walikota.)”³³

²⁷ADB, Country Safeguards Review (CSS): Draft Final Report Indonesia, March 2017, Appendix 9, para 11(c)

²⁸ADB, Country Safeguards Review (CSS): Draft Final Report Indonesia, March 2017, Appendix 9, Assessment on Water Resources Sector: Karian Multipurpose Dam Project, para 5.

²⁹ADB, Country Safeguards Review (CSS): Draft Final Report Indonesia, March 2017, Appendix 9, Assessment on Energy Sector: Transmission line – Central Java, para 17b.

³⁰ADB, Country Safeguards Review (CSS): Draft Final Report Indonesia, March 2017, Appendix 8, page 4, para 10-11.

³¹ADB, Country Safeguards Review (CSS): Draft Final Report Indonesia, March 2017, Appendix 9, Assessment on Water Resources Sector: Karian Multipurpose Dam Project, page 4, para 5.

³²ADB, Country Safeguards Review (CSS): Draft Final Report Indonesia, March 2017, Appendix 9, Assessment on Energy Sector: Transmission line – Central Java, page 11, para 17b.

³³ADB, Country Safeguards Review (CSS): Draft Final Report Indonesia, March 2017, Appendix 8, Table A6.3.

The ADB identified “general weaknesses in the Indonesian AMDAL system” which included “Basing authority for reviewing KA-AMDAL and ANDAL on project location can subject approvals to local vested interests such as tax revenue and investment flows.”³⁴

- Financial Intermediaries. According to ADB Assessment, Indonesia’s AMDAL EIA analysis requirement “is not applicable” to financial intermediary projects.³⁵ By contrast, ADB requires impact assessment for financial intermediary projects. Clearly, another important example of how CSS Indonesia is not equivalent to ADB requirements.
- No Monitoring. “The Indonesian legal framework does not require monitoring of land acquisition / resettlement impacts to the livelihoods and living standards of displaced persons and does not address whether the objectives of the resettlement plan have been achieved.”³⁶ “[T]here is no monitoring and evaluation of land acquisition outcome and impacts of living standard of displaced persons.”³⁷ “Law 2 of 2012 and its implementing regulations do not stipulate on monitoring of the resettlement impacts on the standards of living of displaced persons and whether the objectives of the resettlement plan have been achieved.”³⁸

Conclusion

The ADB has spent years behind closed doors producing a deeply flawed draft assessment of Indonesia’s Country System, an assessment where the conclusions bear little relation to the ADB’s own field study findings which document the poor track record of implementation of envi-

³⁴ADB, Country Safeguards Review (CSS): Draft Final Report Indonesia, March 2017, Appendix 8, page 7, para 24.

³⁵ADB, Country Safeguards Review (CSS): Draft Final Report Indonesia, March 2017, Appendix 8, page 7.

³⁶ADB, Country Safeguards Review: Indonesian Consultation Draft, March 2017, para 28

³⁷ADB, Country Safeguards Review: Indonesian Consultation Draft, March 2017, para 28, para 56

³⁸ADB, Country Safeguards Review: Indonesian Consultation Draft, March 2017, para 28

ronmental and resettlement laws and which also demonstrates that these laws are not equivalent with ADB SPS requirements. The secretive assessment process, the deeply flawed document, poor quality translation, and lack of meaningful consultation have already led to significant violations of ADB's Safeguard Policy Statement requirements.

A review of ADB CSS assessment for Indonesia makes it clear that Indonesia's Country System Safeguards for environment and resettlement are

not equivalent to ADB safeguard requirements. As such, the ADB's findings of equivalence for environment and resettlement are not credible.

The ADB's own study affirms the poor track record of implementation of environmental and resettlement protections for project-affected communities in all sectors examined. Thus the recommendation that ADB-supported projects in Indonesia's energy and water sectors are suitable for the use of CSS in place of mandatory ADB Environmental and Resettlement Safeguards is unacceptable.



The ADB's own study affirms the poor track record of implementation of environmental and resettlement protections for project-affected communities in all sectors examined



ADB Walk of Shame Mobilization, May 2017

A COMPARATIVE LOOK AT ADB AND AIIB POLICIES AND OBJECTIVES

RAYYAN HASSAN, NGO Forum on ADB

Origin of the ADB

The Asian Development Bank's (ADB) own account of its history in the 1960's begins with a description of an Asia mired in poverty with per capita GDPs lower than Sub-Saharan Africa and Latin America.

This laid down the premise or the need for economic development to be supported by the international community. The establishment of the UN subsequently the United Nations Economic Commission for Asia and the Far East (ECAFE) were instrumental as they recommended the creation of a regional bank for Asia "that would foster economic growth and cooperation in the World's poorest region".¹ The Agreement Establishing the Asian Development Bank (ADB Charter) entered into force on 22 August 1966. It stated the purpose of the Bank was to foster economic growth and co-operation in Asia and the Far East and contribute to accelerate economic development in the developing member countries.

¹ ADB Annual Report 1967: The report highlights the various UNECAFE deliberations prior to the origin of the ADB.

Origin of the AIIB

In stark contrast, the Asian Infrastructure Investment Bank (AIIB) has a much recent history. Unlike the ADB and the World Bank, the AIIB was solely envisioned and conceptualized by China. It was not borne out of a common need to rebuild from a world war as the Bretton Woods. On 16 – 17 January 2016, the AIIB officially kicked off with the first meeting of its Board of Governors. The founding of the AIIB is argued as a result of the United States unwillingness to reform the Bretton Woods institutions especially the International Monetary Fund (IMF). Since 2010, the U.S. Senate has refused to ratify an agreement on governance reform that would have doubled resources available to the IMF by increasing capital contributions from emerging market countries: China, Brazil and India namely. This would proportionately expand their voting power on the IMF Executive Board where current quotas treat France as though it were more economically dominant than China and Belgium more dominant than Brazil. Many have argued that the rigidity to reform the IMF may have been a strong impetus for China to establish the AIIB and the New Development Bank (NDB).



2nd AIIB Annual Meeting, Jeju, South Korea

ADB and AIIB: Articles of Agreement AIIB and the ADB Charter

The Articles of Agreement of the AIIB (AOA) have been finalized in 2015. The overall Article of Agreement (AoA) consists of 11 chapters with a Preamble. The AIIB through the AoA reinforces infrastructure development as the primary task, where the indication towards cross border capital flows and trade is quite evident in the language. The AIIB reiterates its goal to foster economic development through infrastructure connectivity in Asia. AIIB clearly hints towards trans-boundary infrastructure connectivity from its inception. This is an indication towards the nature of the projects, which will be in the pipelines. In Article 2 Functions, the AIIB identifies the role of private capital, and is looking to fund projects that target “harmonious economic growth”. The document further states “to encourage private capital” in projects, and AIIB will commit to “supplement private investments when private capital is not available on reasonable terms and conditions”².

²Bank, Asian Infrastructure Investment. “Articles of Agreement.” Beijing, China: AIIB. [http:// www. aiib. org/ uploadfile](http://www.aiib.org/uploadfile)

The Articles of Agreement indicates the AIIB to encourage more Public – Private Partnerships (PPPs) and at the same time provide subsidies and incentives to attract private investments in large-scale infrastructure. As a result, it is integral to ask deeper questions on environmental and social safeguards applicability especially drawing on the adverse project experiences of the older ADB and WB operations in Asia. The AIIB AoA clearly shifts away to an investment mandate from a development mandate. This makes the AIIB stand away from the ADB, which has a development objective. The common interest of both ADB and AIIB towards infrastructure investment is the key area of contention, as both these banks will reach out to borrowing governments with their credit lines.

Contrastingly, Article 11 of the ADB Charter from 1965, enumerates the Method of Operation of the Bank which is to provide or facilitate financing to (1) any member country, (2) any enterprise/entity operating in the member’s territory,

629, no. 2015062909490028 (2015): 8.

or (3) any international/regional agencies which contributes to the economic development of the region. Financing could be in the form of (i) direct loans using the capital contributed by all member countries, (ii) direct loans using funds raised by the Bank in capital markets or borrowed, (iii) investment of funds in an enterprise or institution, or (iv) serving as guarantor for loans. These financing operations are primarily for specific projects but the Bank could also loan out these funds to national development banks, which would then finance specific development projects. The Bank has options for loans under regular capital resources with a specified interest rate, and has allocated for Special Funds, which are loaned out under preferential low rates repayable within longer periods of time.

ADB and AIIB: Comparative Look at Strategies

The ADB in its 50th year is currently implementing its Strategy 2020 whereas the AIIB is in the process of approving its first strategy document, which is specifically on Energy Strategy. This paper will look at these two strategic frameworks from a comparative method to gain insights into how both these banks intend to frame themselves to borrowing governments as key lenders.

ADB's long-term strategic framework for 2008–2020 (Strategy 2020) is crafted with the intent to serve as a directional document to give the Bank its conceptual framework from which it will expand its future lending operations in the region. ADB's Strategy 2020 document in summary aims to focus onto the region's three critical strategic agendas: inclusive economic growth, environmentally sustainable growth, and regional integration. The document further elaborates into a series of chapters which identify five core specializations where ADB will lend governments: (i) infrastructure; (ii) environment, including climate change; (iii) regional cooperation and integration; (iv) financial sector development; and (v) education. The Strategy 2020 recognizes the emerging growth of Asian economies and the need to focus on connectivity and unlocking private capital into the development projects. The Strategy 2020 fails to shed light on how ADB's lending in infrastructure will have "added value" in comparison

to other credit sources for governments in infrastructure. On the front of climate change and sustainable development the Strategy 2020 looks into the energy and transport sector where they aim to be environmentally responsible. Since the completion of the ADB Strategy 2020 process there has also been a mid-term review and consequently an ongoing initiative on developing a new Strategy 2030³.

The Asian Infrastructure Investment Bank's 2nd Energy Sector Strategy Discussion Draft is essentially structured with an introduction to the Global Energy Landscape with key focus on Asia, emerging challenges in the energy sector investment and AIIB's principles on energy strategy and other cross cutting issues. It further elaborates on the ongoing use of fossil fuels as the primary energy source for most governments in Asia and how shifting to renewable energy resources and less carbon intensive energy sources will be a challenge. To this end the strategy further looks towards developing energy infrastructure and facilitate transition to a less carbon intensive energy mix; and meet the goals and commitments of the SDGs, Sustainable Energy For All, SE4ALL and UNFCCC COP 21 Paris Accord. The AIIB clearly outlines the prescribed goals of the broader commitments such as – doubling renewable energy in the global energy mix; ensuring access to affordable, reliable, sustainable and modern energy for all SDG Goal 7, and recognizing the need to reduce global average rise in temperature to less than 2 degrees as per the Paris Agreement.

AIIB and ADB Environmental and Social Safeguards

The AIIB Environmental Social Framework (ESF) is a policy document, which looks to safeguard environment and communities from AIIB project impacts. In the vision section of the AIIB ESF it states that, "AIIB seeks to cooperate with them (other IFIs) with a view to adopting a common approach to appraisal, environmental and social management requirements." AIIB ESF looks at three distinct thematic areas, which are – a) En-

³ Bank, Asian Development. "Strategy 2020: The Long-Term Strategic Framework of the Asian Development Bank 2008–2020." Asian Development Bank, 2008. <https://www.adb.org/sites/default/files/institutional-document/32121/strategy2020-print.pdf>

environment b) Involuntary Resettlement and c) Indigenous Peoples. Each of these thematic areas of impacts is further classified in terms of project risk as Category A (high risk), Category B (low risk) and Category C (no risk).⁴

The AIIB ESF was a fast tracked document, which was crafted and made public over a period of 6 months. There were public consultations held with stakeholders and civil society nationally or regionally. In comparison to other Multilateral Development Bank Safeguard Policies the AIIB ESF emphasizes a use of “corporate systems” for delivering environmental and social safeguards. This implies private sector - led projects will be responsible for environmental and social safeguarding in AIIB financed projects and their own instruments will be used and not the Bank’s.

This is an alarming concern as the track record of corporations and private sector project developers in environmental and social responsibility is ⁴Bank, Asian Infrastructure Investment. “Environmental and Social Framework.” Febrer. <http://www.aiib.org/upload-file/2016/0226/20160226043633542.pdf> (30 june, 2016) (2016).

far from ideal. In terms of comparison with ADB Safeguard Policy Statement 2009 on the issue of social displacement, the standards of the ADB for pre-project approval due diligence on paper seems to be more stringent for the borrowers. AIIB’s flexible language on binding requirements maybe interpreted as a means to fast track loans in order to be more lucrative borrowing governments. The literature above helps to shed light on several comparative aspects between ADB and AIIB including the formulation of the policies as well as their content.

Analysis

Comparing both of the banks’ strategies reveal that, the ADB Strategy is multi-sectoral and broad, whereas the AIIB strategy is specific towards the energy sector. While the ADB mentions SDGs and the Paris Agreement; the AIIB has a much more targeted approach towards achieving these global targets through its lending. While the strategic sectors maybe initially different a closer inspection reveals both banks are focusing on energy infrastructure lending. The issue of regional connectivity and energy related infra-



AIIB Headquarters
Photo retrieved from www.cfr.org

structure for wider integration in the Asian region seem to be overlapping in both documents. This maybe an area of contention for both banks as they will strive to push infrastructure related loans towards governments. The other significant aspect of ADB's Strategy 2020 is its mention of a mid-term review and drafting of its ADB Strategy 2030. This implies that the ADB is introspectively looking towards innovating its business model to remain a competitive lender in the region's future. Both banks are multilateral institutions with various shareholders from many countries. In their structure they show similar neo-liberal traits both in terms of governance, rules for voting and other legal provisions such as immunity in operations, lending rates etc. But a closer inspection of their strategies show a growing impetus on both banks wanting to be lucrative to borrowers, which is a realist feature being displayed by ADB and AIIB. The AIIB has a 21% shareholding by China whereas ADB has 15% shareholding majority by USA and Japan. This also shows that China has a unilateral control over the direction of AIIB's future whereas ADB will constantly look to play out USA and Japanese common interests in their ways forward. In addition, the AIIB HQ is based in Beijing, China whereas the ADB HQ is based in Manila, Philippines. This implies the contextual influence of China over the AIIB HQ is much more than that of USA or Japan over ADB operations. While ADB struggles to find its footing is AIIB out to fulfill the Chinese agenda of One Belt One Road (OBOR)? Only time will tell.

Exceptions

Both ADB and AIIB have clear mandates both in their AoA and Charter as well as their strategies to bring private sector and private financial institutions into their projects and operations. ADB has significantly increased their lending through private sector operations over the years. While the AIIB has mentioned in its AoA that it will loan through Public Private Partnership projects and Financial Intermediary institutions as part of their investment portfolio. Consequently, both ADB and AIIB have signed agreements to invest in co-financing initiatives. Currently the AIIB has co-financing agreements with the ADB, WB, International Finance Corporation (IFC), European Bank

for Reconstruction and Development and many others.

The facts above demonstrate that the apparent "realist" competition is not absolute as both multilateral institutions ADB and AIIB are willing to merge their portfolios or lend through private sector operators in order to manifest projects in the region. Naidu has recognized the rise in influence of India and China in the Asian region. This further emphasizes the notion of opening trade and markets in the ASEAN. Both China and India have very significant trade volume in the region. This includes markets for goods and services but as well as Chinese and Indian companies operating in big ticket projects. Naidu further mentions India's "Look East Policy" and recognizes USA's "Pivot to Asia", and let's not forget China's ambitious One Belt One Road initiative⁵.

Conclusion

The paper assumed that both ADB and AIIB being infrastructure focused lending institutions would show realist tendencies of competition as stressed in the tensions between US and China in the Asian region. The comparative look at the Articles of Agreement, strategy documents and policies of both ADB and AIIB reveal that most of those assumptions are true on the surface. These include ADB's need to revise its Strategy 2020 to Strategy 2030 and AIIB's need to be a lean bank. The AIIB signaling that it does not have a development mandate rather an investment mandate, were all aggressive signs of a new competitor in ADB's terrain. The fact that both banks were focusing on infrastructure, energy and connectivity sectors were also expressed signs of realistic competition. As much as this validated earlier assumptions of the paper a deeper inspection revealed that there were findings, which pointed towards synergy and NOT competition between these two banks. Co-financing agreements, PPPs and the intent to unlock of private capital and private sector as key partners in development projects by both banks, was quite contradictory to the earlier assumption of competition. While geopo-

⁵G.V.C. Naidu, "India, China and East Asia", in G.V.C. Naidu et. al., eds., India and China in the Emerging Dynamics of East Asia (New Delhi, India: Springer, 2015), pp. 9-25. DOI 10.1007/978-81-322-2138-8_2



litical agenda of the US and China power play remain true the flow of ADB and AIIB capital did not look to always confront each other. As AIIB settles into its second year it's co-financing with ADB might imply that it does not want set off unwanted tensions at this point over the development finance architecture landscape of Asia. While the reality of the China's ambitions of One Belt One Road remain, neoliberal institutions such as AIIB and ADB are looking make tacit and strategic networks for the super structure of neoliberal capitalism to remain embedded as the dominant international political model. The fact remains that the climate crisis needs to be mitigated and the Sustainable Development Goals need to be met, and Asia needs the finance to achieve this targets, we can only hope the ADB and AIIB will fund what is needed for the people who are far away from the geopolitics but are struggling to make ends meet.

BIBLIOGRAPHY

1. Title: "Anarchy is what States Make of it: The Social Construction of Power Politics" Alexander Wendt, International Organization, Vol. 46, No.2 (Spring, 1992), pp. 391-425
2. Title: Bank, Asian Development. "Strategy 2020: The Long-Term Strategic Framework of the Asian Development Bank 2008–2020." Asian Development Bank, 2008. <https://www.adb.org/sites/default/files/institutional-document/32121/strategy2020-print.pdf>
3. Title: Bank, Asian Infrastructure Investment. "Articles of Agreement." Beijing, China: AIIB. [http://www.aiib.org/uploadfile/629,no.2015062909490028\(2015\):8](http://www.aiib.org/uploadfile/629,no.2015062909490028(2015):8).
4. Title: King, G., Keohane, R., & Verba, S. (1994). Designing Social Inquiry: Scientific Inference in Qualitative Research. Princeton University Press (pp 3-32)
5. Title: Bank, Asian Infrastructure Investment. "AIIB Energy Sector Strategy ESS Second Discussion Draft." Beijing, China: AIIB. <https://www.aiib.org/en/policies-strategies/strategies/index.html#strategies> (2017)
6. Title: Hindmoor, Andrew. 2006. Rational choice. New York: Palgrave Macmillan.
7. Title: Bates, S. R. and Jenkins, L. (2007), Teaching and Learning Ontology and Epistemology in Political Science. Politics, 27, pp. 55–63. doi:10.1111/j.1467-9256.2007.00279.x

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CHINA'S INFRASTRUCTURE FINANCING AND EMERGING ISSUES IN ASIA: Civil Society Perspective and Demands for Responsible Investments

Excerpts from the Study on the Proposed Business Model of AIIB
Luz Julieta Lighthart, NGO Forum on ADB

China's role in global finance and its emergence as a dominant economic power nowadays is being felt all over the world and is a critical factor in re-shaping the Asia-Pacific region's development.

Eighty percent of Chinese assistance in the Asia and the Pacific is in the form of concessional loans¹, mostly in the transport sector.² In 2015, the Chinese Government kicked off several investments along its much-vaunted New Silk Road³ flooding these investments into countries in Central Asia and Africa. Over the third quarter of 2015 alone, 17 out of 19 Government loans were disbursed, constituting some 90% of China's overseas lending during the period. China's aid focus is distinctly in the productive sector, particularly in energy, transport and storage. In the Pacific, China is now the third largest aid provider, following Australia and the U.S. and is number one in Fiji, investing \$332.96 million from 2006 to 2013.

¹ These loans are extended on terms substantially more generous than market loans. The concessionality is achieved either through interest rates below those available on the market or by grace periods, or a combination of these. Concessional loans typically have long grace periods.

² These data were included in a report by Asia Foundation for its forum that brought together leading Chinese researchers and policy makers with international development experts for China's Overseas Development Policy in a World "Beyond Aid," the latest in its Asian Approaches to Development Cooperation dialogue series as reported by Mulakala, Anthea. June 17, 2015.

³ Launched by China in 2013, known as "One Belt, One Road" (OBOR) with the aim to connect major Eurasian economies through infrastructure, trade and investment. It contains two international trade connections: the land-based "Silk Road Economic Belt" and oceangoing "Maritime Silk Road". It is now more popularly known as the Belt and Road Initiative (BRI).

Data also show that it is the third-largest shareholder in the World Bank (WB). And as such, makes it an important contributor to the International Development Association (IDA), the institution's fund for the poor, and the Global Infrastructure Facility (GIF), an international platform that facilitates the preparation and structuring of infrastructure public-private partnerships.⁴ In 2013, Chinese foreign aid was placed at \$7.1 billion making it the world's sixth largest bilateral donor, just after France.

China has already signed 12 free-trade agreements and plans to negotiate with 65 more countries along the Silk Route. Those already in place include Singapore, Pakistan, Chile, Peru, Costa Rica, Iceland, Switzerland, Hong Kong and Taiwan and a further eight are under negotiation with Japan, Korea, Australia, Sri Lanka, Norway, the Regional Comprehensive Economic Partnership (RCEP), the Association of Southeast Asian Nations (ASEAN), and the Gulf Cooperation Council (GCC).⁵

But even before, China has already been a significant player in global infrastructure financing with support coming from its policy and commercial banks and other state-backed investment funds for outbound infrastructure investments. Through its "Going Out Strategy", it has promoted Chinese companies to expand overseas, utilizing surplus foreign exchange and increase access to global markets, natural resources, and technology. Policy banks such as the China Development Bank

⁴ 2015. "Multilateral organizations to promote effective ways of member nations working together".

⁵ Cheung, Francis, Head of China-HK strategy, Lee, Alexious, Head of China Industrial Research for CLSA, an independent brokerage and investment group. 2015. "A Brilliant Plan One Belt One Road".

and Export-Import Bank (Eximbank) have been major drivers of this strategy; which have been set up to support the policy objectives of the Government. China has established various investment funds in recent years such as the Silk Road Fund while injecting additional capital into its policy banks specifically to support overseas operations. Through the Belt Road Initiative (BRI), the country has even more renewed its support and commitment to outbound capitalization and investments.

What is in it for China and the Region?

With Asia's economic growth in the past decade, this has likewise led to the growth of energy consumption and the required massive amount of investment towards infrastructure development. A number of sub-regional initiatives on oil, gas, coal, nuclear, and power transmissions are now being planned, either in the pipeline or are already being implemented. The region has seen significant increase in infrastructure investment between 2009 and 2013, accounting for more than 50% of the global increase in capital spending. But at the same time, it is said that in order to maintain these current levels of economic growth, Asia will need to spend approximately US\$8 trillion⁶. And to sustain this, it will be necessary to inject between US\$800 billion and US\$1.3 trillion annually into infrastructure projects between now and 2030⁷. All these are needed in order to resolve its serious shortage of roads, railways, ports, power stations and other basic facilities that threaten to hold back some of the world's fastest growing economies.

On the other hand, China aims to benefit economically and politically from these infrastructure projects and given its controlling interest in the Asian Infrastructure Bank (AIIB), is "conceived to be China's instrument", allowing it to generate

⁶ADB/ADB Institute. 2009, *Infrastructure for a Seamless Asia*, Ortigas, MM.

⁷World Economic Forum and PwC. 2012, 'Strategic Infrastructure: Steps to prioritize and deliver infrastructure effectively and efficiently'.

and direct investments to strengthen such interests.⁸ But there is also the fact that there is now a domestic economic slowdown in the country characterized by lower demand for construction and industrial materials from other countries. For China, it is said to be taking steps to address the issue by actively encouraging companies to export excess capacity overseas (not to mention oversupply and overproduction).⁹

China Encircles the World with its BRI Policy¹⁰

With the search for domestic economic growth as the main motivation, BRI is said to be ultimately “a domestic policy with geo-strategic consequences” rather than a foreign policy. Beijing continues to provide domestic companies with the experience to become global brands. An interesting element of BRI is that it is said to be well integrated into China’s provincial government objectives; where all 31 Chinese provinces have indicated that they will actively participate. Two-thirds of these provinces have included it as a development priority and have featured it in their annual work plans for the coming years that include trade and bilateral investment targets. These provincial governments have committed to raising the “support level of credit” to help participating enterprises, offer training to local enterprises to apply for national funds, and provide further subsidy.

BRI is also viewed as China’s Marshall Plan¹¹ with a long-term goal of gaining geopolitical pre-eminence and creating a new geostrategic landscape in the Eurasian continent. In this context, it is also deemed as an economic countermeasure

⁸From the Author’s view, this notion of AIIB becoming an instrument of China remains contentious given that no evidence has proven this nor have any investigations been conducted to support this. It is vital though, to identify these project sites as these will be where advocacy actions will be most needed.

⁹Goh, B and Qing, K.G. Sept 2015. China’s One Belt, One Road looks to take construction binge offshore, Reuters.

¹⁰Based on the article by Tom Hancock, Financial Times, May 4, 2017.

¹¹The “Marshall Plan” or European Recovery Program aimed to help in the recovery of European economy after the end of the WWII and was a short-term program (1947-1951). Similarly, the Chinese OBOR proposal attempts to attain a win-win situation for China and participating countries.

See more at: <http://www.chinausfocus.com/finance-economy/china-advances-its-one-belt-one-road-strategy/#sthash.ufZjOEGm.dpuf>.

to USA’s rebalancing in the Asia Pacific.¹² At the same time it is pointed out that “with the expansion of the Eurasian transport infrastructure”, the Chinese Government is laying the foundations for a “new China-centered production networks” with Chinese companies moving production to Southeast Asia and opening up new trade routes, markets, and “sources of energy” that China needs to sustain its growth.

BRI’s potentials for trade links and economic opportunities. BRI could have a lasting impact if it contributes to enhanced trade links. It is said that the areas it covers include about 50 percent of the world’s GDP and roughly the same share of global trade. Reduced transport costs could increase trade flows and bring in the benefits of greater competition and efficiency through harmonized trading systems. Reduced tariffs and simplified customs administration would allow trade to flow seamlessly between countries including China.

But looking closely into the plan that is taking in every conceivable goal from improving distributed supply chains to developing trade services, to possibilities of increasing food security for the countries participating in the project, it remains to be “grand” and a statement of ambitions that could likely favor pet projects and bureaucratic leaders along the route.

Perceived Challenges on Governance and Accountability and CSO Concerns

The BRI vision and plan makes it clear that “infrastructure development” projects and investments are seldom politically neutral, and not necessarily economically beneficial. As far as direct economic gains go, the long-term benefits might not merit the shorter term political, economic and environmental factors and vulnerabilities. This is especially the case for fragile and conflict-affected countries where many of them have weak or absent systems of governance. Too single-minded economic and investment-driven decision-making is less concerned with the “externalities” related to the use of natural resources, inclusive

¹²There are existing Agreements where China is not included such as the Trans-Pacific Partnership (TPP) countries, the Transatlantic Trade and Investment Partnership and the EU-Japan agreement that show comprehensive liberalization agenda and have the potential to increase trading costs. Recently, US has dropped out from TPP.

growth, and impacts to societies and communities. “Channeling additional resources without attention to complex and ever-shifting political dynamics could add further risks and serve to reinforce powerful interests. Supporting development progress in such complex and high-risk environments requires that any bank or private support adopts a politically informed approach to engagement”.¹³

If BRI continues to have large-scale outpouring of capital, enterprises, and building of large infrastructure projects as it promises, then consequences are clear and eminent. According to OXFAM data, large-scale infrastructure is one of the main causes of forced displacement globally. Dams have caused between 40-80 million people world-wide to lose their homes who depend on their land or on access to natural resources for their living. Displacement literally means losing their ability to support their families, grow crops, fish and continue their cultural and social practices. Environmental impacts on livelihoods are potentially the most devastating especially among vulnerable communities across borders.¹⁴

The actual roll-out of the plan is going to depend on factors related to country conditions and investment interest. Consequently, the absence of clear cut plans, mechanisms for implementation and formal agreement procedures could lead to more issues and problems that may not necessarily favor beneficiary countries, in particular those fragile and conflict countries.

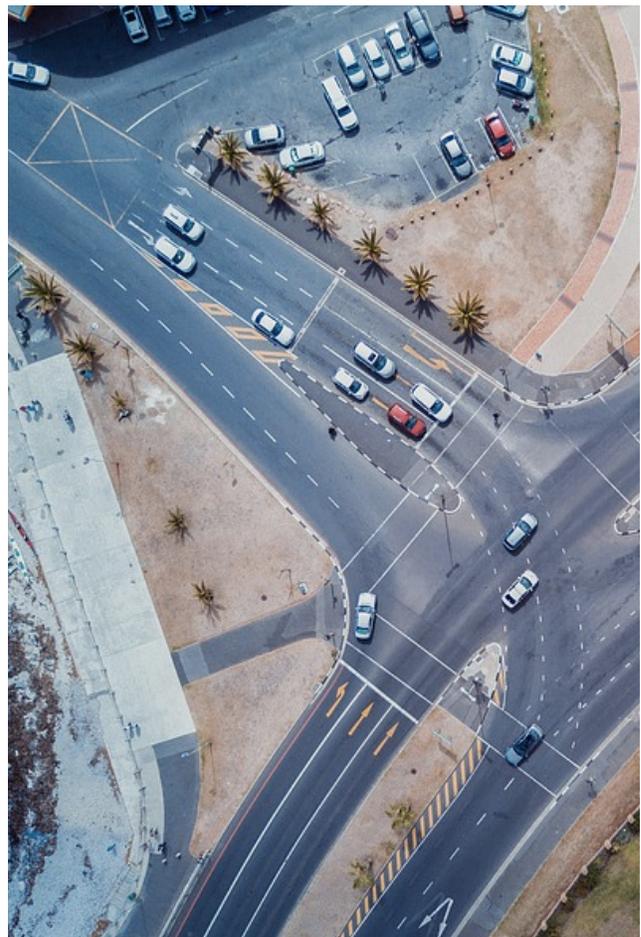
Risks have been identified and measures will have to be implemented to significantly improve the situation through a kind of a unified environmental and social requirements and criteria for all project investments made in BRI countries. With this, it is vital for domestic and international policies to reinforce each other in monitoring and ensuring that the BRI project will lead to sustainable development.

¹³ Stephen, Monica. International Alert. October 2014. Fragile Reforms: World Bank and Asian Development Bank Financing in fragile and conflict-affected situations.

¹⁴ www.oxfam.org

Emerging Engagement Strategy for Civil Society Organizations

- Build on experiences in order to engage and influence AIIB and gain traction in its advocacy work and likewise on its existing knowledge, experiences, contacts, and action groups;
- It is time to direct our lobby work towards our respective country leaders;
- Understand the functioning of private investors and companies as well as financial intermediaries;
- Learn about and document the “language and mechanisms” for finance, trade and investments;
- Further “harmonize” actions on global, national and local levels;
- Set up, identify and build “new” alliances;
- Engage banks and push for their operational guidelines and “disclosure criteria” to explicitly include non-financial risks, environmental, social, and human rights risks during pre-approval, approval and actual operation of proposed projects.



ADB FUNDED MANNAR 100 MW WIND POWER PROJECT IN SRI LANKA MAY ALTER BIRD MIGRATION TO SRI LANKA

Hemantha Withanage,
Centre for Environmental Justice

Climate friendly alternatives are not always environment friendly. ADB funded Mannar wind power project in Sri Lanka is a good example for this problem. According to the EIA for the 100 MW Wind Power Project in Mannar might cause a significant impact on migratory birds, including causing a roughly 10% increase in the baseline mortality rate for the Spot-billed pelican (*Pelecanus philippensis*).

The Asian Development Bank's (ADB) Board of Directors has approved a loan of \$200 million with sovereign guarantee for Ceylon Electricity Board to develop Sri Lanka's first 100-megawatt wind park in October 2017. The Ceylon Electricity Board will provide \$56.7 million toward the total project cost of \$256.7 million.

Sri Lanka is a globally critical location for the migratory birds coming from Europe and Asia. They enter to Sri Lanka from India via Adam's bridge across Mannar. Vankalai National Park and the water holes in the Wilpattu National park are the most critical habitats for them. Unfortunately, the wind project will erect 39 wind turbines partly blocking the bird migratory route.

Environmental impacts have been assessed and some mitigation measures have been proposed to minimize habitat and species disturbance and potential bird collision risks during operation. Impacts due to noise and shadow flicker have also been assessed. Deployment of Bird collision detection radar is one such precaution. The wind turbines in the park were reduced to 39 numbers





Mannar Sunset
Photo by Marin Mohanadas

from the proposed 56 to ensure they do not adversely affect Adams Bridge national park in the vicinity.

However, the master plan had identified 375 MW of wind power potential in the Mannar region with 300 MW located in the Mannar Island and 75 MW in the coastal stretch extending towards Silavaturai in the mainland in the same area. The proposed projects, the future development of the remaining wind potential and the transmission line will have more negative cumulative impacts. With the development of ADB funded wind farm, the German wind developers have also become interested on developing the remaining potential. However, the current EIA has not addressed these cumulative impacts.

According to the Birdlife International, “Shut down-on-demand approaches rely on pre-defined shutdown criteria. These criteria define the circumstances under which a turbine or turbines will be shut down and may include, for example, the numbers of birds passing through the area, the presence of birds within a certain distance of a turbine or the presence of a certain species. Shutdown criteria should be specified for each individual location and should be based on the local situation and conservation objectives.”

According to the Indian ornithologists the migratory birds enter into Sri Lanka in 70-100 Km speed and it’s not sure whether the Radar system will really solve the problem. It’s therefore necessary to consider natural solutions and alternatives when making climate friendly solutions for mankind.



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