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INSIDE

COP28 Dubai:The Other Side of the Story 4

Nurturing Accountability:AIIB-Watch Unveils a Pioneering Platform for Informed Project Advocacy 7

Charting the Path of Every Single Complaint 9

Comparing the Independent Accountability Mechanism Policy Review Process Across MDBs 12

COP28 DUBAI: THE OTHER SIDE OF THE STORY

FAROOQ TARIQ & ZAIGHUM ABBAS I PAKISTAN KISSAN RABITA COMMITTEE

The announcement of "cutting emissions instead of a total phase-out of fossil fuels" is a retreat from the achievements made earlier. It is a step back from COP27. This shift is attributed to COP28 being chaired by a person who was the head of the United Arab Emirates national oil company. Many movements and civil society organisations have pointed out that, in terms of making progress towards decarbonisation, we have actually gone backward. The language in the current text on fossil fuels is considered worse than what we had in the last two COPs.

While the last two COPs to the UN Framework Convention on Climate Change committed to the "phasedown of unabated coal power and the phaseout of insufficient fossil fuel subsidies," The COP28 final text did not refer to a "phaseout" of fossil fuels. Instead, it listed eight options that countries could use to cut emissions.

Another critical point is that developing countries, including Pakistan, which was at the forefront of advocating for the "phase-out of fossil fuels," are themselves the largest fossil fuel consumers with the most extensive oil, gas, and coal expansion plans. An example is the expansion of coal-based power plants in Pakistan. With 21 thermal independent power producers, fossil fuel-based energy in Pakistan constitutes almost 60 percent of the total (32.3 percent gas-based, 12.8 percent coal-based, and 14.3 percent oil-based), and the government shows no plan to reduce it, instead promoting local coal-based power generation. This hypocrisy is mirrored in other developing countries demanding fossil fuel phase-out while pushing fossil fuel-based energy at the core of their national production.

COP28 also failed to pledge the amount necessary for the Loss and Damage Fund (LDF). Although the LDF was established, the pledge to make the full and complete Green Climate Fund amounted to a mere total of US$ 725 million, falling short of the famous 2020 pledge of US$ 100 billion. According to The Guardian, the pledged amount to the Loss and Damage Fund will cover less than 0.2 percent of the estimated $387 billion per year needed to finance interventions to mitigate climate change. This was a total loss to developing countries, including those at the centre of climate disasters like Pakistan.

The debate on climate finance has been the centre point and centre stage of this year's COP28. The central tenet of Loss and Damage is that not everyone is equally responsible for or impacted by climate crises. Wealthy nations, historic polluters, should be required to provide finance for poorer climate-vulnerable nations like Pakistan on the front lines of environmental breakdown. There was no mention of the US$ 10.7 billion pledges from international financial institutions, donor agencies, and development partners for the rehabilitation, recovery, and reconstruction of the flood-affected areas at the Geneva International Conference on Climate Resilient Pakistan, hosted by the UN and Pakistan on January 23, 2023. The fact is that 90 percent of flood victims have not been rehabilitated despite a year and a half gone, inequalities are on the rise, and 20 million "new poor" are added.

The COP28 negotiations did not address the link between climate vulnerability and debt in developing countries, despite a projected global debt of $97 trillion in 2023. A recent report


COP28
UAE

shows 54 countries facing a debt crisis, with external debt payments by the Global South increasing by 150% since 2011. Pakistan's external debt reached 128.1 bn in September 2023, rising by 29% in the fiscal year 2023. ActionAid International's research reveals that 93% of the most climate-vulnerable nations, including Pakistan, are overwhelmed by debt. Instead of debt cancellation, international financial institutions increased pressure on Pakistan, leading to higher indirect taxes on ordinary citizens rather than taxing the rich.

The shining part of COP28 was the unity among civil society organisations demanding an immediate ceasefire in Palestine, no fossil fuels, debt cancellation, and no climate justice without human rights, gender rights, and indigenous rights. Every day, dozens of demonstrations inside the venue raised voices on these critical issues. The COP28 administration allowed these demonstrations with many restrictions. No flags, no naming of countries, and no direct accusations. Despite that, Palestine was the focal point of all the restricted demonstrations and rallies. There were huge cries for a ceasefire. The rally on December 9 was historic; Dubai, which has allowed no demonstration in its territories by anyone, has never seen thousands marching and demanding climate justice and a ceasefire. The UN-administered area of the COP28 venue saw hundreds of banners, chants of slogans, and charged participants of this historic rally, which went around the venue till the gate of the Green Zone. Farooq Tariq was one of the main speakers at the end of the rally, along with several others representing different constituencies. The PKRC was able to raise strong voices on burning issues such as debt and fossil fuels.

On December 10, on the International Day of Human Rights, Farooq Tariq from the Pakistan Kissan Rabita Committee raised the issue of migrant labour in Dubai and other Middle Eastern countries. "We demand equal human rights for all migrant workers, who are the backbone of the development in these areas; they are treated like second-rate citizens, have no equal wages, no health and safety, no proper labour rights, and can never be local citizens", he added.

Some of the civil society activists, including the PKRC, were able to hold a unique demonstration at the press conference of UN Secretary-General Antonio Guterres on December 11. Eleven civil society activists held a banner, "Hold the Line," inside the venue, attracting huge media attention. "Hold the Line" referred to not crossing the 1.5 Celsius and urging the UN chief to take a strong position on that.

Another positive aspect was the initial attention of the commercial media to the demonstrations and press briefings of civil society activists holding banners and chanting slogans, something never seen in the territory of the UAE. By the end of COP28, the commercial media was silent about the daily demonstrations inside the venue; however, the purpose of world attention towards the fossil-free world was achieved.

It is now time for a total phase-out of fossil fuels—fast, fair, and forever. The words "fossil fuels" in the text are meaningless if the rest of those pages are riddled with loopholes that not only enable but exacerbate the era of fossil fuels. Climate action is weakened if those who are most responsible are not held accountable to lead by example. A phaseout is useless without the tools needed to actually achieve it. Climate action is pointless if it condemns billions to death and destruction.

NURTURING ACCOUNTABILITY: AIIB-WATCH UNVEILS A PIONEERING PLATFORM FOR INFORMED PROJECT ADVOCACY

URGEWALD

In a significant stride towards fostering transparency and accountability in international project financing, AIIB-Watch proudly announces the comprehensive overhaul of its website. This reinvigorated platform not only elevates user experience but also serves as a dynamic space for individuals and organizations to actively engage in tracking the progress of proposed projects and articulating concerns related to project finance.

At the forefront of scrutiny is the Rogun Hydropower project in Tajikistan, currently receiving financing from the World Bank and slated for additional support from AIIB starting March 2024. The Rogun project, laden with implications, has prompted a host of concerns, meticulously documented and cataloged on the AIIB-Watch platform. Beyond serving as an informative resource, the Watch emerges as a potent tool for advocacy, empowering stakeholders to stay well-informed and actively participate in shaping discussions surrounding these pivotal projects.

AIIB-Watch is more than a repository of information; it is a catalyst for change, urging stakeholders to transition from passive observers to proactive advocates. By immersing themselves in the intricate details of proposed projects, users gain a profound understanding of potential impacts and contribute meaningfully to the discourse on creating a more sustainable future.

The significance of your engagement and feedback cannot be overstated; they are integral to fostering transparency and accountability within these vital projects. As conscientious global citizens, we collectively bear the responsibility of ensuring that international project financing adheres to ethical, sustainable, and community-centric principles. AIIB-Watch, as a platform, invites users to become active participants in this collective effort, advocating for responsible and sustainable development practices.

Embark on a journey of exploration; visit the AIIB-Watch website today to delve into the latest information and updates. Be a catalyst for change, championing transparency, accountability, and informed decision-making in the realm of international project financing. AIIB-Watch is not merely a website; it's a call to action for a more transparent, responsible, and equitable future.

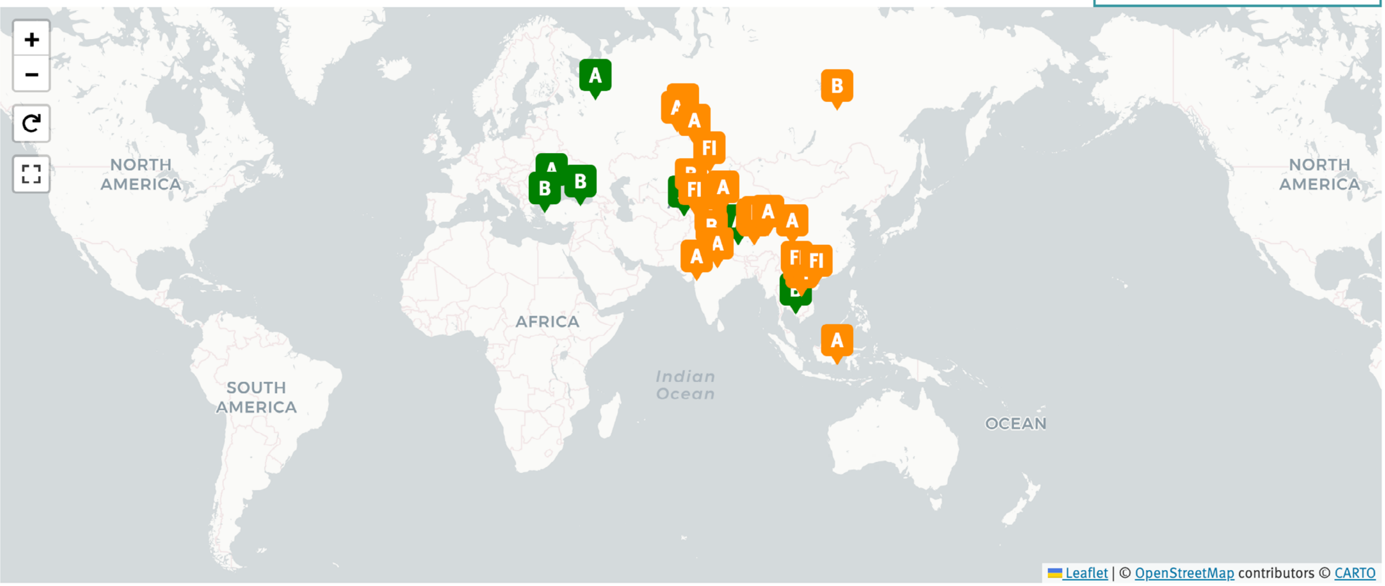
AIIB Watch

CASE STUDIES ON AIIB FINANCED PROJECTS

AIIB: Environmental and social track record

The AIIB Watch documents environmental and human rights conflicts arising from infrastructure projects financed by the Asian Infrastructure Investment Bank (AIIB).

Safeguard policies explained



Legend & Abbreviations

Approved

Proposed

A Letter = E&S Category: A, B or FI

Category A ("highly invasive"): A project that is likely to have significant adverse environmental and social impacts that are irreversible, cumulative, diverse, or unprecedented. These impacts may affect an area larger than the sites or facilities subject to physical works and may be temporary or permanent in nature.

Category B ("less invasive"): A project is categorized B when: it has a limited number of potentially adverse environmental and social impacts; the impacts are not unprecedented; few if any of them are irreversible or cumulative; they are limited to the Project area; and can be successfully managed using good practice in an operational setting.

Category FI: A Project is categorized FI if the financing structure involves the provision of funds to or through a financial intermediary (FI) for the Project, whereby the Bank delegates to the FI the decision-making on the use of the Bank funds, including the selection, appraisal, approval, and monitoring of Bank-financed subprojects.

CHARTING THE PATH OF EVERY SINGLE COMPLAINT

MEGUMI TSUTSUI I ACCOUNTABILITY COUNSEL

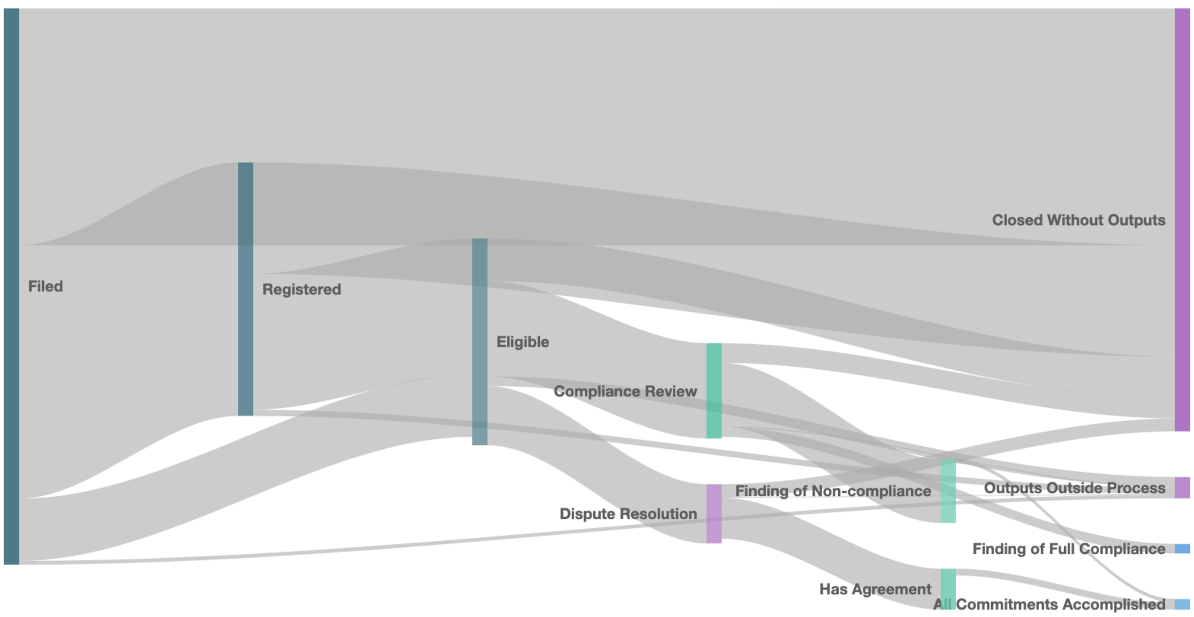
WHAT IS THE MOST LIKELY OUTCOME FOR A COMPLAINT PROCESS?

What can communities and individuals harmed by Bank projects expect to happen when they approach an independent accountability mechanism (IAM)? As an organization that advises communities on how to use these mechanisms, we are interested in understanding the likely outcomes communities can expect from their engagement with these mechanisms. As part of a broader research effort at Accountability Counsel to understand outcomes from these IAM processes, we've mapped out the path that every single complaint has taken, from complaint filing down to whether agreements or compliance recommendations were fully implemented. The results are mixed.

In most cases, the most likely outcome for a complaint process is nothing. However, if the complaint reaches a substantive phase of the complaint process, i.e., compliance review or dispute resolution, then there is a very high likelihood that an investigation will lead to a finding of non-compliance or that a mediation will lead to a negotiated agreement.

Today we share an updated high level overview of the outcomes that can be expected from IAM processes. Our dataset contains 1,803 complaints across 18 IAMs dating from 1994 to 2023. Here, we focus on a subset of these complaints, those 1,644 complaints that exclude active complaints where we don't yet know the outcome.

Of these remaining 1,644 complaints, by far the most likely outcome is that the case is closed without any outputs, meaning no agreement was reached in mediation nor was a compliance report produced following an investigation. A closer look at the data reveals that 42.6% (700) of complaints are closed



almost immediately after filing. Another 20% (329) of complaints are closed after the complaint is registered. And finally another 7.6% (125) of complaints are closed after they are assessed for eligibility. These are all preliminary stages where the IAM makes threshold determinations, and eligibility is the stage of the IAM process where the IAM determines whether a complaint meets all of its criteria to advance to a substantive phase of the complaint process. Not all IAMs have all these stages and specific eligibility criteria vary by IAM.

All these early case closures means that only 30% of complaints filed are making it to one of the substantive stages of compliance review or dispute resolution.

REASONS FOR EARLY COMPLAINT CLOSURES

We have previously explored reasons provided for early case closures, though we note that for many of these cases, particularly those filed before 2020, no reason was publicly provided as to why the complaint was closed. For cases with available case closure information, the top reasons provided include:

- the case was outside of the mechanism's mandate,
- the complaint was forwarded to another department within the Bank,
- the mechanism deemed its involvement unnecessary,
- the "good faith" requirement was not met (i.e., complainants did not exhaust other alternatives before filing a complaint), and
- funding or consideration for the project ended.

Many of the reasons provided for closure may indicate a bias towards closing cases too early, hindering accountability for communities harmed by Bank-funded projects. For example, too often we have heard of communities having their cases prematurely closed as a result of the Bank or its clients cutting off financial ties, an often required component for the mechanism to continue offering its services to harmed communities. In a recent blog, we explore the devastating consequences this type of irresponsible exit had on victims of child sexual abuse at the hands of the IFC-funded Bridge International Academies, a chain of for-profit private schools in Kenya.

WHAT AWAITS AT THE FINISH LINE FOR A COMPLAINT?

For cases that reach substantive complaint stages, either compliance review or dispute resolution, the data looks more promising.

Of the 282 cases that made it to the compliance review phase, 188 cases (or 66.7%) had findings of non-compliance, indicating instances where the Bank did not comply with its own social and environmental safeguard policies, which are meant to prevent harm. Another 61 cases (21.6%) made a finding of full compliance, and 33 cases (11.7%) did not have sufficient public information to make a determination one way or the other. Findings of non-compliance can be a vindication for communities who presented complaints that persisted through the long and arduous process to make it to the end. But of course, while a finding of non-compliance is in some ways an end, it is also in some ways the beginning of a new journey for remedy.

Of the 188 cases that had findings of non-compliance, we only have data showing that 11 cases (5.9%) monitored recommendations from the compliance report to ensure full implementation of recommendations. Unfortunately, there are significant gaps in the data in terms of whether recommendations made as a result of a non-compliance finding are actually monitored to ensure they are accomplished.

The picture for dispute resolution looks similar. Of the 175 cases that made it to the dispute resolution process, 121 (69.1%) resulted in an agreement between the Parties. Of these 121 cases, we only have data showing that 20 dases (16.5%) were monitored until all commitments were fully accomplished.

FINAL THOUGHTS

It's significant that two-thirds of complaints that complete a compliance review produce findings of non-compliance. This points to the importance of this process in bringing to light when things go wrong on projects, and that complaints getting this far usually have merit to them. It's similarly significant that so many cases going through dispute resolution result in an agreement between the parties to resolve the issues raised in the complaint.

Conversely, it's appalling that so many complaints get turned away at earlier stages for not having exhausted other options (not meeting a "good faith requirement") or for a Bank's irresponsible early exit ("funding or consideration ended"). Accountability Counsel's Good Policy Paper highlights the importance of keeping admissibility requirements simple (recommendation #29), including not requiring complainants to take other steps to resolve their grievances as a precondition to filing a complaint to the IAM (recommendation #32). Accountability mechanisms should be striving to make their services as accessible as possible to ensure that harm from projects comes to light and is swiftly addressed. Creating barriers to filing complaints only serves to limit accountability for harm.

As we've highlighted previously with the case of the Amulsar community in Armenia whose water had been polluted by mining interests financed by EBRD and IFC, early exits allow Banks to evade accountability for harms caused by their investments. The United Nations Human Rights Office of the High Commissioner has called on IAMs to develop policies for responsible exit that would require post-exit monitoring, technical support and action plans to prevent and mitigate potential negative impacts on the community and address any unremediated adverse impacts.

For Accountability Counsel, these findings draw our attention to both the end and the beginning of these complaint processes. There is work to be done to assess the beginning aspects of these processes, to remove barriers that all but the most sophisticated of complainants and their advisors can overcome. At the end of these processes, given how difficult it is to achieve implementation of an agreement or compliance recommendation, we want to ensure that it's worthwhile for the communities that engage in this process.

We believe it's worthwhile to pursue this research because if what the process offers in the end falls far short of the remedy that harmed communities deserve after persisting through a grueling process that may not make them whole in the end, the system needs to change or it needs to come undone.

COMPARING THE INDEPENDENT ACCOUNTABILITY MECHANISM POLICY REVIEW PROCESS ACROSS MDBs

RADHIKA GOYAL I ACCOUNTABILITY COUNSEL

2024 is a big year for Independent Accountability Mechanism (IAMs) with at least four IAMs undergoing official reviews of their policies and practices. These include IAMs associated with the World Bank, the Asian Development Bank, the European Bank for Reconstruction and Development, and the Asian Infrastructure Investment Bank. Combined, these banks have invested billions of dollars in development projects, and there have been at least 456 IAM complaints alleging environmental and social grievances relating to their investments. These reviews also come at a time when multilateral development banks (MDBs) have been entrusted with greater mandates to combat the urgent climate crisis. It is imperative that the IAM policy reviews result in strong improvements to protect and guarantee the rights of project-affected communities around the world.

In this article, we compare these four banks' proposed review processes and–when information is available–benchmark them against good practice to identify strengths and missed opportunities.

WHY A GOOD PROCESS MATTERS?

As we've written before, MDBs are publicly-funded institutions that invest in development projects that aim to improve the lives of the most marginalized communities. When investments lead to environmental and human rights harms, MDBs are accountable to communities through their IAMs, which can investigate non-compliance with environmental standards or facilitate a dispute resolution process. As public institutions, impacted communities should be able to shape the process through which MDBs are held accountable and should have a say in the design of the IAM. An open and public process increases both the legitimacy of the review and the trust affected communities have in the mechanism.

Not only is a transparent and inclusive review process principally important, but it also results in better outcomes. We know from past experience that powerful interests can oppose strong and effective accountability mechanisms and that hearing from and designing mechanisms for project-affected communities serve as safeguards against regression.

WHAT A GOOD PRACTICE LOOKS LIKE?

An IAM review process must be independent, transparent, and inclusive of the views of project-impacted communities. This requires more than simply seeking comments on draft procedures, which are often heavily negotiated internally before they undergo public scrutiny. Instead, MDBs must be guided by project-affected community experiences even as they start the review process and be open to changing course based on community expertise. Moreover, these principles must be complied with in letter and spirit and not just as a check-box exercise. For example, it is not rare for Banks to commit to broad and inclusive consultations with civil society organizations and yet not have many or most of their recommendations reflected in the final draft of the policy. One way of safeguarding against that is responding to the list of recommendations received and including reasons for why recommendations were not accepted.

COMPARING THE REVIEW PROCESSES OF THE ASIAN DEVELOPMENT BANK AND THE ASIAN INFRASTRUCTURE INVESTMENT BANK

The IAMs associated with the ADB and AIIB have already announced their plans for a formal review and the following table compares the IAM policy review processes of the ADB and AIIB on considerations of independence, inclusiveness, and transparency. Given the gaps highlighted below, we urge the ADB to publicly commit to ensuring that: (i) bank management will not substantively amend the report of the external reviewer before it is publicly disclosed; (ii) all documents that inform the policy review will be publicly disclosed; and (iii) ADB's Accountability Mechanism staff will lead the policy review. We further call upon both ADB and AIIB to commit to a 90-day consultation period once the revised policy is released.

Good Practice for Policy Review	ADB	AIIB
The policy review will be preceded by an external review which includes consultation with civil society organizations	*	✓
The external review will be independent of the Bank management	Unknown	✓
The external review report will be publicly disclosed	✓	✓
The IAM will lead its own policy review	X	✓
There is a commitment to publicly disclose all reports, documents, studies, that will inform the policy review	X	✓
There is a commitment to conduct inclusive, broad-based stakeholder consultations	✓	✓
The policy review will support consultations in multiple languages	✓	✓
The policy review will include in-person and hybrid consultations	✓	✓
The policy review will give stakeholders adequate time to comment on the revised policy (at least 90 days)	Unknown	^

* While some CSOs were able to contact the External Reviewer, this was not required by the process nor facilitated by the Bank.

^ A draft stakeholder engagement plan proposed a 60 days consultation period.

In addition to the AIIB and ADB, the IAMs associated with WB and EBRD are also undergoing reviews this year. Both processes include an external review of the IAMs current policy and practices. So far, the external reviews of the mechanisms include consultations with civil society organizations, are being conducted with some independence from bank management, and require public disclosure of the external review report. To date, the plans for the rest of the review processes have not been publicized. We call upon the banks to publish their formal policy review processes and ensure that they continue to meet best practice.

CONCLUSION

An IAM policy review affords an MDB the opportunity to reflect on its past record and consider how it can better ensure remedy for project-affected communities and prevent and mitigate future harm. All of the MDBs undertaking reviews have IAM policies that fall short of international good practice and it would be a missed opportunity for these reviews not to lead to substantive improvements. Good processes are more likely to lead to good outcomes, and we call on the MDBs to ensure their policy reviews are aligned with the principles of transparency, independence, and inclusiveness.

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