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Current Trends of the Asian Development Bank
NGO-Perspectives

Ulrike Bey and Katharina Trapp (eds.)
Ideas and Opinions expressed in this publication are those of the individual authors and do not necessarily represent the views of Asienhaus.

Cover photo: Janaka Withanage
Southern Transport Development Project, Sri Lanka. New houses of the displaced people and many others face annual flooding along the roadway due to blocking of natural waterways, filling wetlands.
Current Trends of the Asian Development Bank
NGO-Perspectives

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## Contents

<table>
<thead>
<tr>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contents</td>
<td>4</td>
</tr>
<tr>
<td>Abbreviations</td>
<td>5</td>
</tr>
<tr>
<td><strong>Ulrike Bey</strong></td>
<td>6</td>
</tr>
<tr>
<td>Current Trends of the ADB: Introduction</td>
<td></td>
</tr>
<tr>
<td><strong>Stephanie Fried, Ph.D.</strong></td>
<td>9</td>
</tr>
<tr>
<td>Notes on the Campaign to Reform ADB Social and Environmental Policy</td>
<td></td>
</tr>
<tr>
<td><strong>Michael D. Burstein &amp; Jennifer Kalafut</strong></td>
<td>19</td>
</tr>
<tr>
<td>Defining Away a Problem</td>
<td></td>
</tr>
<tr>
<td>How a Few Words Narrowed the Scope of the ADB’s Involuntary Resettlement Policy</td>
<td></td>
</tr>
<tr>
<td><strong>Tea Soentoro</strong></td>
<td>29</td>
</tr>
<tr>
<td>Gaps and Challenges of ADB’s Policy on Gender and Development</td>
<td></td>
</tr>
<tr>
<td><strong>Stephanie Fried, Ph.D.</strong></td>
<td>37</td>
</tr>
<tr>
<td>Hidden Impacts? The Asian Development Bank’s Clean Energy Private Equity Funds</td>
<td></td>
</tr>
<tr>
<td><strong>Nila Ardhianie</strong></td>
<td>43</td>
</tr>
<tr>
<td>Questioning ADB’s Loan to PALYJA</td>
<td></td>
</tr>
<tr>
<td><strong>Dr Avilash Roul and Maya Eralieva</strong></td>
<td>46</td>
</tr>
<tr>
<td>Role of ADB in Central Asia and Caucasus:</td>
<td></td>
</tr>
<tr>
<td>Mainstreaming Development or Alleviating Poverty?</td>
<td></td>
</tr>
<tr>
<td><strong>Nikolay Kravtsov</strong></td>
<td>52</td>
</tr>
<tr>
<td>Exporting Energy from Central Asia:</td>
<td></td>
</tr>
<tr>
<td>Flawed Strategy Conceived by Asian Development Bank and World Bank</td>
<td></td>
</tr>
<tr>
<td><strong>Carol Ransley</strong></td>
<td>56</td>
</tr>
<tr>
<td>China &amp; the Asian Development Bank</td>
<td></td>
</tr>
<tr>
<td><strong>Yuki Akimoto</strong></td>
<td>65</td>
</tr>
<tr>
<td>Poised to Engage: The ADB in Burma</td>
<td></td>
</tr>
<tr>
<td>About the NGO Forum on ADB</td>
<td>69</td>
</tr>
<tr>
<td>About the Authors</td>
<td>72</td>
</tr>
</tbody>
</table>
### Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>ADB</td>
<td>Asian Development Bank</td>
</tr>
<tr>
<td>ADF</td>
<td>Asian Development Fund</td>
</tr>
<tr>
<td>ASEAN</td>
<td>Association of Southeast Asian Nations</td>
</tr>
<tr>
<td>CAREC</td>
<td>Central Asia Regional Economic Cooperation Program</td>
</tr>
<tr>
<td>CASAREM</td>
<td>Central and South Asian Regional Electricity Market</td>
</tr>
<tr>
<td>CSO</td>
<td>Civil Society Organization</td>
</tr>
<tr>
<td>CSP</td>
<td>Country Strategy and Program</td>
</tr>
<tr>
<td>DID</td>
<td>Development-induced Displacement</td>
</tr>
<tr>
<td>GAD</td>
<td>Gender and Development</td>
</tr>
<tr>
<td>GAP</td>
<td>Gender Action-Plan</td>
</tr>
<tr>
<td>GMS</td>
<td>Greater Mekong Subregion Program</td>
</tr>
<tr>
<td>GONGO</td>
<td>Government Organized NGO</td>
</tr>
<tr>
<td>IFC</td>
<td>International Financial Corporation</td>
</tr>
<tr>
<td>IFI</td>
<td>International Financial Institution</td>
</tr>
<tr>
<td>InfUnit</td>
<td>ADB’s Public Information and Disclosure Unit</td>
</tr>
<tr>
<td>IMF</td>
<td>International Monetary Fund</td>
</tr>
<tr>
<td>IR</td>
<td>Involuntary Resettlement</td>
</tr>
<tr>
<td>MDG</td>
<td>Millenium Development Goals</td>
</tr>
<tr>
<td>MoF</td>
<td>Ministry of Finance</td>
</tr>
<tr>
<td>MoFA</td>
<td>Ministry of Foreign Affairs</td>
</tr>
<tr>
<td>NGO</td>
<td>Non-government Organization</td>
</tr>
<tr>
<td>OCR</td>
<td>Ordinary Capital Resources</td>
</tr>
<tr>
<td>OED</td>
<td>Operations Evaluation Department of ADB</td>
</tr>
<tr>
<td>OM</td>
<td>Operations Manual of ADB</td>
</tr>
<tr>
<td>PCP</td>
<td>Public Communication Policy of ADB</td>
</tr>
<tr>
<td>PEF</td>
<td>Private Equity Fund</td>
</tr>
<tr>
<td>PRC Fund</td>
<td>Poverty Reduction &amp; Regional Cooperation Fund</td>
</tr>
<tr>
<td>RETA</td>
<td>Regional Technical Assistance</td>
</tr>
<tr>
<td>SME</td>
<td>Small &amp; Medium Enterprise</td>
</tr>
<tr>
<td>SPDC</td>
<td>State Peace and Development Council</td>
</tr>
<tr>
<td>SPU</td>
<td>Safeguard Policy Update</td>
</tr>
<tr>
<td>SPS</td>
<td>Safeguard Policy Statement</td>
</tr>
<tr>
<td>TA</td>
<td>Technical Assistance</td>
</tr>
<tr>
<td>USD</td>
<td>US Dollar</td>
</tr>
<tr>
<td>WID</td>
<td>Women in Development</td>
</tr>
</tbody>
</table>
Current Trends of ADB: Introduction

Ulrike Bey

This year’s Annual Governors Meeting of the Asian Development Bank (ADB) was preceded by an immense capital increase from 56 to 165 billion USD in order to react to the global financial and economic crisis. According to the ADB, it is supposed to help poor countries in Asia to meet the millennium development goals despite sinking revenues. Additionally, shares for new and ongoing infrastructure projects will be increased and the private sector more supported.

This announcement raised alarm among civil society groups following the activities of the ADB in the past two decades. Particularly large infrastructure projects like big dams, highways, irrigation systems or power plants are projects that cause massive displacement followed by impoverishment of communities, the destruction of forests or river systems. Too many examples give evidence of insufficient or unpaid compensation and destroyed livelihoods through these projects.

ADB’s Longterm Strategic Framework until 2020 (Strategy 2020) will follow three complementary strategic agendas: inclusive growth, environmentally sustainable growth, and regional integration. Already at its publication in 2008 the Strategy 2020 was criticised for its corporate bias and focus on middle-income countries. The strategy aims to scale up private sector development and private sector operations to 50% by 2020 in the five operational core areas: environment, finance sector development, regional cooperation and integration, education, and infrastructure. Disregard of social and environmental safeguards due to the profit-orientation of the private sector is the key concern with this approach. This kind of development will certainly not benefit the poorest people.

Despite all the criticism about this development model, in the crisis ADB is still adhering to the paradigm of economic growth, infrastructure and private sector development.

Overcoming crisis of legitimation

Next to the Worldbank and the Japanese government ADB is the biggest donor for development financing in the Asian and Pacific region. The bank does not only lend low-interest loans, but promotes itself as a bank of knowledge. With the capital increase and future increased lending the bank seems to have overcome its crisis of legitimacy a few years ago. Between 1998 and 2006 the yearly lending volume amounted to five to seven billion USD, too little in the eyes of the management of the bank in order to remain relevant. Over the past two years the lending increased to 10 billion USD. The new capital will ensure that this will remain as high in the future.

In the background of the ADB-internal crisis was the view of several developing middle-income member countries that lending was too burdensome, complicated and bureaucratic. At the same time the possibilities to get loans to finance infrastructure projects on the private capital markets increased. Therefore the importance and self-image of the ADB as a development bank was in debate. Allegations of a lack of transparency in decision making, poor communication between management and board of executive directors and dissatisfaction of the employees contributed to the situation.

Finally, the ADB started with internal reforms, one of it being the update of the Safeguard Policies. The Safeguard Policies are in place to avoid, minimize and mitigate negative impacts on the environment, social costs for third parties, or marginalisation of vulnerable groups that result from the development projects. They provide an opportunity for project-affected people to make the ADB accountable for negative project impacts of ADB-financed projects and to file complaints.

Decades long experience has shown that the success of projects depends heavily on the compliance with these standards, because the costs for damages and mitigation are often far higher than costs for environment and affected people. Too often the ones who bear the costs are the poor in the region whose lives should be improved by the projects.
This Focus Asien 34 follows the 2003 “Handbook on ADB”, that introduced the operations of the Bank in the Asia-Pacific region to a wider German public for the first time. What are the perspectives of NGOs working on ADB issues and supporting project-affected communities on current trends and developments of ADB?

Over the past few years the update of the Safeguard Policies was one of the core campaigns of civil society organisations engaging with the ADB. The first contribution of Stephanie Fried of the ‘Ulu Foundation gives an overview of the phases of the Safeguard Policy Update and of the activities of engaging with the process in order to achieve high standards for the protection of people and the environment. Fried analyses strengths and weaknesses of the new Safeguard Policy Statement.

Following this, Michael D. Burstein and Jennifer Kalafut of the Accountability Project (IAP) highlight one Safeguard policy, the policy on Involuntary Resettlement. They describe how a limited definition of “Involuntary Resettlement” will now have massive consequences for thousands of people who will not be covered and protected according to the new definition. They cannot claim compensation, despite the fact that their lives will be directly or indirectly influenced by ADB-financed projects to such an extent that they have to leave their homes.

The ADB has a gender policy in place that has to be applied in all operations and all project phases. Still, too many projects give evidence of a lack of gender-sensitivity resulting in men and women gaining different effects from the same project. At worst this can lead to the marginalisation of women and increased gender inequality through well-intended projects. Tea Soentoro of NGO Forum on ADB analyses the current policy on Gender and Development and shows where improvements have been made, e.g. in the new Safeguard Policy. She also points to structural weaknesses of the gender policy.

A new though concerning trend that has received little attention up to now is ADB’s engagement in Private Equity Funds (PEF) as a key component of it’s private sector development strategy. It has invested in close to 40 PEFs which for the most part are domiciled in secrecy jurisdictions such as the Cayman Islands. The money is beyond the reach of due diligence, both with respect to financial aspects as well as development and environmental impacts. Even the ADB’s Operations Evaluation Department sharply criticized the approach and decried the lack of risk mitigation measures. Stephanie Fried and the NGO Forum on ADB prepared a detailed paper about the bank’s involvement in Private Equity Funds. This Focus provides a summarised version.

The private sector engagement of the ADB is described by Nila Ardhianie of the Indonesian NGO AMRTA giving the example of the company PALYJA and water privatisation in Jakarta. According to her organisations’ findings, the loan intended for the improvement of water supply is instead used to guarantee the private concessionaires’ interests.

A core strategy of ADB is its regional development programme. Whereas the 2003 “Handbook on ADB” highlighted the Greater Mekong Subregion Programme, in this Focus 34 Maya Eralieva and Avilash Roul of the NGO Forum on ADB give an overview about ADB operations in Central Asia and the Caucasus region. This is complemented by an article of Nikolay Kravtsov from NGO Youstin about the planned engagement of International Financial Institutions in the Kyrgyz Republic and Tadjikistan intending to export energy to neighbouring countries. However, the exporting states are rarely able to provide a sufficient electricity supply in their own countries.

China’s role in international development cooperation is of increasing interest. The country is one of the ADB’s biggest borrowers. Besides, it has recently started contributing to special funds like the Asian Development Fund. Carol Ransley analyses China’s role in the ADB, and also looks into the sometimes difficult situation of civil society organisations in China engaging with the bank.

Not much focus has been put on Burma over the past years with respect to the ADB, as it hasn’t received

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any direct financial assistance from the ADB and the Worldbank. The reason is that Burma is in arrears with these institutions. Additionally, restrictive measures by several states prohibit financial assistance and development co-operation with the military regime. There are increasingly pleas for more engagement with the country. Yuki Akimoto explores how the catastrophe of Cyclon Nargis in 2008 formed the basis for new activities of International Financial Institutions.

The last article is about the work of the NGO Forum on ADB, the Asian-led network of over 250 organisations, community-based groups and project-affected people. The NGO Forum plays a key role in networking, campaigning, analysing and challenging the ADB. The contributions in this book prove the fact how indispensable, justified and important it is to interfere and influence ADB operations on otherwise disastrous projects and policies with harmful consequences.

In Germany knowledge and awareness of the ADB’s activities is still rather low and only a few organisations and individuals deal with this institution.

Germany is an important member and shareholder in the ADB with an overall capital subscription of 2,37 billion USD and additional contributions of approximately 2 billion USD to specials funds and technical assistance.

The German Executive directors as well as the German Governor, the Parliamentary State Secretary, (until September 2009 Karin Kortmann) have repeatedly advocated inside the institution for regulatory frameworks, for environmental protection, the promotion of renewable energies and compliance with strong Safeguard Policies. However, Germany follows the general course of the ADB and at the same time benefitted a lot from its membership. For a long time it has been well-known that donors do not follow purely development objectives. Winning procurement contracts valuing as much as 3.23 billion USD between 1967 and 2007 German companies benefitted enormously from Germany’s membership³.

Currently, financing development is hotly debated. Instead of distributing loans for big infrastructure projects such as highways, airports, or power plants, development finance should be fundamentally reviewed and new ways explored. ADB should invest more in renewable energies, sustainable and social development, in the areas of education, health and real poverty reduction⁴. As long as ADB follows its business as usual approach it’s given mandate to alleviate poverty is questionable.

The perspectives of NGOs on current trends on ADB are intended to contribute to an understanding of this regional development bank. Too often it hides behind its bigger sister institutions the Worldbank and the IMF.

We would like to thank the authors for their contributions. A special thank goes to Katharina Trapp for her valuable editing support.


⁴ It has to be acknowledged that ADB is making efforts to increase funding for renewable energies and energy efficiency. But these efforts are countered by it’s investments into coal-fired power plants.
Notes on the Campaign to Reform ADB Social and Environmental Policy

Stephanie Fried, Ph.D.

In 2005, as a result of requests from client countries, the Asian Development Bank (ADB) announced that it was planning to “update” its policies on the environment, involuntary resettlement and Indigenous Peoples. Interviews with Bank staff and Board members indicated that countries including China and India had been pushing for a “streamlining” of safeguard policies. The ADB announced that the update process was “intended to strengthen the effectiveness of ADB’s safeguard policies in delivering results” but identified the risk that “there may be the perception that the safeguard policy update will dilute or undermine ADB’s safeguard policies, or reduce ADB’s accountability for ensuring that safeguards are implemented.”

They proposed that the “perception of dilution of ADB policy intent will be addressed by reaffirming through the update and consultative processes that the policy fundamentals of the three safeguards will be maintained.”

A wide range of civil society organizations affiliated with the NGO Forum on the ADB and global Indigenous People’s networks monitored the Safeguard Policy Update process and provided input to the Bank with a goal of improving the policies and ensuring upward harmonization of standards with best international practice, instead of a “race to the bottom.” After the ADB announced its plan, the groups not only held the ADB to a firm commitment of “no policy dilution” but also conducted comparative analyses of existing best practices for environment, resettlement and Indigenous Peoples’ policies already in place in other multilateral development banks, bilateral and private sector financial institutions and provided them as guidelines to help the ADB improve its policies. In addition, they focused on exposing failure of ADB to implement its existing policies and identified mechanisms for better implementation.

The participation of civil society groups in the Safeguard Policy Update (SPU) process was sparked by the potential opportunity for improving Bank policy as well as a deep concern that despite the ADB’s increasingly repeated commitment (in response to civil society pressure) that the update process would not lead to the weakening of ADB environmental and social policies, such weakening was, indeed, a core goal of the Bank.

In October 2007, the ADB released a “Consultation Draft” of the proposed Safeguard Policy Statement (SPS), ostensibly to serve as a focus for a series of international public consultation meetings beginning approximately two weeks after the release of the draft. NGO Forum members prepared initial analyses of the document and were disturbed to find that the draft represented an unacceptable weakening of existing environmental and social safeguards. The groups concluded that it was unsuitable as a basis for continued public consultation unless it were to be completely re-drafted to, at a minimum, maintain existing social and environmental safeguards and meet best international practices at peer institutions.

In the draft, the detailed pages of mandatory ADB policy implementation measures had been replaced with “General Requirements” for all safeguards (Environment, Involuntary Resettlement, and Indigenous Peoples) which were far weaker, for the most part, than existing safeguard implementation requirements. In addition, due to careful, lawyerly language changes made in the Draft SPS, these requirements no longer appeared to be mandatory or were so vaguely written as to be unenforceable.

A number of senior ADB officials who were deeply concerned about the direction of the SPS process indicated to the NGOs that "effectively nothing is mandatory because there is so much flexibility in what is done." They felt that the SPS dramatically compromised the ADB’s ability to ensure compliance because the entire thing is unclear, filled with vague language, with a lack of clear statements about exactly what is required and how requirements will

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1 ADB, Discussion Note on the Safeguard Policy Update, October 2005
2 ibid
be operationalized." The lack of clearly mandatory, enforceable safeguard implementation measures ("delivery mechanisms") represented a complete reversal of ADB's core safeguard requirements, and was a potentially devastating blow to the environment and project-affected communities.3

Shortcomings of the First Draft

No Compliance Necessary?

Strong language pertaining to compliance had been replaced with language assuring borrowers that failure to comply with requirements would not necessarily result in penalty. An earlier draft of the SPS (July 2007) stated "If compliance with the safeguard policies still is not met after these remedies, ADB will suspend financing until noncompliance is rectified or cancel the project." However, in the October 2007 consultation draft, this language was removed and replaced with language assuring borrowers that "Resorting to legal remedies in the event of noncompliance is not automatic or mandatory when a borrower fails to comply." Such statements sent a clear signal that borrowing countries need not be overly concerned about compliance with ADB social and environmental safeguards.

Failure to protect rights of Indigenous Peoples, weakening of existing ADB protections 4

During the Indigenous Peoples' consultation, deep concerns were raised regarding core flaws in the SPS document. According to the Forest Peoples Programme, the draft SPS failed "to meet existing standards on safeguard measures for Indigenous Peoples on a number of key, significant points." In addition, the draft SPS failed to apply relevant international agreements, legal norms and laws and represented "a weakening of already unacceptably low standards within the Bank." The new language did not require free, prior and informed consent for activities which impact Indigenous Peoples. The Forest Peoples Program analysis highlighted concerns among Indigenous representatives regarding the proposed application of "country systems" and "framework" approaches, finding that there is "no practical way" to implement such systems with full involvement of project affected peoples.

Environmental safeguards weakened – elimination of 120 day public comment period5

Environmental standards and implementation requirements ("delivery mechanisms") were weakened in all sectors of ADB operations, including project loans, program loans, sector loans, corporate investments, financial intermediaries, and cofinancing. The existing requirement that Environmental Assessments be carried out for "all project components whether financed by ADB, co-financiers, or the borrower" was eliminated as was the existing requirement for the assessment of "indirect and cumulative impacts" and the requirement for a 120 day public comment period. The new policy proposed no specified minimum public comment period at all. There was also a direct weakening of:

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

Involuntary Resettlement: Fundamentally flawed6

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

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3 For details, see S. Fried, “Elimination of Mandatory Implementation Requirements for Safeguards?”, January 2008
4 See detailed reports by Helen Leake/Forest Peoples Programme at http://www.forestpeoples.org/documents/ifi_igo/bases/adbs.shtml
5 See detailed reports by Stephanie Fried/Environmental Defense, stephf99@gmail.com
6 See detailed reports by Joanna Levitt/International Accountability Project
but, indeed a benefit, to those displaced by ADB projects."

**SPS: far weaker than international standards**
Many of the protections provided in the consultation draft were, in addition to being significantly weaker than existing ADB standards, far below international standards established by peer lending institutions. For example, despite claiming that the draft SPS was “harmonized” with the IFC’s Policy and Performance Standards, it was far weaker than IFC requirements in a many important areas.

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

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

**Failure to integrate gender concerns as required by ADB policy**
Despite the requirements of the ADB’s existing gender policy, the Consultation Draft of the proposed safeguard policy failed to integrate core gender concerns. Indonesian women’s groups, such as Nadi and Solidaritas Perempuan, as well as the NGO Forum on the ADB, led the ultimately successful battle to improve gender aspects of the new safeguards.

The draft SPS failed to integrate safeguard requirements specified in the ADB’s own gender policy. The draft did not sufficiently facilitate women’s participation in ADB operations and failed to provide adequate protections to ensure that ADB projects and programs would not contribute to gender inequality and the marginalization of women. The SPS did not mention any gender issues in the policy on Environmental Safeguards, despite the often important role of women as custodians of the environment and the reliance of many poor women on natural resources to provide household goods such as water and firewood. None of the SPS Safeguards required borrowers or/clients to consult with men and women, take gender issues into consideration during project assessment, address gender concerns identified in project design and implementation, or monitor projects for gendered results.

**Missing information: budget necessary for safeguard implementation, Operations Manuals**
One of the key things that would determine the extent to which it would be possible for the ADB to implement any safeguards, including existing measures, is the budget proposed for safeguards. Yet no data were provided on proposed costs and budgetary support for safeguard implementation. The same is true of the Operations Manuals that were cited in the SPS text as providing detailed information on implementation. They were not made public.
South Asia Groups Launch Boycott of South Asia Consultation

Citing the ADB's "deeply flawed draft 'safeguard policy statement' and underscoring the fact that the ADB's draft safeguard policy "undermines its own existing policy", South Asian groups including the Indian Social Action Forum, Ghati Morcha, National Hawkers Federation, National Forum of Forest People and Forest Workers, Urban Research Centre, and River Basin Friends called for a boycott of the SPS consultations which had just begun. The groups critiqued the Bank's "much touted country systems approach" which has "shamelessly evolve[d] out of requirements for Borrowers/Clients" where "member country governments clamour for 'investments at all cost', thus betraying the affected communities and ignoring the rising tide of peoples movements demanding their governments to be more transparent and accountable." The South Asian groups expressed concerns about the proposed framework approach which "is turning back the clock in development lending by taking environmental and social mitigation measures out of project design to appease its member country government and facilitate private sector participation." The groups cited "fraudulent EIAs and environmental clearances, suppression of information, gross violation of human and indigenous rights in Lafarge mining (Meghalaya, India), Phulbari (Bangladesh), STDP in Sri Lanka, West Seti in Nepal."

Other NGOs concurred with the South Asian position and found the draft SPS unacceptable as a basis for public consultation. NGO Forum members urged the ADB to withdraw the draft and re-write it, prior to continued public consultation, to comply with existing ADB environmental and social protection measures and international best practices. The Bank continued with its "consultations" but with the walk-out of NGO Forum members, most of the consultations were sparsely attended. Forum NGOs did, however, submit a compilation of over 300 pages of detailed comments and recommended language changes by email, along with calls for a complete re-write of the document, followed by a meaningful consultation.

Initially the ADB refused to consider redrafting the document and initiating another consultation but the NGOs continued to put pressure on ADB member countries through finance ministries, parliamentary bodies and Bank Executive Directors. They successfully placed stories in the Financial Times and other global financial news media about the ADB's efforts to weaken its environmental and social safeguards, highlighting the Bank's forays into high risk off shore private equity funds. At the Bank's Annual General Meeting in Madrid in 2008, after a high profile civil society campaign, the ADB reversed its position and announced that they would produce a new draft of the SPS and would hold another public consultation on the draft in Manila in November 2008. This was a huge victory for the groups which had insisted on a rewrite of the policy.

Second Draft Safeguard Policy Statement

The second draft SPS was released in October 2008 and while certain things had improved with respect to the first draft, it was still far weaker than existing safeguard policy. The ADB had withdrawn its plan for the blanket elimination of the 120 day public comment period and, instead, reinstated it for all public sector projects but proposed a 60 day public comment period for private sector projects. The draft was riddled with vaguely worded language and it still appeared that almost every section of the environmental policy was directly weakened. The draft still proposed a significant increase in self-regulation by borrowers, including the devolution of authority from the ADB to the Bank's clients and borrowers for important safeguard assessment, monitoring and other functions. Consultation measures, including those for involuntary resettlement, were weak.

The proposed Involuntary Resettlement Safeguard Policy failed to protect all displaced persons and, instead, only covered persons displaced by direct land acquisition. NGOs pointed out that such a limited focus on land acquisition would fail to safeguard the millions of people displaced by impacts such as loss of access to fisheries downstream of a dam, or loss of arable farmland because of declining water tables due to mining. In addition, the new draft language allowed borrowers to provide cash compensation, alone, for negative effects resulting from project activities, including expropriation of land from persons with land-based livelihoods. Over two decades of economic and social science research on involuntary resettlement have clearly demonstrated that cash-based compensation alone
reliably results in impoverishment of the affected population.

The second Draft SPS also weakened key provisions and protections for the rights of Indigenous Peoples that were provided in the first (2007) draft of the policy and the existing 1998 ADB Policy on Indigenous Peoples. While the application of free, prior and informed consent represented a positive step which brought the ADB into line with other multilateral finance institutions, the application and definition of the principle was fragmented, confused and truncated. The second draft served to weaken the control that Indigenous Peoples have over development activities by failing to ensure that Indigenous Peoples’ representative authorities, organizations and communities would be involved at every stage of the development planning, implementation and monitoring process and involved in verifying information provided about them to the Bank. According to Forest Peoples Programme, the second draft SPS failed to cite or operationalize the UN Declaration on the Rights of Indigenous Peoples, despite this being the main international legal document detailing protections for Indigenous Peoples’ rights. In addition, the draft contained foreshortened and inaccurate guidance about free, prior and informed consent, reducing it to “broad community support’ for a project, thereby failing to uphold international standards on FPIC and failing to heed the recommendations handed to the ADB in 2007 by Indigenous Peoples’ representatives during the consultations on the first draft.

**False Harmonization**

While the ADB claimed that some of the changes found in the second draft were a result of ‘harmonization’ with standards of other multilateral development banks, such as the World Bank, this was all too often not the case. Frequently, only a (relatively weak) portion of safeguard language from other multilateral institutions was adopted.

For example, the ADB proposed to entirely eliminate the current requirement for the categorization of projects involving involuntary resettlement and Indigenous Peoples as part of a proposed ‘harmonization’ with World Bank standards. Categorization of projects is important because it draws the immediate attention of compliance staff, managers, Executive Directors and the public to projects which may need especially carefully monitoring.

In contrast to the ADB’s plan to fully eliminate categorization for projects involving involuntary resettlement or Indigenous Peoples, the World Bank requires that projects which fall under their Indigenous Peoples or Involuntary Resettlement Policies are automatically classified as “Category A” (significant impact) under the umbrella of the environmental safeguard policy. The ADB’s second draft Safeguard Policy eliminated all categorization on the basis of social impacts, but, unlike the World Bank, did not require projects which involve resettlement or Indigenous Peoples to be labeled as “Category A” under the umbrella environment policy. Such projects are not categorized at all. This represented not only a significant dilution of existing ADB policy but also a “dilution of harmonization” with other multilateral development banks.

**Gender**

According to the Indonesian group, Nadi, there continued to be significant concerns pertaining to the lack of gender-sensitivity of the second draft. For example, project-affected people were not defined and segregated as men and women. This means there would be no specific requirement for the consideration of women as a vulnerable group in a community, making it likely their opinions and needs would be ignored. The project impacts and risk assessments did not refer to the gender-mediated differential impacts of projects on women and men.

**Country Safeguard Systems**

The CSS approach introduced several opportunities for dilution of environmental standards and accountability while failing to ensure any significant, long-term benefits to the ADB and Borrowers. The principles proposed for the comparison of ADB requirements to borrower/client requirements omitted key details and introduced opportunities for a dilution of borrower/client standards. Additionally, the ADB approach to CSS failed to ensure that so-called “gap-filling measures” would be clear and known to communities, substantive and mandatory, and implemented prior to project implementation. Moreover, despite expressed concerns by the ADB that many of the countries using a CSS approach did not currently have adequate capacity to implement and manage the projects, the ADB does not require that the financial
and technical resources necessary to build this capacity be secured prior to Board approval of a project.

**Different Financial Modalities**

In the midst of the global financial crisis, at a time when financial institutions are increasing their due diligence and transparency, the second Draft SPS proposed the weakening of policies pertaining to a range of private sector financial modalities such as high risk private equity funds and other financial intermediaries. The new draft proposed that public comment period be reduced by 50% to 60 days for all private sector projects, including highly risky, untransparent, (and, according to an internal ADB audit, poorly managed) private equity funds. In addition, all reference to project categorization for financial intermediaries had been eliminated as was language in ADB’s current policy requiring the Bank to conduct a compliance review to ensure that category A and B subprojects comply with ADB safeguards. Instead, authority was devolved from the ADB to the borrower, to allow the borrower to determine compliance with national laws and not with ADB safeguards.

**Operations Manual**

The Operations Manual’s role is to detail the operational requirements for the ADB in fulfilling the safeguard system. After a prolonged NGO campaign, the ADB agreed to release a draft of the O.M. which, unfortunately, was dangerously incomplete, vaguely worded and represented a further dismantling of safeguard protections.

**Manila Consultation, November 2008**

Strong teams of activists associated with the NGO Forum on the ADB and global Indigenous Peoples’ networks attended the ADB’s Manila consultation on the Second Draft SPS and provided massive documentation of the flaws with the second draft and the consultation process. They also succeeded in garnering coverage of the Bank’s flawed plans by the Financial Times and other news media.

**Weak “W-Paper” Draft**

In early 2009, the Bank released the next version of the SPS, the “W-paper” to the ADB Board which incorporated some of the NGO recommendations, but still remained dangerously weak. Once again, Forum member NGOs conducted rapid analyses of this draft and quickly provided the Bank’s Executive Directors, member country Finance Ministers and parliamentarians with detailed lists of all of the instances by which the Bank still proposed to dilute existing policy as well as recommendations for strengthening the proposed policy. The NGOs successfully briefed representatives of the U.S Treasury Department, State Department, EPA and U.S.A.I.D. as well as representatives of key U.S. Congressional committees and ADB Executive Directors representing over 40 countries on the various issues surrounding the safeguards. U.S. Congress responded with stern warning letters to the ADB and many of the ADB Executive Directors – including those representing Korea and Malaysia - submitted testimony during Board meetings in support of various recommendations developed by the NGOs.

**ADB Annual General Meeting**

During the May 2009 Annual General Meeting of the ADB, teams of NGO Forum members conducted a range of meetings with Executive Directors, Finance Ministry and U.S. Treasury officials, ADB Senior Management and other ADB staff, pushing hard for a “course correction” in the drafting process, with a goal of ensuring that the final Policy Statement would be far stronger than the unacceptably weak “W-paper” draft. The groups highlighted the eight main areas of NGO concern with the ADB’s proposed Safeguard Policy Statement language and described the detailed language changes required to ensure that the new policy would not represent a “dilution” of existing policy.

**Final Safeguard Policy Statement**

In late June, 2009, the ADB released its final version of the new Safeguard Policy statement to the Board of directors. Unlike the earlier drafts, the final version retained most of the ADB’s existing and important environmental and social policies as demanded by the NGOs. In some cases, the new draft represented a significant strengthening of policy measures. The new Safeguard Policy re-affirmed the ADB’s commitment to providing a 120 day public comment period on all projects with potentially significant environmental impacts. This renewed commitment to a robust 120 day public process
positioned the ADB at the lead of other multilateral financial institutions. For example, the World Bank’s International Finance Corporation (IFC) only requires a 60 day public comment period for private sector finance. In addition the ADB retained its crucial policy which mandates that no matter the source of funding (ADB, borrower, co-financier) all components of a project must be subjected to environmental assessment. This is significantly stronger than the policies of other public financial institutions.

The final policy represents significant progress in eliminating much of the vague and unclear language in earlier drafts. However, there are still a few significant areas in the policy which appear to contain key dilutions of existing policy, contradicting the Bank’s commitment to avoid any policy dilution. However, the majority of these potential dilutions could potentially be overcome with clear language in the Operations Manual and clear implementation steps. According to the NGO Forum on the ADB, some of the important victories are as follows:

i. Gender:
Stronger gender considerations have been mainstreamed throughout the three policy areas. ADB policy now sets an example for other IFIs in regard to explicitly requiring gender sensitive and responsive application of the safeguards policies.

ii. Consultation:
The definition of consultation is now explicit. This represents an advance over the existing safeguard policies, and sets the basis for potentially ensuring a meaningful participatory process for ADB operations. The policy now documents the ADB’s new commitment to “understand the concerns of affected people and ensure that such concerns are addressed in project design and safeguard plans” for environmental, resettlement and Indigenous Peoples’ impacts.

iii. Involuntary Resettlement:
Improvement of the livelihoods of poor and vulnerable affected people is now required. There is also new language emphasizing the importance of creating benefit-sharing arrangements and development opportunities for affected people. These improvements could contribute significantly to preventing impoverishment among people displaced by ADB-supported projects.

iv. Indigenous Peoples:
The new policy commits to a recognition of the need to protect Indigenous Peoples and features a commitment not to finance projects in the absence of broad community support, representing an advance over the existing Indigenous People's policy.

v. Subprojects/financing modalities:
Rules pertaining to many of the different finance modalities have been significantly improved over earlier drafts and much of the protective language from the existing policy has been re-instated. In some cases, language has been improved over existing policy. Requirements pertaining to the category of Financial Intermediaries have been significantly strengthened and now require subprojects with the potential for significant environmental or social impacts financed by FIs to submit category A projects for ADB clearance, subject to the 120 day disclosure requirement. There are a few significant issues of concern which, fortunately, could be addressed by Operations Manual language, to ensure that this policy remains a significant step forward and that apparent loopholes are closed.

vi. Prohibited Investment List:
For the first time, the ADB has now committed to applying a Prohibited Investments List to all ADB activities. No investments in nuclear energy are allowed.

vii. Country Safeguards System:
The new policy provides improved clarity regarding implementation of the proposed Country Safeguards system, especially with regard to disclosure and consultation, as well as ensuring that gap-filling measures are in place prior to project implementation. There are still remaining areas where clarity could be further improved.

Retention of key additional provisions in existing policy

In addition to the retention of the 120 day public comment period, the new policy has eliminated a substantial number of the policy dilutions proposed in earlier drafts of the SPS and has re-instated much of the protective language of existing ADB policy such as:
i. **Categorization:**

The new policy retains the requirements of existing policy that all impacts (environment, resettlement and Indigenous Peoples) must be clearly categorized with respect to their severity. The retention of categorization systems for resettlement and Indigenous Peoples represents a reversal of proposals made by the Bank for the past four years to eliminate such categorization.

ii. **Disclosure:**

The retention of the 120 day disclosure requirement for environmental impact assessments (EIAs) for projects that are classified category A under environment represents a significant civil society victory. However, we note with concern that the disclosure of Initial Evaluations (IEE) for environment category B projects appears to have been dropped.

iii. **Other Provisions Retained After their Initial Removal in Earlier Drafts:**

- the requirement to assess direct, indirect, cumulative and induced impacts;
- the requirement to design management systems to insure the mitigation of potential adverse impacts to the level of “no significant harm to third parties”;
- the application of the polluter pays principle and the precautionary approach;
- the definition of “significant” for involuntary resettlement impacts;
- the emphasis on providing replacement land for affected people with land-based livelihoods

**Other Positive Outcomes:**

the inclusion, for the first time, of language pertaining to greenhouse gas emissions (which, unfortunately has been significantly weakened compared to earlier drafts, but which is still an improvement over existing policy);

the removal of vague words, such as “technically and financially feasible”, used in earlier drafts to weaken the protective language of existing policy;

**Remaining dilutions and shortcomings**

NGO Forum members have also identified important remaining dilutions and shortcomings of the new policy, many of which could be addressed through language in the Operations Manual or through proper implementation measures:

i. **Reduced Scope of the Involuntary Resettlement Policy:**

The new policy shifts responsibility for non-land-acquisition impacts to the Environmental Safeguards, representing a potentially dramatic dilution from existing standards, which ensure that all displaced people — regardless of the project activities causing their displacement — receive the full entitlements and protections under the Involuntary Resettlement Safeguards. The shift of coverage to the Environmental Safeguards is problematic because the language, structure and implementation protocols for the Environmental Safeguards are not designed to address the unique risks associated with displacement. This could result in people who are displaced by activities other than land acquisition being left without adequate safeguard protections, even though they are facing the same risks as those displaced by land acquisition. Of particular concern are the thousands displaced by upstream and downstream impacts of large hydropower, and those affected by de-watering impacts of large mines, among other groups.

ii. **Dilution of entitlements for displaced people:**

The new policy and accompanying draft OM lack any explicit mention of common property assets and others, which are defined in detail in the existing OM. In addition, the new policy appears to guarantee fewer entitlements to affected people who lack legally recognizable title/claims to land which creates inappropriate discrimination, and would be a significant dilution from existing standards.

iii. **Inadequately Specific Language:**

The new policy uses much less specific language than the current policy and operations manual employs. This creates a higher degree of ambiguity as to the responsibilities of the borrower/clients and less predictability in what specific protections an affected population will receive. This, in turn, could undermine efficiency and consistency of implementation across projects and nations. As such, it must be considered a dilution of the protections within the current policy.
iv. Environment:

1. Potentially Significant Dilution/Repeal of Forestry Policy, Energy and Water Policies

In response to civil society concerns about the apparent repeal of the forestry policy, including the ban on the construction of roads in old growth forests, earlier drafts of the SPS included the following statement: “The SPS and Safeguard Requirements for Borrowers/Clients will not supersede the policies on Energy (1997); Forestry (1995); and Water (2001), but will complement them.” This statement has been removed from the final policy. Staff have made verbal assurances that the SPS will not impact or weaken existing Forestry, Energy, or Water Policies, but there is no written assurance of this.

2. Draft IEE Disclosure

The Environmental Policy Principles commit to the disclosure of draft environmental assessment documents in a timely manner before project appraisal. Yet the SPS fails to meet this standard and lacks any commitment to timely public release (and web posting) of the draft IEE. The SPS is silent on the timing and nature of distribution of the draft IEE and the draft OM language sharply reduces public availability of draft IEE.

3. Dilution of Greenhouse Gas language

The GHG language published in earlier drafts has been weakened in the final policy (although it still represents a substantial step forward over existing ADB policy.)

4. Concerns about categorization

The final language on categorization does not specify that, in all cases, the ADB’s system of categorization is to be utilized for all projects and their components (including subprojects) and is required to be part of legally binding documents. This is a result of vague language which can be easily clarified in the OM.

5. Other significant environmental concerns

The new policy continues to introduce substantial dangerous loopholes pertaining to pollution and portions of the policy still do not require environmentally sound disposal of hazardous waste, allow significant environmental impacts to remain after mitigation, and allow ADB funding for high risk projects in “locations where their failure or malfunction may threaten the safety of communities.”

6. Different Finance Modalities

There are a few significant issues of substantial concern which, fortunately, could largely be addressed by OM language.

- Despite verbal assurances from ADB staff, there is no language specifying that all financial intermediaries supported by the ADB, regardless of mode of ADB finance must be classified as FI and thus subject to FI requirements. There are substantial concerns about the confusing possibility that a financial intermediary with ADB loans/investments “not earmarked for specific subprojects” (such as Indonesia’s Bank Mandiri) could be classified as “General Corporate Finance” and thus avoid being subject to the newly robust rules pertaining to FIs.

- Vague language leading to substantial concerns, easily corrected through language changes to OM

a) Lack of mandatory SEA, inconsistency between different sections of the new policy

One portion of the policy makes strategic environmental assessment (SEA) mandatory for policy actions supported by a program loan likely to have significant direct or indirect environmental impacts. The WPaper included this mandatory language in SR4, but this language has now been removed from the final policy and replaced with vague language indicating that an SEA “may be usefully applied where appropriate.”

b) FI Compliance with ADB SPS

Language in the FI section states that compliance must be assured with “national laws and/or ADB's requirements for FI projects”. Yet, elsewhere in the SPS, the ADB commits to ensuring compliance of all projects with ADB safeguards.

7. Consultation and Participation

While the new policy provides a clear definition of meaningful consultation, and requires Broad Community Support in certain cases, it fails to go the whole way in ensuring that consultation is in fact meaningful in all cases. The Bank must commit not to finance any projects for which it cannot secure agreement by people affected by all types of project impacts. While we believe the definition of broad community support remains problematic, it is a step forward for the Bank to commit not to funding
projects without determining BCS, be it for indigenous people or other affected people. This is consistent with the IFC’s provision that requires broad community support for the project within the affected communities, and it is important that the ADB not limit the requirement for “broad community support” only to projects impacting Indigenous Peoples.

8. Lack of Legally-binding Covenants for SPS requirements

The new policy refers to borrower’s safeguard commitments “as agreed in the legal documents” or “as covenanted in the legal agreements” but details of the contents of the legal documents are not provided. The draft OM provides a very limited description of requirements for legal agreements which only includes the EMP, EARF and IR, IP plans and frameworks. The OM must specify that the legal agreements shall include “the SPS policy principles, objectives and requirements” as well as adequate covenants to address implementation of the various plans and frameworks.

9. Unclear procedures for CSS harmonization and review

While the R-paper improves the clarity of many aspects of the CSS policy, several key issues remain unexplained. In particular, how will the 3-year “operational review”/“interim review” be conducted?

10. No differentiation of women in definition of affected people

Due to gender roles, women are often not part of decision-making. Land titles and other ownership documents, compensation lists are usually not in women’s names. It is, therefore, important to specify “men and women” in the definition of affected people.

11. No requirement for gender experts for project implementation

The lack of a requirement for gender experts leads to the risk that direct, indirect and cumulative environmental and social impacts of projects on women will be not adequately addressed.

Free Prior Informed Consent

Civil society groups are extremely disappointed that the new ADB policy has failed to incorporate the principle of free, prior, informed consent as defined by the United Nations Declaration on the Rights of Indigenous Peoples. The redefinition of consent/consultation as “broad community support” remains unacceptable for Indigenous Peoples. It is incumbent on the Bank to respect and integrate the demands of Indigenous Peoples.

Caveat: Assessment dependent on implementation

Overall, if the remaining dilutions are rectified, the new policy constitutes, at a minimum, equivalence to the existing policy and does provide improvement over existing policy in certain key areas. However, the full assessment of the results of this lengthy public process will depend on the implementation of the new policy. This is particularly vital, as some of the language in the policy still contains inbuilt flexibility and depends on interpretation. Because implementation is the key factor that will determine the SPS’s success or failure, NGOs associated with the NGO Forum on the ADB have called for a full implementation review with a consultative process of external stakeholders after three years.
Defining Away a Problem

How a Few Words Narrowed the Scope of the ADB’s Involuntary Resettlement Policy

Michael D. Burstein & Jennifer Kalafut

In 2005, the ADB announced that it would review and update its policies on environmental and social protection, namely its Environmental, Involuntary Resettlement and Indigenous Peoples policies. Over the four years following the ADB’s announcement, civil society organizations, people's movements and development professionals coalesced around two broad goals: to use the safeguard policy update process to improve and modernize the decade old policies, and to ensure that the existing safeguards were not weakened. While many achievements were made, the greatest structural strength of the 1995 policy on Involuntary Resettlement (IR) did not survive the update process.

This article examines the key cause for concern under the ADB’s 2009 IR policy. Although critical in tone, the purpose of this article is not to overshadow the number of progressive provisions that have been added to the 2009 policy, such as the overall increase in clarity and the robust definition of “meaningful consultation.” As positive and welcome as these developments are, this article focuses on the limits the 2009 Policy places on its IR protections. In particular, the 2009 Policy digresses from its 1995 predecessor by including only persons displaced through land acquisition as potential beneficiaries of policy mitigation measures and rejecting the former, broad interpretation of displacement and displaced peoples. This particular dilution of the former protections is the focus of concern because this linguistically-minor change will have immense and tragic real world impacts by excluding countless number of communities from the specific compensation, redress and rehabilitation requirements mandated by the IR Policy.

First, this article will provide an overview of displacement, the scale on which this phenomenon is happening and key development-related causes. Then, it will define displacement more specifically and demonstrate that no matter what the cause of displacement--whether land acquisition or another project impact--the risks to displaced people are the same. Thus, the same policy measures are required to indentify, assess, and develop responses that avoid, or at least minimize, the adverse impacts of displacement for all persons regardless of the specific cause of displacement. After providing a detailed comparison of the scope in the ADB’s 1995 Policy compared to the 2009 Policy, we will conclude with suggestions to civil society and other stakeholders in ADB-supported projects on strategies to protect those displaced by non-land acquisition development activities.

Displacement: an overview

Each year, millions of people around the globe are forcibly relocated and resettled away from their homes, lands and livelihoods in order to make way for large-scale development projects. This phenomenon, known as development-induced displacement (DID), is a recognized human rights concern. When DID is not managed properly, the consequences are frequently devastating—including, but not limited to, mass impoverishment, decreased health and social unrest. Unfortunately, robust displacement management plans, commonly called resettlement plans, are rare, and those plans that are successfully implemented are even rarer. As such, unmitigated DID can be understood as one of the primary human costs of development, and one that is all too frequently externalized onto the poorest and most vulnerable communities in the developing world.

Due in part to the wide range of causes and thousands of ongoing development projects, and also

due in part to imperfect information-gathering techniques, figures on the number of people forcibly uprooted from their homes and communities are, at best, careful approximations. What data that does exist, however, provides an indication of the magnitude of the problem. Experts estimate that over 200 million people worldwide have been displaced in the name of development over the past twenty years.\(^3\) In India alone, development projects have displaced more than 60 million people over the past 60 years\(^4\) and in China, development is estimated to have displaced more than 40 million people over the past half-century.\(^5\)

Displacement can be caused by a variety of development activities. Over the past half-century, some of the most significant displacement has been caused by the following types of projects:

- water supply (dams, reservoirs, irrigation);
- transportation (roads, highway, canals);
- energy (mining, power plants, oil exploration and extraction, pipelines);
- large mono-crop plantations (oil palm, grains, sugarcane, and soya);
- parks and forest reserves;
- population redistribution schemes; and
- urban infrastructure.

With urban growth rates exceeding six percent annually, urban infrastructure projects have emerged as major drivers of forced displacement and warrant specific mention. Urban renewal and beautification schemes - often aimed at making cities attractive to tourists - have displaced entire neighborhoods. One of the driving factors in this rural-to-urban migration is DID from rural mega-projects like dams that displace hundreds of thousands of agrarians. Many of these families travel to the urban centers in search of a livelihood, which further taxes overburdened urban infrastructure systems. Failure of urban infrastructure strained by swelling populations leads to yet another series of urban redevelopment projects. This results in situations in which families can be repeatedly displaced from multiple different residences.

**Defining displacement: physical and economic**

To borrow a definition from Susan Tamondong, formerly of the ADB, displacement is “the inevitable disruption of people’s lives and livelihoods as a consequence of development, while resettlement is the rebuilding of their lives, incomes, and asset bases elsewhere.”\(^6\) Although myriad in forms, academics and resettlement specialists have traditionally organized these disruptions, and the displacement they induce, into two distinct categories: physical displacement and economic displacement.

Physical displacement refers to the actual relocation of individuals, families or communities from one place to another. In the development context, physical displacement occurs when a person is forced, often by the state authorities, to leave their home or land so an ADB-financed project can proceed. A classic example would be physical displacement caused by the reservoir behind a dam. Prior to construction of the dam, the government recipient of the ADB loan must use the local legal analog of eminent domain to expropriate the land that will be flooded. In doing so, the government physically displaces all persons who previously resided on or used the land to be submerged by the dam’s reservoir.

Economic displacement, on the other hand, occurs when development-related activities result in the loss of people’s income sources, asset bases, economic opportunities and livelihoods. Rather than state authorities forcing persons off of their land,
economic displacement occurs when a development project disrupts a person’s or community’s resource base or livelihood. Economic displacement does not necessarily mean that affected people are forced to leave their homes or land. However, oftentimes, mass migration or involuntary resettlement is the result of economic displacement because, as will be explained below, the economically displaced families will be forced to leave their homes in search of livelihoods and a means for survival.

To continue the prior example, while a dam’s reservoir may lead to physical displacement of people living in the reservoir area, the dam’s effect on downstream water flow may cause mass economic displacement. Among other impacts, persons living downstream of the dam may find the fish stocks they depended on no longer exist, lose water for irrigation and suffer health impacts due to decreases in water quality. Due to the fragility of many ecosystems, the effects can be devastating: “Silt reduction leads to a loss of soil fertility and the disappearance of fish stocks, while in irrigated areas, problems range from the rise of the water table and salinisation through the evaporation of salt, to an increase in parasites from stagnant pools and canals.”

These effects can destroy the resource bases and basic livelihoods of entire downstream communities, and therefore eliminate the only means for these communities to exist in rural environments.

Economic displacement is also relevant in urban areas. When urban residents are relocated to new areas of the city, they frequently lose their source of livelihood because neighborhood networks are disintegrated and costs of transportation to former places of formal or informal work become prohibitive, both in terms of time and money. In addition, urban development projects can also render obsolete the livelihoods of persons already barely etching out marginal incomes. To use the example cited by the ADB’s Special Evaluation Study on Involuntary Resettlement Safeguards, “[resettlement plans] have been prepared for projects providing piped water supply to households, not because people are relocated but because of diminished business for water vendors. These people are now assisted. Another example includes assisting scavengers of waste dumps through [Resettlement Plans] when a landfill project is financed to replace the dumps.”

Regardless of the displacement’s rural or urban setting, the project-affected persons are frequently already poor by any standard. Due to the well documented lack of economic and educational opportunities and accessible resources in many countries in the Global South, displaced populations frequently lack the skills and capacities to establish alternative livelihoods without significant external investment. The unfortunate reality of both forms of displacement is that the dearth of opportunities disproportionately affects the groups already marginalized, especially women and disabled persons, who frequently lack the resources to access any alternative means of sustainable living than the one disrupted by the development project.

**Risks of displacement**

Whether the displacement is physical or economic, rural or urban, the common linkage between these impacts is the risks imposed on people. Theories such as Michael M. Cernea’s “Impoverishment Risks and Reconstruction” (IRR) model intentionally ignore any distinction between how people are displaced by a development project. Instead, the IRR model focuses on the impacts of displacement in human and economic terms. According to the IRR model, persons who are either physically or economically displaced are decapitalized through the loss of human, social, natural or artificial resources. This, in turn, increases the risk of impoverishment, and increased risks of a diverse array of human rights concerns (e.g. right to self-determination, right to participation, rights of vulnerable groups, and right

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7 See e.g. Andrew Gray, Indigenous Resistance to Involuntary Relocation, in Christopher McDowell (ed.), UNDERSTANDING IMPOVERTHISH: THE CONSEQUENCES OF DEVELOPMENT-INDUCED DISPLACEMENT (Oxford: 1996) p. 105 (“The beneficiaries of industrial and infrastructure development may be many but the costs are being born disproportionately by the poorest and ethnically most vulnerable in Indian society.”).

8 ADB Operations Evaluation Department, Special Evaluation Study on Involuntary Safeguard Requirements, September 2006 Appendix 20 ¶ 22 [hereinafter: OED Study].

9 See e.g. Alan Rew, Eleanor Fisher, & Balaji Pandey, Addressing Policy Constraints and Improving Outcomes in C.J. De We (ed.) DEVELOPMENT-INDUCED RESettlement (Oxford: 2006).

10 Although other models exist besides Michael Cernea’s IRR model, this article will rely on the IRR model because of its wide acceptance by both resettlement specialists and international financial institutions like the ADB.

11 Cernea IRR supra note 3.
The model ignores the economic/physical displacement distinction because the risks associated with displacement are identical regardless of the manner by which the person is displaced.

Although the distinction means next to nothing in terms of impacts on the individual, the distinction is not useless. The utility of distinguishing between physical and economic displacement lies in identifying the specific measures necessary to prevent or mitigate the displacement of development project-affected persons. Cernea’s IRR model identifies seven discrete risks of displacement: landlessness, joblessness, homelessness, marginalization, increased morbidity and mortality, food insecurity, loss of access to common property and social disarticulation. These risks, obviously, will vary with the form of displacement. For example, state expropriation of a farmer’s entire parcel of land will immediately increase the farmer’s likelihood of landlessness, joblessness and homelessness. On the other hand, the farmer whose land will become barren because a mine pollutes the water table will be economically displaced and is immediately at risk of joblessness and food insecurity.

It is important to recognize the ways in which physical and economic displacement are intertwined and both linked to the same set of risks. Even if affected people are initially only impacted by one form of displacement, subsequently they tend to become more vulnerable to the other. In the case of the aforementioned farmer who lost his land, the farmer will likely be faced with the options of seeking unclaimed land to farm that will likely be of substandard quality (lest it would otherwise be claimed) or attempting a mid-life career transition without a substantial resource base to rely upon while making this change. Urban residents face a similar situation because the high costs of land and population density in urban centers often force the displaced family further away from employment opportunities (as discussed above).

The inverse is also true insofar as economic displacement all too often leads to physical displacement. Because of the lack of available resources or alternate income sources, economically displaced persons must choose between either 1) relocating in search of an alternate livelihood, or 2) remaining and living on less income, less food, less access to health care, and even further on the edges of society.

Because the risk of displacement are similar and because the two types of displacement often work interchangeably, distinguishing between economic and physical displacement serves little value other than identifying the most appropriate mitigation measures in a project-specific context. In terms of preventing impoverishment or in simple terms of justice, the distinction is meaningless.

The Scope of the ADB’s 1995 Involuntary Resettlement Policy

In recognition of the human costs its development projects were imposing upon the displaced population, the Asian Development Bank (ADB) established its first involuntary resettlement policy in 1995. While the policy lacked key protections (e.g. linking resettlement plans to the dispersal of project related funds, clear standards for ensuring a meaningful consultation), it included an expansive statement on the risks of displacement and acknowledged that “[m]any development projects that require involuntary displacement of people generally have adverse economic, social, and environmental impacts on the displaced people” and then listed a specific set of principles to which all projects should adhere. Furthermore, the 1995 policy outlined a series of principles that very clearly and repeatedly treated physical and economic displacement as interlinked concerns to be addressed jointly by the policy. One of these principles specifically made a point of including persons and communities that suffer loss of “their land, means of livelihood, social support systems, or way of life in order that a project might proceed…” within the scope of the policy. The 1995 Involuntary Resettlement Policy was thus created to protect

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13 Cernea IRR supra note 3. (explaining the risks of impoverishment associated with involuntary displacement in greater detail).
14 See Jay Drydyk, Development-Induced Displacement and John Rawls’s “General Conception” of Justice, CIDA-SICI 1999.
16 Id at ¶ 34 (iii).
individuals from the loss of their human, social, natural or artificial resources.

This comprehensive approach was also reflected in the ADB’s Operations Manual (OM), which includes all of the ADB’s binding bank policies and the “procedural requirements and guidance on the implementation of [bank] policies.”17 Although the OM has never explicitly referenced Cernea’s IRR model, it integrated the dual concepts at the heart of the IRR model, “displacement-as-decapitalization” and “harm-mitigation through risk-identification,” into its very structure.18

The two basic terms that set the scope of the 1995 Resettlement Policy were “involuntary resettlement” and “affected person.” Rather than relying on the literal meaning of “involuntary resettlement” (i.e. forcibly moving someone from their homes or land), the OM defined involuntary resettlement as the “social and economic impacts that are permanent or temporary and are (i) caused by acquisition of land and other fixed assets, (ii) by change in the use of land, or (iii) restrictions imposed on land as a result of an ADB operation.”19 This definition is focused on how an ADB-financed project disrupts individual lives. It also makes the implicit, and reasonable, assumption that any social or economic displacement by an ADB-financed project is involuntarily imposed upon the affected persons. Similarly, it assumes that these involuntary displacements will be adverse and require some form of minimization or mitigation.

Furthermore, according to the ADB’s 1995 safeguard policies, “affected persons” are any person or entity that is adversely affected “on account of changes that result from the project.”20 This is reflective of the definition of “involuntary resettlement” as it casts a very broad net in terms of the possible impacts that could be caused by an ADB-financed project. More importantly, the definition provides a litany of possible adverse affects due to “changes in use of land.” The possible adverse affects include, but are not limited to the following: any impact on one’s standard of living, any adverse impact on one’s “right, title, or interest in any house, land (including residential, commercial, agricultural, forest, and/or grazing land), water resources, or any other moveable or fixed assets acquired, possessed, restricted, or otherwise adversely affected, in full or in part, permanently (sic) or temporarily; and/or (iii) business, occupation, place of work or residence, or habitat adversely affected, with or without displacement.”21

When the definitions of “involuntary resettlement” and “affected person” are read in unison, it is clear that the policy trigger, “changes in land use,” includes downstream impacts from dams, impacts from mines on polluting water sources, and even job-obsoletion (e.g. water-sellers being replaced by a water treatment plant). In short, the entirety of the 1995 Involuntary Resettlement Policy recognizes displacement as a grave phenomenon with both physical and economic manifestations. As such, the preventative measures and entitlements to affected person under the 1995 Policy treat all displaced persons equally.

Limits on the Scope of the 2009 Involuntary Resettlement Policy

The 2005-2009 revision process of the ADB’s Involuntary Resettlement Policy resulted in a dramatic reduction in the scope of who is covered under the new policy. Specifically, unlike its preceding policy, the 2009 version limits the entirety of those covered under the involuntary displacement portions of the IR policy to people that have been displaced through land acquisition.

Three significant changes from the 1995 Policy cause this drastic reduction in scope. First, the new policy states that the involuntary resettlement requirements apply to instances of physical and economic

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18 Cernea IRR supra note 3.; OED Study supra note 8 at ¶ 18 (“A practical aspect of the Policy for ADB operations has been that it deals with land acquisition and resettlement in a systematic way and tries to handle the associated planning as much as possible prior to the start of the project, which facilitates project implementation.”).
19 ADB OM supra note 17 at BP ¶ 2.
20 Id. at footnote 3 (“The term affected person includes any people, households, firms, or private institutions who, on account of changes that result from the project will have their (i) standard of living adversely affected; (ii) right, title, or interest in any house, land (including residential, commercial, agricultural, forest, and/or grazing land), water resources, or any other moveable or fixed assets acquired, possessed, restricted, or otherwise adversely affected, in full or in part, permanently (sic) or temporarily; and/or (iii) business, occupation, place of work or residence, or habitat adversely affected, with or without displacement."
21 Id.
displacement caused by “(i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas.”

Notably absent in this list of policy triggers is the clause “changes in land use,” which, as illustrated above, in the 1995 policy used to cover those people whose land was affected (e.g. polluted, desalinized or otherwise destroyed) by project activities. Second, the 2009 Policy eliminates any definition of “affected persons.” Instead of the inclusive definition in the 1995 Policy, the 2009 Policy relies upon the term “displaced persons” to identify who is covered by the policy. This change is not merely a superficial language shift, but rather a major substantive adjustment because “displaced persons” are defined as any “persons who lost the land they occupy in its entirety or in part,” in other words, only those that physically have the land they occupy taken away.

Third, the 2009 Policy changes the definition of “economic displacement” to “loss of land, assets, access to assets, income sources, or means of livelihoods as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas.”

Under the previous policy, the conception of economic displacement was much broader and those who suffered loss of access to their livelihoods for any reason were considered displaced. This is dramatically different than the new policy’s limitation to only economic displacement caused by land acquisition. Taken together, these three policy changes have the result of making expropriation of land the almost-exclusive activity that will trigger the requirements for mitigation, compensation and rehabilitation for affected peoples.

While there are examples of physical displacement caused by project activities other than land acquisition, it is in the realm of economic displacement where this reduction in scope is most sweeping. People who are affected by the myriad economic displacement impacts caused by non-land-acquisition project activities are now not even considered to be displaced at all. While some categories of persons may, in fact, be economically displaced by land acquisition (e.g. urban shop owner with a separate residence), hundreds of thousands of persons who would have been protected under the 1995 IR Policy are no longer considered to be displaced persons at all. Not only is this change contrary to the past few decades of consensus by resettlement specialists and the dominant models of displacement management and prevention, but also results in direct negative consequences for those no longer recognized as displacees, as they will have significantly weaker protections.

Instead of recognizing persons displaced by project-impacts other than land acquisition as bona fide displaced persons, the 2009 Policy shifts responsibility for such adversely affected individuals systems the term “occupied” land is a broad terms that includes land that is non-residential bys used by a persons. For example, seasonally available wet-lands that are used for farming purposes would be considered “occupied” land. However, because the 2009 Policy does not specifically include a broad definition of “occupied,” a narrow definition could be employed in which only residential land and its environs are considered occupied. In this case, productively used land that is non-contiguous with residential land could be argued to be unoccupied and therefore persons who are economically displaced by its expropriation might be denied protections. While this is clearly contrary to the Policy Principles outlined in the 2009 Policy, such instances of bad-faith reasoning are not unheard of when developing resettlement plans. Nevertheless, the specific inclusion of the terms “loss of land, assets, access to assets, income sources, or means of livelihoods” under the conception of economic displacement strongly suggests that productively used land that is not resided upon is considered “occupied” for the purposes of the 2009 Policy.


23 Id. at Appendix 2: ¶ 7. However, in the glossary of the ADB policy, the term “displaced persons” also includes persons displaced as a result of “involuntary restrictions on land use or on access to legally designated parks and protected areas.” This is a rather ambiguous term that could be interpreted in a fashion analogous to how “changes in land use” was interpreted under the 1995 Policy. However, the ADB has given multiple indications throughout the Safeguard Policy Update process that this term will be understood in a narrow fashion as meaning only regulatory prohibitions that limit access and uses of natural resources akin to the designation of protected areas can undermine the resource base of rural communities. Due to their relative rarity, this paper treats the new definition as it will be dominantly applied – as only pertaining to those displaced by land acquisition.

24 Id. at Glossary.

25 It is worth noting that paragraph 7 of the IR Safeguard Requirements states that there can onl only be three types of displaced persons in a project area: those with formal legal title to lost land; those legally recognizable claims to lost land; and, persons who lost land they “occupy” without legal or recognizable claims. Beyond affirming the narrowness of the scope of the protections, this creates an unfortunate ambiguity because the term “occupy” is not defined. Under many legal
to the Environmental Protection Policy. Paragraph six of the new IR Policy specifically states, “If potential adverse economic, social, or environmental impacts from project activities other than land acquisition are identified, such as loss of access to assets or resources or restrictions on land use, they will be avoided, or at least minimized, mitigated, or compensated for, through environmental assessment process.” Thus, any ADB-financed project induced adverse effect that is not caused by land acquisition, including all forms of displacement, will be addressed in the environmental portions of the policy.

Unfortunately, the environmental safeguard requirements are entirely ill-equipped to mitigate the risk of impoverishment and human rights violations that are part and parcel of displacement. This is because the environmental safeguard policies are exclusively oriented towards protecting the environment from any adverse effects of ADB-financed development projects. Although this is exactly what the environmental protections should be primarily concerned with, the consequence is effectively inadequate protections for any persons displaced by project impacts other than land acquisition. For example, the strongest protection for all persons who are economically displaced due to changes in land use, like communities downstream of a dam, is the promise of some form of compensation in “exceptional circumstances.”

Notably absent form the environmental safeguard policy are key components necessary to preventing the impoverishment of displaced persons such as details on how compensation will be determined, requirements that educational opportunities such as job re-trainings are provided, that the right to security of tenure for displaced persons will be respected, or even that social impact assessment or a census is conducted to determine who will even be displaced. Moreover, the environmental section, unlike the involuntary resettlement components, fails to recognize the unequal impacts displacement, in all its forms, has upon women and other marginalized groups. As such, the 2009 IR Policy excludes a very broad range of displaced individuals from meaningful policy coverage who would otherwise have been protected by the previous policy on Involuntary Resettlement.

Why were these changes made?

The raison d’etre of social and environmental safeguard policies - at the ADB and its peer institutions - is the aim of preventing harm to the people and environment adversely affected by Bank-supported activities. With this understanding as to the function of the safeguard policies, any significant change to these policies should be born from the reasonable belief that the change at issue would, in fact, advance this goal better than the existing policies. Thus, it is not unreasonable for civil society to demand clear and reasoned accounting for any significant change to the safeguard policies, especially in instances in which the change appears to amount to a reduction of protections. Moreover, the ADB should not be hard pressed to provide this information.

Unfortunately, the ADB has been incapable to provide any meaningful justification for its

in the following sentence: “If these impacts are found to be significantly adverse at any stage of the project, the borrower/client will be required to develop and implement a management plan to restore the livelihoods of affected persons to at least pre-project level or better.” While this provision must be recognized as holding the possibility of robust protections for adversely affected persons not covered by the 2009 IR Policy, it still remains significantly weaker than what is required in the Involuntary Resettlement Safeguards as there are no requirements as to what the content of this “management plan” must be, whether it is the product of consultation, whether it is made public or even if the ADB is obligated to review it for adequacy in terms of actually restoring livelihoods. As such, the concerns outlined above remain. Furthermore, the wording of this statement means that affected people will first have to prove “significantly adverse impacts” before they are considered for mitigation measures beyond what is contained in the Environmental Safeguards. Given that, even with the ADB’s existing 1995 Policy, it was often difficult for affected communities to secure implementation of their entitlements clearly guaranteed in the Policy, it is not unreasonable to assume that this provision in the new policy will make it even more difficult for affected communities to receive the rehabilitation measures and support to which they are entitled.

27 Paragraph 4 of the environmental requirements obligates the borrower/client to identify potential “induced environmental impacts and risks to physical, biological, socioeconomic, and physical cultural resources and determine their significance and scope.” This assessment will be the basis for indentifying which impacts the borrower/client must mitigate, and in “exceptional circumstances’’ provide compensation. ADB 2009 Policy supra note 22 Appendix 1: ¶¶ 4 & 13 (identification and compensation in exceptional circumstances, respectively).
28 Id. at ¶ 13.
29 The provision in paragraph six that shifts responsibility to the Environmental Safeguards is slightly tempered by the statement...
imposition of land acquisition as the de facto exclusive trigger for inclusion under the IR Policy. Although it is clear that the 2009 IR Policy covers fewer persons than the 1995 version, the ADB has not only refused to provide their reasoning for enacting this dramatic shift in scope, but has even gone so far to say that no scope shift has, in fact, occurred. When asked for the theoretical basis for reducing the scope of the (then) proposed involuntary resettlement policy and for “the expected outputs and impacts on the ADB and affected people from this decision,” an ADB official responded: “There has been no shift in scope in involuntary resettlement... The key policy trigger remains land acquisition, and the scope remains both economic and physical displacement.”

As illustrated above, this is simply incorrect on multiple levels. First, there has been a shift in the scope of the involuntary resettlement. The key policy trigger in the 1995 Policy was not land acquisition, but rather social or economic disruption upon an individual caused by an ADB financed project. One of the disruptions could have been land acquisition, but land acquisition was by no means the exclusive disruption. Second, as also addressed above, the R-paper does not use the definition of “economic displacement” as is understood by resettlement specialists or academics worldwide because it specifically limits economic displacement to instances in which the physical location of income or livelihood is expropriated for project purposes. The interpretation of economic displacement promoted by the ADB and the new IR Policy is contrary to numerous resettlement plans, former ADB resettlement specialists, the OED study, and the ADB’s inspection panel.

To use a cliché, the silence by the ADB truly has been deafening in terms of providing an affirmative defense of requiring land acquisition to act as a trigger for inclusion under the IR policy, a justification for its revised conception of economic displacement, or even an argument that land acquisition has a unique impact on affected persons. The nearest insight into the rational behind the changes was provided in the 2006 ADB commissioned study on its involuntary resettlement safeguard. Within this document, the only critiques offered of the broad, and academically accepted, understanding of displacement that was the basis for the 1995 Policy were as follows:

- some local partners and project sponsors did not fully understand that the concept of displacement was extended to persons who were not physically resettled;
- increased workload for some project officers in managing resettlement;
- a perception among some ADB staff that a ‘disproportionate’ amount of the limited resources available for project preparation goes to safeguard issues; and
- increased incremental and transactional costs for both the ADB and borrower/clients.

Despite these concerns, the OED study recognized the importance of ensuring that economically displaced individuals are protected from impoverishment. According to the study, the increased emphasis on resettlement and livelihood restoration over the past fifteen years “may have been linked to [the ADB’s] focus on poverty reduction, as most [Affected Persons] are poor. Although ADB’s infrastructure projects have many positive impacts, the mitigation of adverse impact on [Affected Persons] can be taken as a key marker to assess ADB’s seriousness in fighting poverty.” (emphasis added) For this reason, the study did not recommend that individuals displaced by activities other than land acquisition be excluded from coverage or protection, but rather that “it may be more appropriate for [such individuals] to be

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31 Email from Michael D. Burstein to Xiaoying Ma and Nessim Ahmad on 21 January 2009 (note that this letter was specifically in reference to the W-paper, and that the scope shift between the W-paper and the R-paper were identical.)
addressed through a social development action plan or ad hoc project-specific plan.”

If such a “social development action plan” was to be required by the safeguard policy, the key components of the involuntary resettlement policy, including the resettlement plan prescribed by the policy and other components with high incremental and transactional costs, would have to remain in order for the social development action plan to actually prevent the impoverishment of displaced persons. This fact, however, went unaddressed by the study. Thus, even if the ADB agreed with the idea that a “social development plan” should supplant the current means of protecting persons displaced by means other than land acquisition, the OED rationale tacitly concedes that the protections and entitlements granted to the persons displaced by non-land acquisition activities must remain the same if the ADB were to continue its objective of fighting poverty. In this regard, the OED study that was sited as providing the basis for revising the 1995 Policy and operations manual does not, in fact, justify the most significant change to the involuntary resettlement policy.

Looking forward

While the ADB has made some important changes to its IR Policy that will better protect those covered by the policy, the dramatic reduction in the scope of people protected may mean that the 2009 Policy overall could be a significant regression in protections for hundreds of thousands of affected people. In effect, the change in policy scope will eliminate access to critically needed mitigation measures for a broad range of people who lose access to their lands, homes and economic livelihoods because of ADB-supported project activities. These people will face the full gamut of potential human rights violations and risks associated with unmitigated displacement. In this regard, it is distressingly likely that displaced people excluded from coverage under the IR Policy will be left worse off then they were before ADB-supported project activities. This creates the unacceptable irony in which an institution with a public mandate to fight poverty will finance projects that create new impoverishment for thousands of already marginalized communities.

In looking forward, there are strategies that civil society and affected communities can make use of to help ensure the protection of their rights and livelihoods, to temper the effects of the reduction in scope. The ADB’s Compliance Review Panel is established to receive complaints directly from individuals and communities in ADB project areas and can be used to challenge the ADB’s limited protection for those displaced through non-land acquisition activities. Civil society may want to consider a series of “impact complaints” in which the Compliance Review Panel is placed in the position of either explicitly recognizing the failure of the ADB to protect persons who would have otherwise have been protected under the 1995 policy, or interpreting the 2009 Policy in an expansive manner.

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38 Id. at ¶ 152 & ¶ 166 (“It may be unrealistic to expect that the IR policy be brought back to a significantly more limited scope than currently applied in practice, so the scope of the original Policy could be somewhat extended. The new policy could then be renamed as the Land Acquisition and Involuntary Resettlement Policy, also covering, for instance, impacts of partial loss of access to land. More secondary adverse impacts of projects could then be addressed through a more specific social development strategy or social protection strategy. If a significantly more inclusive concept is endorsed, the new policy could perhaps be labeled the Social Safeguard Policy.”)

39 That said, created an entirely independent policy for managing economic displacement seems to be entirely unnecessary. While doing would eliminate confusion, the more effective strategy would be to educate the executing agencies of the borrower/clients on the latest understanding of displacement theory and poverty reduction strategies. This would have a series of positive results beyond eliminating confusions of terms, most obviously by empowering the executing agency to apply better poverty reduction strategies across its body of work. Why this obvious solution was not recommended is not quite clear.

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40 The problems with such a strategy are legion. Beyond the inefficiencies of execution and the limited scope of the remedy, even if it were victorious, the Compliance Review Panel’s decisions are non-binding to other ongoing projects. Nevertheless, it would place the ADB in a position of having inconsistent application of its policies and might encourage institutional norm adopting behavior.

41 For example, displace-but-uncovered persons are entitled to a “management plan to restore the livelihood of affected persons to at least pre-project level or better,” under paragraph six of the IR safeguard requirements. The techniques for ensuring income restoration, if not improvement, are fairly well developed and are commonly utilized as key components for resettlement plans. Thus, failure for such a “management plan” to integrate specific measures to ensure that the affected person’s livelihoods are restored could easily be the basis for a complaint to the compliance review panel. However, it is important to note that it is unclear if failure to comply with the “management plan” would, in itself, could be the basis for such a claim.
Another approach would be for civil society to mobilize and advocate for the ADB to provide further detail on some of its protections through future revisions to the OM. Because the OM is binding upon the ADB, as opposed to the safeguard policy which is binding on the borrower/clients, positive changes to the OM could mean that the ADB-project officers could increase their roles as protectors of the displaced and guarantors of equitable development. This approach appears to have been applied in regards to the 1995 Policy, in which the brief and somewhat vague Policy was supplemented by a robust and evolving OM.

Finally, it is incumbent for the organizations and societies dedicated to protecting the human rights of the displaced to investigate local means of accessing justice. In a preventative sense, human rights organizations throughout Asia can take a more proactive stance in monitoring ADB projects and engaging the diverse array of stakeholders on development projects. This may require significant research into proposed projects and the approval process so their voices can be heard much earlier in the project design phase to minimize all forms of displacement. Alternatively, local courts may become the proper means for attempting to find restorative justice for persons unprotected by the 2009 Policies. While many countries in Asia have imperfect and inefficient legal systems, these imperfect options may be the only ones for those displaced, but not acknowledged by, the Asian Development Bank.
Gaps and Challenges of ADB’s Policy on Gender and Development

Tea Soentoro

Though ADB adopted a revised policy on Gender and Development (GAD) that requires gender considerations in all ADB operations, still many Asian women suffer from forced displacement, loss of livelihoods and increased gender injustices due to ADB funded projects in their areas. This article contests GAD in its framework and gaps at the policy level and implementation, and calls for a comprehensive approach to consider more carefully the existing gender injustices.

The need of a policy that protect women from project impacts and risks

Any development activity will change the environment and living environment of people economically, socially, politically and culturally. Therefore, policies are created to avoid adverse impacts of project to people –women and men-- and their living environment. The project impact and risk should be looked differently between women and men. Gender role and responsibilities cause different experiences of women and men in encountering changes in their living environment though they face the same problem. Tsunami affected women experienced different problems compared to men: experiences of female survivors of tsunami in Aceh, Indonesia, showed that because women were not involved in the decision making in the camps and reconstruction efforts, their daily needs with respect to sanitation (particularly safe and separate bathrooms and toilets), kitchen and the utensil, under wares, healthy food particularly for breastfeeding mothers were not enough considered. They faced an increased burden as they had to work in camps and barracks to take care of everyone. Impoverishment due to forced displacement by Highway One Project in Cambodia, as another example, increased the double burden for women. It also caused heavier workload for women, more school drop-outs of girls, increased domestic violence, and many other forms on increased gender injustices.

Women’s lives are part of their communities and societies, and are in an intact interaction with their environment. Indigenous women are related to their forest and other natural resources, it is their livelihood where upon their lives depend and they manage it sustainably. Rural women rely on water from rivers, lakes and wells, and their agricultural or farming lands. Rural women in the coastal areas are very much dependent on the marine environment as their source of living. Urban women’s lives are also related to rivers, lakes, and wells, and their health is affected if the quality of air that they breath and water that they drink degrades due to pollution. Drought due to climate change will not only affect indigenous and rural women, but also urban women as clean water is more difficult to get. Changes in women’s social and living environment due to a project will affect their lives – direct and indirectly. A hydropower project that changes the landscape of rivers and water catchment areas will change women’s lives as it causes loss of their sources of living and also many times their shelters. The same may happen with a mining project that leads to deforestation and change in the nature environment. Water privatization policy affected not only rural women and made them now have limited access to the privatized water sources, but also urban women as the price of water for drinking and other daily needs rocketed. Impoverishment due to loss of sources for living or forced displacement will force women to look for work outside home mostly as cheap farming or industrial labor or in the entertainment industries; loss of access of water caused women to walk longer to fetch water. When women’s health, particularly their reproductive health, is affected due to lack of clean water or of industrial pollution, their or other female members of the family’s workload increase. Furthermore, disease and sickness in the family increase women’s work because taking care of the family is part of their gender responsibility.

On the other hand women’s lives are socially constructed with particular roles and responsibilities.
that place women in the domestic sphere: taking care of the household of the children, husband, and of the sick members of the family. If the family income is not enough anymore, women will go for work outside home mostly as cheap labor in the neighbor farmlands, or to the local industries, or selling food and cookies. Their labor is cheaper than male labor because women’s work is considered cheap; selling food or cookies is something related with their skills at home. Furthermore, this social construction is manifested in a role model of ‘a good woman is a good wife and mother’ that women are educated to play since thousands of years: do everything and responsible for everyone – when children fail in the school, mothers will be blamed; when the son or daughter becomes drugs addict, also mothers will be blamed although in the developing countries many times fathers who are the one introducing alcohol and smoking at home; when husbands look at other women or take another wives or mistresses, women will be blamed too as not capable to take care of the husbands. There is an Indonesian phrase saying “the progress of the nation lies on women’s hands”. It is not a tribute to women but a symbolic order that oppresses women and forces them into such model, and moreover, we know exactly that the decision makers of the Indonesian nation are not women. Indeed this gender role is changing due to impoverishment, development and modernization. The experience of indigenous and rural women going to cities and to find job, or of women going abroad to work as (mostly domestic) migrant workers in other countries will not leave them unaffected. When they return home they won’t oblige the same existing house/community norms anymore. They will pursue more freedom to move and make decision, also start to be more articulated in the family and community. However, this is not to say that impoverishment and seeking work outside the domestic sphere will free women from gender injustices in the family and society. The freedom from household work of the family pushes many women to be trapped in other forms of gender injustices such as discrimination in the work place, violence and exploitation. There are many stories of many female migrant workers from countries like Indonesia, Philippines, Sri Lanka, Bangladesh who are over-worked, sexual harassed and abused by the employees and their male family members.

However, although many women now go to public sphere for work and take part in political decisions in the family and community, they still face the double burden of working and taking care of the household to be considered as a “good woman”. The same is not expected from men. Many men will feel abased if they do household work such as wash clothes, cook and clean the house. In developing countries and particularly in traditional societies this paradigm is continuously strong.

Gender injustices derived from this social construction such as discrimination, violence, stereotype, double burden, sub-ordination and marginalization, are embedded in many societies in developing countries. Impoverished family will mostly take out their daughter from school instead of boys with reasons that girls can help in the household and take care of the siblings, or marry soon –many forced marriage are resulted from this situation. Girls with no education will easier face exploitation and sexual violence.

Gender policy is a policy that acknowledges gender as a social constructed paradigm for women and men existing in the society. It furthermore acknowledges that this social construction brings inequality to women in the sense that gender blocks the access of women to particular sectors that determine their lives such as education, health, income and decision making. This liberal framework that is used by the IFIs will call for provision of access for women mainly to education, health, income and decision making.

However, women’s oppression is not only about inequality, moreover about injustices regarding power relationship between men and women, state and people. Therefore, gender policy should have a comprehensive approach by looking more than the access issues, but also to those power relations that provide roots of women’s subordinations.

**ADB’s Policy on Gender and Development – in its own words**

In 1985 ADB adopted a Policy on the Role of Women in Development (WID) that emphasized

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1 A terminology used by postmodern feminists to describe the dominant sign, role model, ritual, or language in the society that is used to maintain the status quo. See Alison M. Jaggar/Paula R. Rothenberg, *Feminist Frameworks, Alternative theoretical accounts of the relation between men and women*, 1993

2 ibid for further reading on liberal feminist framework
Focus Asien No. 34: Current Trends of ADB

women as a special target group in implementing a range of activities within its regular operational program. It recognized that there is a need to improve the status of women and to promote their potential roles in development; investments in women now also are recognized as crucial to achieving sustainable development. Economic analyses recognize that low levels of education and training, poor health and nutritional status, and limited access to resources not only depress women's quality of life, but also limit productivity and hinder economic efficiency and growth. Thus policy was developed within the economic paradigm and not from a genuine Überzeugung, to improve women’s lives.

As the approach of WID was considered out of date in responding to the significant changes in the Asia-Pacific region, in the field of women and development, in the issues and concerns of women and in ADB itself, ADB revised this policy. Which changes and new issues for example?

In May 1998 ADB approved a revised policy on ‘Gender and Development’ that (i) provide the appropriate policy framework for the new approaches and practices, (ii) place direct emphasis on gender mainstreaming – what is gender mainstreaming – we add it?, (iii) formulate procedures for operationalizing gender in ADB projects to make it more explicit, assist in building more effective operational approaches, (iv) provide the scope for addressing some of the new and emerging issues for women in the region, and (v) introduce new institutional mechanisms for improving and increasing ADB’s performance and activities targeted at improving the status of women.

According to ADB, GAD is operationalized primarily by mainstreaming gender considerations in its macroeconomic and sector work, including policy dialogue, lending, and Technical Assistance operations. Increased attention given to addressing directly gender disparities, by designing a larger number of projects with GAD either as a primary or secondary objective in health, education, agriculture, natural resource management, and financial services, especially microcredit, while also ensuring that gender concerns are addressed in other ADB projects, including those in the infrastructure sector. More specifically, ADB provide assistance to DMCs in GAD policy support; capacity building; and awareness, formulation, and implementation of policies and programs directed at improving the status of women; (ii) facilitate gender analysis of proposed projects, including program and sector loans, and ensure that gender issues are considered at all appropriate stages of the project cycle, including identification, preparation, appraisal, implementation, and evaluation; (iii) assist its DMCs implementing commitments made at the Beijing World Conference on Women to achieve the targets set for women into the 21st century; (iv) explore opportunities to directly address some of the new and emerging issues for women in the region; and (v) promote increased GAD awareness within ADB through training workshops and seminars, development of suitable approaches, and staff guidelines to implement the revised policy on GAD.

ADB designed sectoral gender checklists to help its staff and consultants address gender issues in the preparation of projects in different sectors: on agriculture, education, health, resettlement, urban development and housing and water supply and sanitation. ADB also developed the Gender, Law and Policy Toolkit to help analyze issues related to gender, law and policy in proposed ADB projects. It is particularly useful in designing program and sector development loans, where law and policy reforms play an especially prominent role.

ADB also develops a gender action plan (GAP) as a tool to pull all elements for mainstreaming gender together in an ADB project. It identifies strategies, mechanisms and/or project components, and budget provisions for addressing gender concerns, and reports on how women are to be involved in the design, implementation and monitoring process. Key aspects of the GAP are incorporated into project assurances to encourage buy-in from executing agencies and other project partners. The GAP presents preparatory work undertaken to address gender issues in the project; special features included in the project design to address gender impacts, and facilitate and encourage women’s involvement and/or ensure tangible benefits to women; mechanisms to ensure implementation of the gender

4 Ibid page viii-viii
5 Ibid para 77, p. 38-39
6 Ibid para 79, p.39-40
7 http://www.adb.org/Gender/checklists.asp
Focus Asien No. 34: Current Trends of ADB

Gaps and challenges of GAD in implementation

GAD and all those related measures should provide access of women to measures in order to improve their status particularly with respect to health, education and income. However, gaps at the conceptual and implementation level still remain, and have caused many women to be negatively affected by ADB projects.

A workshop organized by an Indonesian women’s group Solidaritas Perempuan during the 42nd ADB Annual Governors Meeting (AGM) in Bali on May 3, 2009 discussed women’s experiences in ADB funded projects in various countries. Participants of the workshop were of the opinion that many ADB projects failed to meet the requirements of GAD as reflected from experiences shared by some women. Findings of a gender study by members of NGO Forum on ADB on Highway One Project in Cambodia showed that this project triggered an impoverishment and displacement of two communities; and increased and multiplied gender injustices such as: increasing double burden due to longer walk to look for water, firewood, grass for their animal and other food sources; many girls were dropped out from schools because the impoverishment of the families; more domestic violence because distressed husband due to impoverishment liked to beaten up their wives; lost of women’s income and many of them are now in debt-trap, because while waiting for the very late and incomplete cash compensation, the communities had to borrow money for their survival from the local creditor; many young women had to go to cities to work as beer sellers and other services in entertainment industries. As women were not involved in decision making at project design stage, as an example, they faced some difficulties when they moved to their new shelters such as lack of toilets and clean water. This was very crucial. Women need clean water especially during their menstruation period and also after giving birth. In many poor developing countries lack of access to clean water have implications to women’s reproductive hygiene not only leading to female and infant mortality, higher burden to women, but also a social blame if the husband looks for another women. These issues are usually not considered if only men are involved in discussions about shelter.

Women in the area of the Southern Transport Development Project in Sri Lanka complained that floods caused by the project ruined their farm lands; submerged some houses in water, led some others to collapse; damaged wells and their kitchens, and washed away all their kitchen utensils. In Kyrgyzstan, monitoring reports on a water project funded by ADB revealed that many women complained about back pains brought about by having to walk longer with heavy buckets fetching water.

Those experiences shared by women in the workshop and monitoring reports showed that despite GAD many projects fail to address the special concerns of women, and instead the existing gender injustices increased and multiplied.

Power relations

The women’s situation in Asia and all over the world is determined by the power relation between men

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9 http://www.adb.org/gender/forum.asp
10 Tea Soentoro/Wahidah Rustam, Are we on the same page? -A critical look to ADB Gender and Development Policy from women*s experiences - A gender workshop hosted by Solidaritas Perempuan during 42nd ADB AGM Bali, May 3, 2009
12 As reported by Anatalia Dautalieve, Taza Abigat, 2007.
and women, as well as between state and people. Many Asian governments impose forcedly through military and bureaucratic power oppressive policies and rules to accommodate interests of their national political and economical elite groups as well as international financiers: forced displacement, expropriation of land and natural resources, privatization of public sector, are some of the examples. Impoverishment caused by those policies increased and multiplied existing gender injustices.

ADB intervenes into this situation or context with its projects and activities while using the Gender and Development Policy. Therefore, it is important to challenge whether ADB projects reduce existing gender injustices or maintain, strengthen or multiply forms of existing gender injustices. Unfortunately, many experiences showed that women are negatively affected by ADB projects – so the questions are: (a) it is because the concept of ADB’s policy on Gender and Development is not addressing the real situation of women embraced by existing gender injustices due to the patriarchal power relation of men and women, state and people; and/or (b) it is because the ADB gender policy is not implemented as required? GAD needs to be looked at two levels – the concept itself and the implementation, to answer those questions.

The premise of GAD and similar policies of other IFI is based on the liberal framework of equality according to which everyone is born equal, only different opportunities in lives give them different status. Access to various opportunities such as education, health, employment, decision making, is the main problem to achieve equality.

Gender is the cause that women and men have different opportunities in their lives: boys have more opportunities to get higher education because they are perceived as the bread-winners of the families by getting income in the public sphere. Making decision in the communities is not a women’s job because her place is at home. Gender equality according to the above mentioned framework can be achieved by creating law and policies that guarantee equal opportunities for women to overcome the gender inequalities. Gender mainstreaming, affirmative actions are examples of policies to achieve gender equality.

A closer look closer to GAD\textsuperscript{13} shows that it doesn’t provide clarity in some basic issues, for examples:

- women’s subordination is understood as due to the sex/gender only, but it doesn’t perceive other roots or causes of existing women’s subordination such as class, race, ethnicity, religion, poverty, etc.; a woman is not a homogenous category but has a multi-identities of origin, class, race, religion, political background, etc. depending on her locality; therefore, intersectional approach is needed to understand a woman’s condition;
- the strategy is based on a consideration to social justice and gender equity without any explanation and elaboration of those two terminologies nor including the notion of gender justice;
- the improvement of the status of women is mentioned without any information about the baseline of GAD’s understanding of the status of women;
- the new policy is supposed to increase the numbers of projects directly benefiting women. However, the understanding about benefit is unclear: is it monetary, the quality of lives, the elimination of gender injustices?
- there is a lack in GAD in regards of consideration to power relation between men and women; also regarding existing gender injustices and no elaboration or clarity on the meaning of measures to achieve equal opportunity for women and men; there is no clear definition on gender disparities.

Those unclear basic definitions in GAD are significant because they provide the basis and goal to be achieved, and ignoring them will lead GAD failing to address the real situation of women.

Moreover, GAD sees women as an economic development target only, but not a subject of the development itself, who has the right to determine on how development should be. GAD of ADB is not the only one on this line. The World Bank’s Strategy for Action released in 2002 is to integrate gender concerns into the WB’s work. This strategy has a similar liberal approach as the GAD by looking at gender equality as an issue of development.

\textsuperscript{13} ADB, Gender and Development at 
effectiveness, so access to economic opportunities is the key in this strategy.\textsuperscript{14}

It is not contested that gender based inequalities are the causes of gender injustices. However, gender is not the solely cause of women’s oppression and subordination. There are also other causes that are not addressed by the liberal framework such as sexuality\textsuperscript{15}, class, race, religion, nationality, religion, political believes, poverty, etcetera, that intertwined oppress women. Only addressing the women’s inequality will not automatically addressing gender injustices and free women from oppression. GAD with this liberal framework cannot properly touch other causes of gender injustices.

The following example shows the interconnection of subordinations that reiterates the needs to have a holistic approach:

The Madrasah Education Development Project (MEDP) in Indonesia funded by ADB is an example of how a project aiming to improve women’s access to education only strengthened the oppression of women because it didn’t analyze the existing gender injustices, in this case particularly the control of women’s sexuality manifested in the Madrasah education system. Madrasah is an Islamic school mostly for poor people in the rural areas in Indonesia. The project was approved by ADB with USD 50 million in December 2006, and, before that with three Technical Assistance grants amounting around USD 2.1 million\textsuperscript{16} for madrasahs in 27 poor districts of Central Java, East Java, and South Sulawesi provinces. The project claims to benefit 120,000 students in 500 madrasahs\textsuperscript{17}.

A Gender Action Plan was also developed\textsuperscript{18} that mainly looking at the access issues such as number of female students, female teachers, participation of female students in madrasah school committees. There is no social and gender analysis on gender biased madrasah’s curriculum and teachings in the Gender Action Plan.

This project is being criticized by Solidaritas Perempuan, a feminist organization in Indonesia. Solidaritas Perempuan urges the ADB to hold the MEDP and do a social analysis by Islam fundamentalism gender experts before continuing it. Findings from their research in South Sulawesi province showed that this madrasah project will increase gender injustices\textsuperscript{19}: the existing madrasah’s curriculum stereotypes women as dirty because of their menstruation; discriminates opportunities for girls to practice the ‘khitabah’ (speech) skills as the boys will go every Friday to mosques in the villages for practice but girls only during the fasting months; gender segregation classes where the are girls only taught by particular teachers (female teachers and married male teachers) and boys by all teachers; madrasah is perceived as a place to educate women’s moral so that they will not become a source of immorality, imparting values of absolute domestic tasks of keeping the household and taking care of the family; female students are obliged to wear the head scarf (jilbab) and many school books show the bad behaviour of women not wearing the jilbab; women are systematically stereotyped through teaching books that domesticate women; women are prescribed not as decision makers but men. Furthermore, mostly management of madrasahs is male dominated. All of this is clearly not in compliance with the GAD in general and particularly not with ADB’s Gender Checklist on Education that requires a non-biased school curriculum.

\textbf{Negligence of women in projects that are not specifically designed for women}

Gender considerations in ADB operations along the line with the liberal framework address issues related more to access. This approach is perceived as capable to provide equal opportunities for women such as access to education and health, services,


\textsuperscript{15}Sexuality is a sexual construction of the body that encompasses the spiritual, social, moral and imaginary domain of women’s lives, used by patriarchy to control women’s body, mind, work, and products. For further reading among others: APWLD, Talking about Taboo, Asia-Pacific Women reflect on Issues of Sexuality, a summary report of study workshop on Sexuality and Violence Against Women, 2004.; Geetenjali Misra, Radhika Chandiramani (ed.) Sexuality, gender and Rights, Exploring Theory and Practice in South and Southeast Asia, SAGE Publication, New Delhi 2005.

\textsuperscript{16}http://www.adb.org/Projects/project.asp?id=37475

\textsuperscript{17}http://www.adb.org/Documents/RRPs/INO/37475-INO-RRP.pdf

\textsuperscript{18}http://www.adb.org/Documents/RRPs/INO/37475-INO-RRP.pdf #page=68

\textsuperscript{19}Andy Cipta Asmawati, Solidaritas Perempuan, Factsheet , ADB’s Madrasah Education Development Project, July 2009.
resources, assets and decision making. Accordingly, the gender considerations are more reflected in projects specifically addressed to women.

It is important to look at projects that are not specifically designed for women, not only because of their overweighed numbers but also their implications to women. Experience of affected – indigenous and non indigenous- women in various countries showed increasing and multiplying gender injustices due to forced displacement, loss of livelihood and environmental problems. It is because GAD doesn’t provide protection for women from project adverse impacts and risks. On the other hand there was lack of gender considerations in the old safeguard policies on Environment, Involuntary Resettlement and Indigenous Peoples \(^{20}\). The old safeguard policies didn’t require gender impacts and risks assessment as a part of environmental impacts assessment, nor did they differentiate gender impacts assessment from social impact assessment. Under the patriarchic paradigm of decision makers in ADB and developing countries a gender impact assessment is not automatically part of social impact assessments. Furthermore, women are not differentiated from people or persons under the definition of project affected people or affected person in the old and new safeguard policy. This clearly shows the gender blindness of ADB which leads to the fact that ADB is not aware about the realities of women: due to the gender role that prescribes women not to be part of decision making in family and public; land title and other ownership document, compensation lists are not in women’s names, to name some examples. Not to differentiate will trigger a risk that women will be left out from any benefit from the project.

It is a good development that the new Safeguard Policy on Environment, Involuntary Resettlement and Indigenous Peoples filled the gap between GAD and SPS by making a reference to GAD and stronger gender considerations in regards to explicitly requiring gender sensitive and responsive application of the safeguard policy: protection for women from project adverse impacts, provide measures for women’s involvement in the decision making and gender responsive local grievance mechanism \(^{21}\).

Critiques, input and recommendations from members of the NGO Forum on ADB had contributed to this improved gender language in the new safeguard policy\(^{22}\).

Henceforth, after more than 10 years in place GAD and its OM should be revised by reflecting this new development in the SPS particularly a reference to the new Safeguard Policy and by including languages of protection for women from project adverse impacts and risk in the environmental impact assessment, and differentiation of women from project affected people or project affected persons.

### Development financing – what it needs to pay attention at?

Gender injustices in its manifestation such as discrimination, violence, stereotype, double burden, sub-ordination and marginalization existing in the developing countries, are based among others on gender, sexuality, class, caste, race, religion, nationality, political status. It is a key that development financing considers these issues from the beginning of its projects. Those gender injustices have their own dynamic and can be changed through various means such as women’s gathering for awareness raising, popular education on women's rights, involvement in a project, and many other possible activities.

Gender equality can be achieved if gender injustices are removed from women’s lives. Addressing one cause only won’t be helpful in empowering women. On the contrary, it could bring another injustice to

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them. For example, creation an income generating program is useful for rural women because they will have the primary or additional income to support their family However, without any awareness raising about gender and gender injustices to women and their family, the women will end up in a situation of increased double burden doing the household without any help from the husbands after finishing the programme. Or they still cannot decide on the use of the income because the decision on that in their perception is in the hand of husbands as the head of the household. The above mentioned example on the madrasah project has shown that addressing the lack of access for women to education is not sufficient without addressing gender biased perception of the madrasah teaching. Moreover, it will only strengthen the domestication of women.

Women’s experiences reiterate that any development financing needs to register and consider existing gender injustices in their project areas. Moreover, specific measures need to be developed particularly for projects that are not designed for women. This can be for example decision making in project planning, provision of information designed for women’s readers or the non-literate particularly related to project impacts and risks. Space also needs to be provided for gender sensitive and responsive grievance mechanism. Project benefit should be not only monetary but also in terms of empowerment and removal (or reduction of the level of) gender injustices. Considering those issues will make the development financing address the realities of women and not increase and multiply the existing gender injustices.

Conclusion

The realities of women in Asia (and might be also in other developing countries) are marked by patriarchy power relation between men and women on one hand, and between state and people on the other hand. Any development financing that doesn’t consider this reality will end up by increasing existing gender injustices. The liberal framework as adopted by the gender policy of the IFIs is not enough to address this reality because lack of access and opportunities are not the only causes of women’s oppression. Intertwined is women’s sexuality, class, caste, race, ethnicity, religion, political believes are among others also causes of women’s oppression and subordination that need to be addressed if the IFIs, particularly ADB and its GAD in this case, seriously aim to achieve genuine women’s empowerment and improvement of status of women. The question is if an institution like the ADB is interested in this kind of empowerment and real change of women’s situation as it itself is reconfirming the current power structures.
Hidden Impacts?

The Asian Development Bank’s Clean Energy Private Equity Funds

Stephanie Fried, Ph.D.

“There seems to be no regular internal ADB assessment, reporting, or focused management of reputational, environmental, or other nonfinancial risks [for Private Equity Funds (PEFs)]. This issue is particularly important at the investee level where any problems such as environmental damage, child labor, or other forms of corporate misconduct, are most likely to occur. It is highly unlikely that a PEF manager will engage in activities such as employing underage workers in its Hong Kong, China fund management office. However, ADB should consider that it is conceivable an investee company in which a fund invests might do so. If such corporate misconduct were to come to the public’s notice through an event such as a widespread product safety issue arising at an investee that was uncovered by a nongovernment organization (NGO), the press, or by regulators, it could damage ADB’s reputation.”


The Asian Development Bank (ADB) has made a public commitment to support measures to alleviate and avoid the impacts of climate change. This is a vitally important step, given that vulnerable ecosystems and the poor are among the most deeply affected by the growing climate change crisis.

Developing economies determined to take low-carbon pathways and those trying to cope with increasingly deadly climate change impacts need urgent assistance. Unfortunately, the ADB appears to be using the climate crisis to fund offshore financial operations which sidestep the bank’s own safeguard policies and finance potentially damaging projects. Hidden from public scrutiny, these offshore funds are designed to mobilize substantial resources for projects including those with potentially significant negative climate impacts, including palm oil plantations, coal projects and incinerators.

In April 2008, the Board of the ADB voted to approve commitments of up to $100 million for a group of five new “clean energy” private equity funds for “60 - 80 clean energy projects” by 2014.1 According to the ADB President’s report, “The funds will provide management advice to companies in […] environmental and social issues, and international best practices in corporate governance, thus raising the quality of individual companies.”2

The President informed the Board that the ADB’s investment will be extremely helpful to the funds in further fund-raising. Indeed, ADB’s demonstrated interest has already catalyzed interest from other investors. With ADB’s investment, the funds will be eligible for financing from the Asia Pacific Carbon Fund, CEFPF [Clean Energy Financing Program Facility], and the Seed Capital Assistance Facility (SCAF) […]. Without the ADB’s investment, the funds will not have such access.”3

Due diligence for risky investments

In the midst of the global financial crisis, during the international push for the “re-regulation” of financial architecture and an increase in transparency measures, the ADB had initially proposed the further deregulation of risky investments. This was evident from the ADB’s October 2008 “Draft Safeguard Policy Statement” which initially called for the weakening of rules for “financial intermediaries”, including high risk PEFs, securitization funds and other alternative investments. The ADB’s proposal included the reduction -- by 50% -- of the amount of time required for public notice and comment on

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1 ADB, Report and Recommendation of the President to the Board of Directors, Proposed Equity Investment in Asian Clean Energy Private Equity Funds, Project Number 41922 March 2008. Performance indicators chart: “60 – 80 clean energy projects are funded by the clean energy funds by 2014”. Assumption: “The funds do not breach investment policy.”

2 ibid.

3 ibid, page 7
such investments. As a result of a massive international campaign led by NGOs associated with the NGO Forum on the ADB, the ADB was forced to withdraw the weakened language. Instead, the Bank issued a new set of policies which appear to at least maintain existing standards, and in some cases, surpass existing requirements in terms of consultation, gender issues, and certain rules for financial intermediaries.

The ADB has targeted PEFs as a key component of its private sector development strategy. It has invested in close to 40 PEFs which for the most part are domiciled in secrecy jurisdictions such as the Cayman Islands. The funds invest in an average of 10 companies each, yielding potentially 400 portfolio companies, all overseen by two junior staff. Approximately 50% of ADB-held funds have been approved since 2003 and there are plans for many more such investments, which will fall under the Bank’s new Safeguard Policy Statement, now that it has been approved.

The ADB’s Operations Evaluation Department (OED) found the yield of the Bank’s high risk funds to be an “unsatisfactory” 7.5%, about half of the Bank’s required rate of return. The OED sharply criticized the Bank’s “hands-off approach” to the funds which it found had unclear development impacts and “significant” post-approval departures from agreed upon investment concepts. OED decried the lack of risk mitigation measures and highlighted the Bank’s failure to obtain seats on fund investment committees, and the failure to use fund agreements to require “comprehensive business plans, opt-out clauses, and veto rights.” They found “very little monitoring of non-financial risks post investment approval” and concluded that, “once funding is committed, PSOD [Private Sector Operations Department] is largely dependent upon fund managers to achieve positive development and financial results by relying upon a combination of commercial incentives and a set of high-level investment restrictions that have little relationship with development objectives.” They noted that the practices of ADB’s Controller do “not comply with standard international procedures in the PEF industry” and concluded that the level of resources allocated to private equity “does not provide the focus and capacity to achieve acceptable levels of development and financial performance.”

### Environmental and Social Impacts?

Despite the fact that, in interviews, staff expressed concern that some of the funds could be used for hydropower projects which could have significant social and environmental impacts and which have also been found to be key sources of greenhouse gas emissions, the President’s report to the Board does not present analyses of the potential environmental and social aspects of each fund and instead groups all five “clean energy” funds together and classifies them as “financial intermediaries” in terms of environmental category (i.e. Category C) and as “Category B/C” for involuntary resettlement and indigenous peoples.

Given that the funds vary widely in nature, intent and level of manager experience, it is difficult to understand why each fund was not individually categorized in terms of potential impacts. The different structures of the PEFs can be seen in the following examples.

The China Clean Energy Capital fund was initially supported by the UK-based Virgin Group as its “anchor investor”. Virgin pulled out, leaving behind a group which “has no track record as a team.” The ADB responded by renegotiating the deal to allow the ADB to nominate an observer to the investment committee and required the fund to hire an “additional private equity professional for their team.” Given the known problems with the lack of

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4 ADB, Safeguard Policy Statement, 2nd Draft, October 2008; See also, ADB OM Section F1/BP, Operations Manual, Environmental Considerations in ADB Operations, 2003 which indicates that Financial Intermediary projects with insignificant environmental impacts are “generally microfinance projects”, pg 7.

5 Ibid, pg iii


7 Ibid pg iii, iv

8 OED Report, Appendix 5, pg 91

9 In category A fall loans for projects with potential for adverse environmental impacts. An environmental impact assessment (EIA) is required. In category B fall loans for projects judged to have some adverse environmental impacts. An initial environmental examination (IEE) is required. In category C fall projects unlikely to have adverse environmental impacts. For more information see: [http://www.adb.org/documents/guidelines/environmental_assessment/Environmental_Categorization.pdf](http://www.adb.org/documents/guidelines/environmental_assessment/Environmental_Categorization.pdf)

10 Ibid pg 9

11 Ibid, pg 10
ADB influence over private equity investment committees (and the detailed documentation by the International Finance Corporation (IFC), and elsewhere, about the need for such power), it is difficult to understand why ADB staff set as a goal mere observer status on this committee.

The Middle East and Asia Capital Partners Fund was established by the former manager of the Islamic Development Bank’s $730 million Global Infrastructure Fund and has as its “core investment strategy: to be a platform for accelerating investment flows between Gulf Cooperation Countries looking for large-scale energy projects and Asian countries looking for Middle Eastern funding.” 12 This fund includes “a veteran of the energy and chemicals business worldwide”, the former “chief engineer of the IMF for 16 years [who] most recently was an independent consultant in the energy, petrochemicals and bioethanol projects in the region.” According to the ADB, “the deals in their pipeline are geothermal projects in Indonesia […] small hydro and bio-ethanol projects in the region.”

The Korea-based Asia Clean Energy Fund is associated with the Korean Technology Investment Corporation (KTIC) and KPMG Korea/Samjong Investment Advisory (SIA). The former Deputy Director of the Korean Ministry of Commerce Industry and Energy serves on the fund’s investment committee. No evidence suggests that the ADB has a seat on this committee. In addition, there is no mention that the involvement of high-ranking former officials could be a trigger for relatively recent anti-money laundering (AML) statutes which require a heightened level of scrutiny for financial transactions involving prominent or “politically exposed” persons. 13 According to the ADB, KTIC has a track record of advising on “transactions in oil, gas, mining, infrastructure.” The “core strength” of this fund lies in “its extensive network of relationships both within the Republic of Korea and throughout Asia […] access to senior levels of government as well as top management executives of energy conglomerates and equipment manufacturing companies with which ACE will partner for deal identification, execution, project development, and exit.” 14 Planned investments include “palm oil plantation projects in South East Asia, a waste-to-energy project in Korea” and “bio-diesel companies in Korea and Indonesia.” SIA has advised on “transactions in energy, renewable energy, oil and gas, mining, and infrastructure” and “maintains deal sourcing offices in Central Asia, the PRC, India, Viet Nam, Cambodia, Laos and the rest of Southeast Asia.” 15

Another fund, the South Asia Clean Energy fund “has identified a number of potential early-stage deals including manufacturers and equipment providers for …biofuel projects,… small hydro turbines.” 16

A number of these proposed investments are likely to have significant environmental and social impacts. For example, Indonesian and Malaysian palm oil plantations are well known for the frequent association of plantation establishment with human rights violations, forced land seizures, significant impacts on indigenous peoples and devastating environmental impacts including forest fires and the draining of ecologically important peat swamps. ADB “micro-hydro” projects have been associated with and used to fund portions of massive hydropower operations with associated environmental and social impacts. 17 “Large scale energy projects” and “waste to energy” incinerator plants are often associated with large scale social, environmental and governance problems. Yet it is unclear to what extent potentially affected peoples would be provided with due process during the planning and implementation of such projects, or the extent to which the Board and the public would have the right to be informed or to comment on the projects.

### End Run Around Public Process?

According to ADB staff, the new clean energy funds are unusual in that ADB environmental requirements are detailed in the fund contract documents. It is extremely problematic that inserting environmental and social safeguard language into the body of a private equity fund contract should be viewed as “unusual” and raises the question of whether, if such safeguard language has not been

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12 Ibid pg 11
13 M. Spek, Financing Pulp Mills: An Appraisal of Risk Assessment and Safeguard Procedures, CIFOR, 2005
14 Ibid, pg 8
15 Ibid, pg 8
16 Ibid pg 10
17. See, for example, “Disguised attempt to fund large hydro projects: ADB’s Loan for Uttaranchal Power Sector, South Asia Network on Dams, Rivers and People, May 2006.
written into earlier private equity contracts, the absence of such language means that the ADB policy requirements for safeguard implementation do not apply to these funds. In the case of the “clean energy” funds, the language was inserted into the contracts apparently out of concern that the funds might be invested in power plants and hydropower development with potentially significant negative impacts on project-affected peoples. Under the guidelines set forth in the fund documents presented to the Board, however, fund managers would be responsible for determining if any of the projects carried out by their investee companies involve the infringement of indigenous peoples’ rights, involuntary resettlement or environmental damage.18

This would mean that, for example, a Seoul-based manager, for a fund domiciled, perhaps, in Ireland or Jersey, would need to learn if a company it invests in – say an Indonesian palm oil plantation – had any environmental problems or issues with indigenous peoples or resettlement issues. Most likely this would be done by simply asking the Indonesian company for this information. If the company admitted to that there was any impact on, say, indigenous peoples (not a likely admission for an Indonesian palm oil company), the investee company would then be in charge of drafting indigenous peoples’ and resettlement plans. There is little in the descriptions of these funds and nothing in the description of potential investee companies to indicate competence or experience in assessing, avoiding or mitigating such impacts.

Transfer of authority from ADB to fund managers?

It would be difficult to imagine the ADB investing directly in an Indonesian palm oil company without substantial independent public review of environmental and social impacts, which well could lead to a decision to reject the proposed investment.

The IFC, for example, provided funding for the Wilmar palm oil company and has, as a result, faced lengthy and complex complaints filed by community groups and international NGOs with the IFC Ombudsman regarding environmental and human rights violations associated with the company’s Indonesian operations. It would be difficult to find an Indonesian palm oil company certified for “sustainable palm oil” production under the international Roundtable on Sustainable Palm Oil standards. The use of private equity funds to invest in Indonesian palm oil plantations — as just one example — would appear to represent an end-run around full and open public scrutiny of such controversial public investments. Reflecting a startling transfer of authority from the ADB to private sector fund managers, the terms of the “clean energy” contracts place responsibility on the fund manager and not the ADB to ascertain whether an investee company has substantial environmental and social impacts and whether their operations trigger a “Category A” review process for environmental impacts.

The contract language requires that each fund has a “social and environmental manager” (SEM)19 who is “responsible for screening investments in portfolio companies for environmental and social impact” and who must prepare an annual report for the ADB on environmental and social management for each portfolio company and identify “any area of noncompliance with environmental and social policies.”20 The funds are required to “adopt a social safeguard framework consistent with the safeguard policy principles and requirements of the ADB” and to design an Environmental Management System. We note that a requirement of being “consistent” with safeguard policy is weaker than a requirement for implementing the policy. The fund manager must classify the environmental impacts and “if a fund manager determines that a potential portfolio company conducts its business in a way that could have adverse environmental impact (and is therefore classified as a category A project or a category B project pursuant to ADB’s environment policy), the fund shall comply with the procedures described in ADB’s environment policy, including the preparation, disclosure, and approval by the ADB (in each case, where required) of an environmental

18 ADB, Report and Recommendation of the President to the Board of Directors, Proposed Equity Investment in Asian Clean Energy Private Equity Funds, Project Number 41922 March 2008, Appendix 7. According to the Report: “None of the funds’ investments are foreseen to lead to involuntary settlement [sic]. But the funds will adopt a resettlement framework that defines the policies, procedures, roles, and responsibilities of the funds for screening and managing any involuntary resettlement by portfolio companies. Likewise no investments by the funds are expected to affect indigenous peoples. The funds will not invest in activities falling within ADB’s list of exclusions.” page 11

19 Ibid, pg 27

20 Ibid, pg 27
impact assessment in the case of category A or initial environmental examination in the case of Category B.” 21

What is striking here, is that it is up to the fund manager – and not the ADB – to determine whether a company would have a Category A impact. This sets up an inherent conflict of interest where, given the incentive structure of management fees (based on percentage of assets under management), it is obviously in the fund manager’s personal interest to avoid labeling companies as having significant environmental or social impacts. The contract also requires that, “before making any investment…the fund manager shall itself ascertain that the portfolio company is in compliance with applicable environmental laws and regulations and has no claims pending against it in connection with an environmental liability” …and that “the fund manager shall ensure that each portfolio company follows environmental health and safety processes and procedures consistent with internationally recognized practices and national and local labor laws and regulations.”22 These are laudable goals. However, there is nothing in the ADB track record to suggest that private equity fund managers have ever taken these steps. Full public transparency – including web posting – of such documentation would be one step towards proof of compliance.

Suggestions, not Requirements

The contract lays out “guiding principles” which are “suggested for implementation of environmental policies by the portfolio companies financed by each fund” and which include a prohibition on “any construction on intensively inhabited land or on ecologically or socially sensitive areas, such as cultural sites and swamp forests.” The use of the term “construction” raises the question of whether the establishment of palm oil plantations on peat swamps would be considered “construction.”23 In addition, the question of why the ADB would not insist that their rules and standards be implemented instead of “suggesting” “guiding principles …for implementation” is of substantial concern. This language does not appear to be a legally binding prohibition against construction activities or palm oil plantation establishment in a peat swamp, for example, but merely a “suggestion.”

The guidelines also “suggest” that the funds “ensure that the project contractors will fully comply with the environmental management principles consistent with ADB policies and applicable rules and regulations of the national and local governments” and that they “implement an appropriate public information program related to the portfolio company’s environmental management activities.”24 They also “suggest” that “each fund manager will ensure that the activities financed by its portfolio companies are conducted in accordance with ADB’s social safeguard policies, and applicable national and local laws and regulations governing land acquisition, compensation, involuntary resettlement, and indigenous peoples and ethnic minorities. The portfolio companies will also follow internationally recognized labor practices consistent with national labor laws and regulations.”25 The term “consistent with” is weaker than a simple requirement that they comply with national laws. Again a “suggestion” is vastly different than a requirement.

The ADB states that the objectives of managing involuntary resettlement impact are to “avoid involuntary resettlement where feasible” and to “avoid negative impact on [ethnic minorities and indigenous peoples] where possible”.26 There is no discussion to illuminate why the weaker term “feasible” was chosen for the avoidance of resettlement instead of the stronger “avoid where possible” as for impacts on indigenous peoples. It is well known that hydropower and palm oil plantation projects often involve forced resettlement and this use of weak language for resettlement is alarming. The disclosure terms written into the contract are far weaker than standard ADB disclosure terms and it remains to be seen if funds (and ADB staff) will claim the terms of the contract trump ADB’s disclosure requirements. The “consultation and disclosure” section states that draft resettlement plans and indigenous peoples’ plans will be “made available to the affected persons before implementation” yet the minimum length of the public comment period is not specified.27 By contrast, ADB safeguard rules require

21 Ibid, pg 27, 28
22 Ibid, pg 28
23 Ibid, pg 28
24 Ibid, pg 28
25 Ibid, pg 29
26 Ibid, pg 29
27 Ibid, pg 30
a 120 day public consultation period on all environmental impact plans.

According to the OED, one of the weaknesses in ADB fund management is the failure to exercise decision-making authority over the funds. As anchor investors who provide a “seal of good housekeeping” which attracts other investors, it should not prove difficult for the ADB to take a more active role. The OED claims that “fund managers and other investors appreciate ADB’s strong attention to environmental and social safeguards and to corporate governance. ADB’s involvement in environmental, social, and governance issues reduces the risk to the funds’ reputation and creates confidence in locally managed funds.”

Reduced risk leads to higher returns and higher fees, yet the Bank while lending its good name to these funds – has not taken important steps to guarantee that safeguards – which are so valuable to reputational risk – will actually be enforced. Unfortunately, for example, even in these newest of funds where the ADB has specified “suggestions” for social and environmental safeguards, the bank has not required that it be a voting member on the funds’ investment committees. It has only sought a seat on the funds’ advisory boards. The ADB has stated that it will merely “seek observer representation on the funds’ investment committees”. This appears to indicate that not only has the bank not sought voting rights on the powerful investment committees, it apparently does not even have a guarantee of observer representation on the investment committees. Instead, in the President’s report to the Board celebrates the presence of politically exposed persons on investment committees.

Conclusion

It is likely that controversial, environmentally damaging and socially destructive projects will be carried out by portfolio companies held under the new “clean energy” funds, yet the ADB is proposing primarily a weak set of “suggested” safeguards for these investments, does not appear to sit on the investment committees of the funds and thus – despite serving as a “seal of good housekeeping” used to attract other investors – lacks influence over the portfolio companies held by the funds. There is no clear list of investee companies nor any opportunity for public comment on the companies prior to their approval. Despite the poor track record of palm oil plantations, concerns about environmental and social impacts of hydropower and incinerator projects, there is an extraordinary lack of public notice and bank oversight. The “hands off” approach to risky investments, pioneered on Wall Street, is the current hallmark of the Bank’s alternative investment operations.


30 i.e. Ibid, pg 8, “This access [to senior levels of government] is also reflected in ACE’s investment committee which includes the former deputy director of the Ministry of Commerce, Industry and Energy of the Republic of Korea and the president of the Korean Institute of Energy and Resources Technology Evaluation and Planning”.

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28 Ibid, pg 7
29 Ibid, pg 7
Questioning ADB’s Loan to PALYJA

Nila Ardhianie

In August 2007, the ADB’s Board of Directors approved a loan facility to PALYJA (PT PAM Lyonnaise Jaya), a private water company in Jakarta, Indonesia. PALYJA has operated in Jakarta for more than ten years since they got the sole concession right to manage the piped water supply in the western part of Jakarta. PALYJA shares are owned by some of the world-class companies such as SUEZ Environment and Citigroup. Suez, a provider of electricity, natural gas, energy, water and waste management in many places around the world, owns 51% of PALYJA’s shares, followed by Astratel at 30% and Citigroup at 19%.

PALYJA’s involvement in the Jakarta water sector started in 1998 when they signed a concession contract with PAM Jaya, a water company owned by the DKI Jakarta province. Since then, PALYJA has been handling all aspects of the water system delivery in Jakarta, including the design, construction, refurbishment, operation of water supply system, technical and quality control, human resources and training, financing of new networks, and billing and collection.

The loan of IDR 455 billion (approx. USD 50 million) for the “West Jakarta Water Supply Development Project” was intended to be used for PALYJA’s capital expenditure program during the remaining third five-year period of the concession from 2008-2012. PALYJA had actually approached ADB since December 2006. Continued in March 2007, PALYJA confirmed its interest in obtaining a long-term local currency loan facility from ADB. The focus of the project that is understood by ADB will be on improving service to existing consumers and extending service delivery to new customers by completing the production facility upgrade program that begun in 1998, reducing unaccounted water, and implementing new connections. With this loan, ADB will charge an interest rate to be determined according to procedures applicable to ADB local currency loans for private sector operations, as well as a commitment fee and a front-end fee.

The ADB loan is a continuation of many of PALYJA’s efforts to get third party money for the water works investments. On the same year they started their operations, PALYJA secured USD 61 million in credit facilities from the European Investment Bank and the Calyon Merchant Bank Asia. To pay for this loan, the company sought local investors’ money in 2005. They issued bonds on the Indonesian stock exchange market and got USD 66.5 million. The proceeds, as stated in their financial report, were used to pay their hard currency loan, working capital and capital expenditure. And in 2008, the company got a long-term loan facility from ADB. This project is one of ADB’s 16 active projects on private sector assistance in Indonesia which is active totally amount of USD 197.5 million.

These multiple financial engineering efforts initiated by PALYJA has clearly burdened the customers with higher tariffs as a result of the credit, bonds and loan charge interest which were calculated by PALYJA as operational cost in the tariff structure formula. As PALYJA secures more and more credit facilities, the more water charges there will be and the more customers would have to pay the tariff. Given this, the objective of the project loan which is to improve the affordability of water tariff in Jakarta, does not make sense. Even without the ADB’s loan burden, the water tariff in Jakarta is already among the highest in Southeast Asia; only water tariffs in Singapore and Hong Kong are higher.

Loan from ADB

The long-term ADB loan to PALYJA became effective on 18 March 2008. PALYJA and ADB then signed the facility agreement, which was later amended, on 22 May 2008. This loan facility is available to PALYJA up to 18 March 2012, with the minimal amount of each drawdown pegged at Rp 50 billion. On 5 June 2008, PALYJA made its first drawdown from the facility amounting to Rp 120 billion. The interest for this loan, which can be fixed or floating, would have to be paid quarterly while the principal payment would have to be made every six months, i.e., every January 3 and July 3. The first loan repayment will be due on 3 January 2013.
The Report and Recommendation of the President (RRP)\(^1\), mentions that the project will bring some development impacts. The main impact to be aimed is to meet the Millennium Development Goals (MDG), especially to reduce the proportion of people without access to safe drinking water (MDG 7). Other impacts will be providing affordable water supply especially for low-income households, complementing ADB public sector efforts to improve the legal framework in the water sector, making ADB possible to observe and raise issues with the government on key policy and regulatory challenges, and positive impact on the development of local capital markets.

However, based on a careful reading of the RRP, Amrta Institute found that the project’s planning is not as perfect as its analysis of development impacts. This can be seen from economic projection listed therein that was built on careless and hasty assumptions. For instance, the projection in the Economic analysis that there would be almost double in the volume of water consumed from 15.2 million m\(^3\) in 2008 to 27.8 million m\(^3\) in 2009 has been over-estimated. In PALYJA’s more than ten years of operation, there has never been any significant increase in the volume consumed. In fact, from 2002-2007, the yearly volume consumed has stagnated at 13 m\(^3\). Of course, in order to justify the project, the proponents had to be very optimistic about the increase in the volume of water consumed. This is also because ADB is having a big undertaking in the Citarum River consisting of at least 10 different projects that are aimed to increase the availability of bulk water for PALYJA. Jakarta’s raw water supply mostly comes from surface water, 80% of which comes from the Citarum River which is located east of Jakarta. So up until this report was prepared, there has not been any physical effort being done yet to improve the volume of bulk water for PALYJA.

These facts about the total volume of water consumed and the progress of the Citarum project are very interesting to note. Since the volume of water consumed is public data, it is very easy for ADB to obtain this. In addition, information about the progress of the Citarum project is even much easier for ADB to analyze since all the funds for the project, including grant, technical assistance and loan, come from ADB’s pocket.

The loan document itself clearly shows that ADB is more concerned about economic and financial returns rather than the provision of better services for the poor people of Jakarta who still do not have access to clean and healthy water. The RRP does not provide a detailed plan on how PALYJA will use the loan to help increase their services to the poor. Only one general sentence shows the project objective of servicing the poor as found on Appendix 8, page 64: "The project will directly benefit more than 66,000 households, with a high proportion coming from the lower income categories." This is in contrast to the many detailed paragraphs describing the projected financial rate of return as well as the detailed calculation of the cash to be generated by PALYJA that would cover their debt service ratio.

Another document, PALYJA’s annual Financial Statements, 2008 and 2007\(^2\), indirectly shows ADB’s misleading decision on giving the loan. It is mentioned there that in 2008, net cash provided by operating activities, around Rp. 164 million, is not adequate to pay bond and dividend worth around Rp. 194 million. Therefore, it is strongly possible the loan from ADB is used by PALYJA for paying bonds instead of investment as its supposed to be. Due to the status of this financial statements that is a public document, it’s hard for ADB to testify that they could not obtain it or failed to realize the mistake. Otherwise, the bank intentionally ignored it for the sake of financial return.

The fact that Jakarta’s water tariff is already the highest in Indonesia and in Southeast Asia (not including Singapore and Hongkong) does not seem to be a big issue needed to be resolved. Even ADB has not shown a fair understanding of the background of the delinked system between water tariff charged to customer and the revenue received by PALYJA (water charge). ADB seems to be concerned only about the benefits that PALYJA can get, without considering the impact of this system to the

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\(^2\) ibid. Appendix 8, p.64

consumers. This system, according to ADB, is to ensure the affordability of water to consumers from all socio-economic classes, to help balance the revenues between the two concessionaires in Jakarta (the other one who manages the eastern part of Jakarta is Aetra) and to allow government greater flexibility in the timing of tariff increase. These analyses might be true but we also wonder whether the system is there mainly to guarantee the private concessionaires’ interests. Because no matter what the consumers’ condition is, no matter what the government’s condition is, PALYJA will still get the water charge based on the indexation formula calculation stated in the cooperation agreement. The water charge formula itself is scheduled to be adjusted every semester to account for the fluctuations in some rates that are being used in the formula. This then leads to an increase in water charge every semester. Based on PALYJA’s financial statement in 2008, the water charge in January 2007 is Rp 6,222 which then increased to Rp 7,020 in July 2008, while the lowest water tariff is at Rp 1,020.

It is difficult to make a more detailed analysis of the project since the RRP does not contain some very important aspects of the project. The detailed financial projections for PALYJA that are provided in the appendices are not included in the RRP document downloaded from the ADB’s website. To extend the analysis, there is a need to demand these documents from ADB. In May 2009, Amrta Institute already asked the documents to the ADB’s Public Information and Disclosure Unit (InfUnit) but they refused to provide the documents. In an email from ADB’s senior public information & disclosure coordinator, ADB said that Appendix 10 is just a redacted version of Appendix 7 and Appendix 11 is the redacted version of Appendix 8, so actually only the Appendix 9 “Financial Projection” that is not disclose.

The reason why ADB cannot release the appendix 9 is because it is in accordance with the disclosure expectation found in paras 126.8 and 126.9 of ADB’s Public Communications Policy (PCP). Para. 126.8. Information provided to ADB by a party that, if disclosed would or would be likely to materially prejudice the commercial interests, financial interests and/or competitive position of such party. And para. 126.9. is on confidential business information.

This is an updated version of an article which can be found on BANKWATCH First Quarter, 2009 www.forum-adb.org.

Thanks to Transnational Institute, Global Greengrant Foundation and Grassroot Foundation for their support to our research on the Jakarta water privatization.

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Role of ADB in Central Asia and Caucasus
Mainstreaming Development or Alleviating Poverty?

Dr Avilash Roul and Maya Eralieva

There is hardly any region in the world which attracts historians, geographers, adventurers, travellers, writers, explorers and off lately the international financial institutions (IFIs) than Central Asia. Termed according to their befitting interest as the former Soviet Republics or Central Asian Republics (CARs), transition or developing economies, un-touched potential market or impoverished or landlocked countries, a strategic depth region, Greater Central Asia Strategy, all are eyeing to make use of these countries in their terms and conditions. Immediately after the dissolution of the former Soviet Union or after that, the IFIs rushed to rescue these countries from severe poverty, economic and social crisis, civil war and so on. In its own assessment of the region, the Asian Development Bank (ADB) says that ‘Central Asian Republics are ill-prepared for self-governance; there have been extensive needs for nation building and infrastructure development’. Is it really true?

The Central Asian countries seemingly look poor after the dissolution of the former Soviet Republic. Still opinions crop up in the rural areas of these poverty stricken countries that under the Soviet era people enjoyed much more freedom and development than now. Fact remains that the Central Asia and Caucasus countries are independent and struggle to develop like other nations. After the power vacuum left by the Soviet, development institutions led by the World Bank Group, the International Monetary Fund (IMF), the European Bank for Reconstruction and Development (EBRD), ADB, Islamic Development Bank (IDB), United Nations Development Programme (UNDP) with battery of bilateral agencies (European Union, Germany, Japan, Switzerland, United Kingdom, and United States) have been increasing their competition to capture the sentiments of the leaders of the country instead of reducing poverty. The IFIs’ rush to Central Asia and Caucasus (CA&C) has many connotations. The world found a market after the immediate dissolution of the Soviet Union which had been insulated from the outside world for many decades. The IFIs are the mere instrument of that market driven strategy. Another quite clandestine opinion rounding the corner is that the Western world is trying to reach the closest boarder of the present day Russian Federation on the shoulders of these IFIs by means of development provided by the western world and profoundly grabbed by most Asian pundits. This school of thoughts also believes that if the NATO’s Partnership for Peace (PIP) couldn’t achieve in shorter term, these IFIs can achieve faster!

Howsoever, the IFIs are investing in CA & C and become stronger partners with the respective governments to charter the path of development. The ADB takes the lead through its Central Asia Regional Cooperation (CAREC) mandate with specific country strategies. The ADB follows a long term and midterm ‘big picture’ overview of the future economic scenarios known as “Central Asia: Mapping Future Prospects” by taking three different assumptions of CARs to convince the leaders of the countries to choose the path prescribed by the ADB.

2 CAREC was formed in 1997 with following countries: Afghanistan, Azerbaijan, PRC, Kazakhstan, Kyrgyz Republic, Mongolia, Tajikistan and Uzbekistan with MDBs like ADB, EBRD, IMF, IDB, UNDP and World Bank.
4 On the background of the economic boom in the late 1990s in CA & C countries, the Scenario building is provided by the ADB till 2015. The first Scenario is “Business as Asual” – a moderate policy reform agenda, relative lack of any industrial competitiveness strategy, and intermittent implementation of regional cooperation initiatives. If the countries follow this process then the GDP growth will be 5 percent till 2015. The Second Scenario is “Closing the Gap” – strong commitment to implement further policy reforms, develop a market-friendly competitiveness strategy, and pursue aggressive implementation
However, these paths are ridden with corruption, wrong projects, alien project design, demoralising the old traditional culture, ethos and knowledge, minimal level of participation, denouncing the decentralisation and local governance systems and after all less public participation. In each country, the project or program of the ADB is facing some kind of setbacks. From Uchemchek village in Kyrgyzstan, Dastitbed village in Tajikistan, Astghadzor in Armenia, the ADB funded projects have been criticised by the communities.

Tajikistan: Moulding the development as approved by ADB

ADB is proud of the strong partnership established with Tajikistan”, said ADB’s Vice-President Xiaoyu Zhao on the eve of 10 years of ADB and Tajikistan partnership. To compliment the success of partnership with ADB, M. S. Davlatov, Governor of Tajikistan for the Asian Development Bank and State Advisor to the President on Economic Policy added, “With ADB’s assistance..., the country has posted average real economic growth of over 8 percent since the start of the decade—a noteworthy achievement—and has seen significant improvements in the living standards of our people”.

ADB started operation in 1998 after the severe civil war with a multisector post-conflict rehabilitation program. Since then, ADB has been active by prescribed critical policy reforms and institutional development through investments in infrastructure, agriculture and rural development, social sector, and regional co-operation.

Undermining governance

With regards to infrastructure in Tajikistan, rehabilitation and building of new roads is the prime mover for regional co-operation and economic growth. One of such road rehabilitation project is connecting the capital of Tajikistan to the Kyrgyzstan border. As per the project objective, the ‘Dushanbe- Kyrgyz Border Road Rehabilitation Project’ aims to increase regional trade and co-operation between two countries by reducing the cost of road transport and improving access to markets. The project, so believes ADB, will achieve ADB’s Interim Operating Strategy for Tajikistan such as assisting in post-conflict rehabilitation and reconstruction, and facilitating the country’s transition to market economy.

As in many other projects funded by the ADB in different regions like South Asia (Southern Transport Development Project in Sri Lanka) and Mekong (Phnom Penh to Ho Chi Minn City High Way Improvement Project (better known as High Way-1 in Cambodia), this project is not immune to displacement. Of the three project phases, presently the second phase of the project is being implemented along three major cities (Dushanbe, Vahdat, Rogun) including five rayons (districts). In Rasht rayon, the communities of Garm, Yaldimich, Belgi, Yangolik, Djafr and in communities of Karasagir, Mazorishing, Mullokendja, Kapali in Tajikabad are to be resettled.

However, the project affected people are not being duly informed about the project. Worse, many are not aware of a resettlement plan which was prepared in 2005. The Involuntary Resettlement (IR) Policy of ADB requires that safeguard principle be upheld in the preparation and implementation of projects funded by ADB. Specifically, the IR Policy ensures that “displaced people receive assistance, preferably off as they would have been in the absence of the project”. Several provisions in Land Code of the Republic of Tajikistan state that if land is taken from a physical and juridical or legal person for state and public needs, those persons will be apportioned the

7 ADB (1995), Involuntary Resettlement, Manila: ADB. [Online: web] Accessed on 10 July 2009, URL: http://www.adb.org/Documents/Policies/Involuntary_Resettlement/involuntary_resettlement.pdf. The IR Policy also prescribes three types of assistance for involuntary resettled people: compensation for lost assets and loss of livelihood and income; assistance for relocation, including provision of relocation sites with appropriate facilities and services; assistance for rehabilitation to achieve at least the same level of well-being with the project as without it. In 2009 ADB reviewed it’s safeguards policy, however, the former 1995 policy has been followed here in this project.
same value of land, and losses, including income, and will be fully compensated.8

Adding to this procedural weakness in this road project, the executing agencies estimated the costs of the physical property without consulting the owner of that property. According to an official source in ADB’s Resident Mission in Dushanbe, local population did not receive any copies of the evaluation of their properties in amount till July 2008. Women were not consulted on the elusive resettlement plan. A woman requesting anonymity suggested some design to be changed but the concerned government official and the ADB staff discarded the suggestion out rightly. Consequently single women families are unable to undertake construction of their house with their own money or materials from the government. They requested the executing agency to help, but in vain! What measures are being taken to address women’s concerns regarding this project? Has the ADB learned how to address the social aspect of the projects?

The regions are also politically instable. Especially, Garm is an acclaimed centre of the Islamic radicals, known for its resistance to central authorities. In effect, unofficial groups gained more control and power over population than the de facto government authorities. People are facing dual intimidation at the same time. The civil society is practically non-existent or weak and invisible. People are on their own struggling to survive in this difficult political and social terrain. So far, even after ADB’s ten years of bonding with the Tajikistan government, there is no grievance mechanism, no transparency, no legal protection.

The irony is the project affected people are not being consulted in a fair manner under these ADB policy as well as government laws. Under such circumstances, ADB’s insistence on the country safeguard system is not wise.9 However, a sigh of relief came to some of the affected people when NGO Forum on ADB with its members drew attention of the concerned ADB officials. Now, some project affected people received additional compensation.

Reforming Education: One step ahead two steps back

The state of the education system in Tajikistan is dwindling. While 2.8 million children are ready to join schooling, Tajikistan has only 103,174 teachers, which means one teacher per 271 children. A prolonged civil war which damaged the education infrastructure, a poor track record of government’s state budget in the education sector and ever degrading society compelled the government to ask support from the Bank to enhance the education institution the country. Immediately, in 2003, ADB started to support education reforms in Tajikistan through a $7.5 million loan with main objective of providing access to quality education to 90,000 children. The project supposed to provide good books, warm and rehabilitated school buildings where students can continue their study during the harsh long winter, more qualified teachers and improved curriculum.

Tajikistan President Emomali Rakhmon says that ‘Education is the most important factor of saving the nation and strengthening the statehood’. 10 An investigation by local CSO found that the ADB funded education reform project has failed to achieve the agreed purpose. Both the government and the ADB executed this project with lower standard both physical (construction of infrastructure such as school building) and institutional (e.g. confusing syllabus). There is no transparency of the execution of the project. On the ADB web-site which is for public, one wouldn’t find any documents on that project except one report and recommendation to the President of ADB (RRP). All requests from the local NGOs regarding information were rejected or not responded. Experts believe that education as an institution in Tajikistan is in real danger now and the culturisation and socialisation through these

4 The New Land Code No of 1996 of Republic of Tajikistan repealed the previous Land Code (1992). There are several provisions in the new Land Code and various amendments, it has been clearly stipulated the safeguarding the rights of the tenant like Article 41, 42, and 47. For further details, see http://faolex.fao.org/cgi-bin/faolex.exe?rec_id=029333&database=FAOLEX&search_type=link&table=result&lang=eng&format_name=@ERALL.

5 Country Safeguard System: ‘Country safeguard systems’ is used to mean a country’s legal and institutional framework, consisting of its national, sub-national, or sectoral implementing institutions and relevant laws, regulations, standards, and procedures, which pertain to the safeguard policy areas.

curriculums will retard the growth of a nation backward.  

Kyrgyzstan: Pro-Reform country for ADB

In end of 2008, Prime Minister of Republic of Kyrgyzstan Chudinov Igor cordially thanked ADB for its swift and flexible response including a timely reallocation of a USD 22.5 million loan to the country in the wake of the global economic crisis. Five years ago, ADB President Mr Chino lauded the Kyrgyz government’s effort to reducing poverty with much satisfaction.  

ADB began its operations in the Kyrgyz Republic in 1994. Remarkably, the country received 71 technical assistance grants amounting $41.2 million largely for reforming, restructuring and guiding national development. Kyrgyzstan is one the pro-reform countries in the Central Asia and Caucasus region according to the ADB and the World Bank due to its commitment to improving the business environment for the private investors by amending laws, allowing single business registration window and opening up trade and so on. President Akaev supported with pleasure that ADB financed projects had brought many visible benefits in this country. However, both the ADB and the government authorities are keeping eerie silence on some failure of projects in the agriculture and water supply sectors.

Safe and Clean Water: Unclean Business

Despite being hailed as one of the Central Asia’s water towers for its immense wealth of water, Kyrgyzstan always faces problems with supplying clean, safe adequate drinking water to its people. The rural inhabitants are the worst hit. In this dire situation the Bank came up with a project to support

as reasons for the project failure civil society organisations name: 1) A major chunk of the project finance went to training of teachers, school directors and government officials. After the training many teachers and directors left the job due to low salary structure. 2) The repairing work of the schools is very poor and during the harsh winter it is difficult for students to join the school classes. The money siphoned from the ministry to the lower contractor is supposed to be riddled with corruptions. 3) The text books which are introduced under this project are alien to students. Students failed to understand the topics. 4) Lack of transparency and accountability at both ADB and Tajik Government.


As in various projects, there are contributions from ADB, government and local self government where the project beneficiaries also contribute on the project. In this case, five percent of the project amount was collected from the communities but the work was not started. So, the ADB agreed to return the exact amount in ‘kind’ after the lobby with ADB official.
own evaluation department is now assessing the Agriculture sector projects in Kyrgyzstan. However, the new ADB strategy (2009-2011) for Kyrgyzstan focuses on the infrastructure (roads and transport), regional co-operation, urban development and services and most importantly restructuring of economic and financial sector in line with new economic policy announced by President Kurmanbek Bakiyev on 10 January 2008.15

Armenia: New partner of ADB

The ADB has started its operation in 2005 in Armenia. ADB and the Ministry of Transport in Armenia decided to rehabilitate the much dilapidated Soviet era roads in 4 marzs (districts) out of 11 marzs namely Gagarkunik, Ararat, Kotayk, and Armavir. The Astghadzor link road which is three kilometer long is connected to the Astghadzor community. Astghadzor village is nestled in the mountainous region of the Vardenis district of Gegharkunik marz in the Republic of Armenia. The more than 5000 inhabitants of the village are trying to find the rationale behind this ADB funded road rehabilitation project. The community is clueless whom it would approach for the bad implementation of the project. The inherent problem is that the executing agency including the Bank has made insufficient public consultation on the project. The project has even bypassed the local village administration. People question, if that is the effort to the participatory development model propagated by the ADB in Armenia?

While the 2007 Initial Environmental Examination of this Rural Road Sector project says that improved access is vital for a revival of rural livelihoods of Armenia, many villagers doubt about it. The official of the Ministry of Transport which is implementing the project came to the village once and talked to the contractor, not the villagers. The construction of the road seems to be a highly corrupt case when one looks at the materials used, project design and the safety measures taken by the authority. The road is cracked before its completion.16 The construction is very similar to any road projects in the developing world where the money ends in the pocket of the top bureaucrats in the ministry and the petty contractors. The road project is substandard with flawed design. The region is one of generally high elevations (1,900–3,600m above sea level), and harsh continental weather conditions which was not taken into consideration for the road project design as villagers believe. The location of the village in the mountainous terrain and the gradient of the road were not taken into consideration in the course of designing the project, which might result in flooding of the road in future. Has the ADB attempted any ‘climate proofing’ in this project?17

In April this year, the villagers and village administration sent a letter to the Ministry of Transport to address the drawbacks. So far the villagers have received no response. Meanwhile, around 750 villagers met under the leadership of the Head of the Local administration to discuss the shortcomings of the implementation of the road project with all the community members on 19 June 2009. The immediate response coming from the community discussion is to send a letter to ADB suggesting that in order to protect the adjacent private land –both arable and house - from flooding it is necessary to construct a protective wall along the road. The second suggestion is to immediate address the drainage system according to the topographical condition of the village. The Astghadzor community has already submitted their grievances to ADB through Yerevan based CSOs and NGO Forum on ADB. But, communities are still waiting to hear from ADB.


17 Climate proofing is a process for identifying risks to a development project as a consequence of climate variability and change, and ensuring that those risks are reduced through long-lasting and environmentally sound, economically viable, and socially acceptable changes implemented at one or more of the following stages in the project cycle: planning, design, construction and operation.

### Table: ADB’s operation (loans) in Selective CA and Caucasus countries till Dec 31, 2008

<table>
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<th>Sector/ Amount (in USD Million)</th>
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<th>Kyrgyzstan</th>
<th>Tajikistan</th>
<th>Uzbekistan</th>
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<td>66</td>
<td></td>
</tr>
<tr>
<td>Water, supply, sanitation and Waste management</td>
<td>34.60</td>
<td>3.60</td>
<td>129.00</td>
<td>30</td>
<td>36</td>
<td></td>
</tr>
<tr>
<td>Education</td>
<td>32</td>
<td>7.50</td>
<td>290.50</td>
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<td></td>
</tr>
<tr>
<td>Health nutrition and social protection</td>
<td>10.50</td>
<td>7.50</td>
<td>40.00</td>
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<tr>
<td>Industry and trade</td>
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<td>20.70</td>
<td>50.00</td>
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<tr>
<td>Law, economic management and public policy</td>
<td>79</td>
<td></td>
<td>20.70</td>
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<td></td>
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</tr>
<tr>
<td>Multisector</td>
<td>60</td>
<td>96</td>
<td>45.00</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>1066</td>
<td>603.50</td>
<td>372.50</td>
<td>1,230.90</td>
<td>585.40</td>
<td>83.92</td>
</tr>
</tbody>
</table>

*Source: The ADB Operation in Central Asia and Caucasus Countries, FACT SHEETS, 2008*

### Conclusion

The examples from each country where ADB operates face the same problems – lack of public participation and limited access to project information. All project related information on the ADB web-site is in English! Knowing the fact that these countries are predominantly speaking Russian, how can a person from remote areas find an access to internet and read project documents in English? If someone requested information regarding any projects, the Bank used to refuse to disclose that piece of information by stating that this would hamper the relationship between the Bank and the respective country. In this manner, the Bank is dismantling the ethos of people’s participation in decision making or effort to strengthening governance in the CA and C regions which has been the so-called corner stone not only of the ADB but is also the so called mantra of other IFIs!

The 43rd annual meeting of the ADB is going to be held in Tashkent, Uzbekistan in May 2010. This is not a symbolic event for the ADB. The selection of the venue for the highest level gathering of the ADB underlines the fact that the bank is establishing its agenda in the region to eradicate poverty, but through its own means. Although the announcement is not welcomed by the strong human rights and civil society organisations all over the world that closely monitor Uzbekistan’s track record, the Bank is full throttle to organise the meeting in the region. If the Bank means real eradication of poverty and good governance, it must address the basic premises of people’s participation in development decision making.
Exporting Energy from Central Asia
Flawed Strategy Conceived by Asian Development Bank and World Bank

Nikolay Kravtsov

Although the Central Asian Countries- Kyrgyz Republic and Republic of Tajikistan- have been struggling to provide electricity, power for heating and uninterrupted supply of electricity to business associationsand its people, the Multilateral Development Banks (World Bank and Asian Development Bank) have persuaded the government to export electricity to South Asian countries. The major argument for this grand strategy is that by exporting the electricity to deficit regions the exporting countries will fetch profit, which could be utilized in growth and development. This argument has been outrightly discarded by independent experts and various civil society organizations. But, the governments and the Multilateral Development Banks are paying no heed to the serious flaws in this grand design.

Under the Central-Asian Regional Economic Cooperation (CAREC) program of the ADB, the development of the Central and South-Asian Regional Electricity Market (CASAREM) has been created as a grand and profitable program for regional economic integration and poverty reduction. After three rounds of deliberation, in November 2007, a Memorandum agreed by the governments of Afghanistan, Pakistan, Kyrgyzstan and Tajikistan (members of CASAREM) formulated an energy trading project called CASA 1000. In addition, a Secretariat for Interstate Council on Central-Asian and South-Asian regional electricity market development was established to overlook the project. The CASA 1000 project aims to transmit energy from Kyrgyz Republic and the Republic of Tajikistan to the Afghanistan and Pakistan massive electricity line.

The CASA 1000 project, it seems, will be co-financed by the World Bank, ADB, Islamic Development Bank (IDB) and other private investors. The work on the CASA 1000 power transmission project would start in 2010 according to Pakistan’s Minister for Water and Power Raja Pervez Ashraf informed while talking to media after concluding session of Pak-Tajik Joint Economic Commission (JEC) meeting. So far ADB supported technical assistance for the cost-benefit analysis and feasibility of the proposed project. Although the project costs will be US-Dollar 500 million approximately, civil society organizations in Kyrgyzstan and Tajikistan have raised serious concerns over this mammoth project.

Concerns of CSOs unanswered

To implement its part of the CASA 1000 project, Kyrgyzstan government agrees to take up its responsibility to build the 430 kilometer (km) electricity transmission line “Datka-Hudjant”. However, local NGOs and members of NGO Forum on ADB from Kyrgyzstan have raised several fundamental questions on feasibility of the project. Direct supply and transmission of electricity from Kyrgyzstan to Afghanistan and Pakistan (transit through Tajikistan and Afghanistan) has been identified as a problem due to technical and economical reasons. The lengthy electricity transmission line (1300 km) and its electricity high voltage class (500 kV) with transmission capacity (4-5 billion kilowatt-hours/year) are technically wrong assumptions. Another problem is the acquisition of land for construction of the electricity transmission lines, including designated protected areas. With this size of a project, there must be an environmental impact assessment (EIA) study of the project. Although various media news stipulate the beginning of the project in early 2010, so far there is no

no public disclosure of any EIA reports nor any study has been reported on EIA.

Considering the volatile political situation in Pakistan and the war in Afghanistan, the guarantees and safety on electricity transit through Tajikistan and Afghanistan territory is questionable. Although beyond its capacity, the Kyrgyz government, cajoled by the World Bank and the ADB, has followed with open arms to implement this project. The electricity transmission of 5.5 billion kilowatt-hours/year to Pakistan has been specified in the articles of the agreement signed between Kyrgyzstan and Pakistan. But generating capacities of Kyrgyzstan have no production potential to meet this amount for export even if it commissioned the 360 MW Kambar-Ata Hydro-Power Station-2 (1.1 billion kilowatt-hours/year) in 2015. According to the National Energy Program (2008-2010) and the Strategy of Fuel-Energy Complex Development up to 2025),3 Kyrgyzstan would not have a surplus of electricity for exportation to any country including Afghanistan and Pakistan. Besides, Kyrgyzstan does not plan to have such a surplus of electricity (4-5 billion kilowatt-hours per year) by 2025 that could be exported to other countries.4 According to the official information (Kyrgyzstan Country Development Strategy for 2007-2010)5 the electricity price at home market is 3.12 cents for one kilowatt-hour. However, transmission of electricity becomes unprofitable for an exporter when it is sold at a low price as 3.3 cents for 1 kilowatt-hour that has been specified by the agreement.

It is unclear how Kyrgyzstan will cover its own needs for electricity at home under this circumstances especially in harsh winters. International commitments carried out by Kyrgyzstan on exporting electricity to Pakistan/Afghanistan, can result in further deficit of electricity for the majority of consumers such as business-associations and might lead to social unrest in the Kyrgyz Republic. For example, because of systematic energy blackouts this year, school-children have been sent off to indefinite winter holidays. This entails serious consequences: study results become poor which adds to the problem of the already high rate of illiteracy among the young generation. In maternity hospitals children died due to the lack of emergency medical services because of blackouts. The energy sector is closely connected not only with the educational sector and business-associations, but with vital important sectors like public healthcare, agriculture and farming, industrial production and others. Consequently, limited electricity supply (electricity deficit) inevitably reduces production of all kinds of material values, which further makes living conditions worse in there. This compels people to migrate to neighboring countries or Moscow to seek a better life.

Restructuring Kyrgyz Energy Sector: The Unfulfilled Task of Privatizing ‘Kyrgyzenergo’

The status of the power generation Industry in the Kyrgyz Republic includes 17 power plants (installed capacity of 3.680 MW) - 15 hydro power plants (installed capacity 2,950 MW) and two heating plants with the capacity of 730 MW. Despite frequent reforms and reorganization of the energy sector during the last decade (1998-2008), the targeted objectives of privatizing the Joint Stock Company-Kyrgyzenergo has yet to be fulfilled. As it is stated in the Country Development Strategy (2007-2010), the restructuring of the vertically integrating monopoly energy company on a functional basis, that started in 2001, enabled a certain liberalization of the electricity energy sector and the establishment of more attractive conditions for investment inflow. However, power losses in the grid exceed 40 percent out of which 25 percent are commercial losses and theft. As a result, the quasi-fiscal budget deficit increased and adversely affected the macroeconomic stability and sustainability of the overall budget of the country. In addition, provision of reliable, safe and uninterrupted power and heat supply and improvement of services provided to all customers enumerated in the law on Energy Sector, has not been implemented. The attempts to attract foreign investments in the energy sector to commission new hydropower structures have not brought expected

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4 While knowing this fact, the World Bank is very optimistic to execute this much ambitious project. Although the ADB senior management officials confirmed to the Author on the sidelines of ADB Annual meeting in Bali, May 2009, that the ADB is not going to be involved in this project, the Bank is not completely out of this project.

results. In addition, it is highly doubtful if it is really necessary to commence the construction of new power plants at this stage of electricity generation.

In a view of reduction of Naryn River runoff due to the dry period, unqualified water resource management during the last four years have altogether affected the power generation at Toktogul hydro power plants. This reduction also affected the deficiency of power (more than 2.5 billion kVh) in the country during the 2008-2009 winter periods. The management system of the energy sector appeared to be unprepared to operate under such a condition. That is why, from May 2008 to April 2009, the government introduced forced restrictions for power consumption with drastic measures like the cut of power for 8-12 hours a day. In addition, in Kyrgyzstan, the available output of thermal power plants (Bishkek heat and power plant 1, Osh heat and power plant) was reduced during the recent ten years by 440 MW, which is more than 60 % of their installed capacity.

However, the National Energy program of the Kyrgyz Republic for 2008-2010 with the Development Strategy of Fuel–Energy Complex till 2025 approved on February 13, 2008, proposes major reforms as follows:

• completion of energy sector reforming to make it a full value element of the market economy;
• modernization and rising of the rate of production of the energy sector and enhancement of its effectiveness based on the use of new technologies, introduction of automated control and optimal regulation systems;
• creation of generation capacity and power transmission complexes

The construction of Kambarata HPP-2 (360MW) envisaged under the privatization program Kyrgyzenergo funded by government’s own money has delay by 8 years for completion. On the other hand, the construction of Kambarata HPP-1 (1900 MW) has not started yet. The prospects of Kambarata HPP-2 commissioning under the condition of financial uncertainty with Russian party becomes illusory.

According to the forecast, power supply limitation during 2009-2010 autumn – winter period will be maintained at the level of 18 %, instead of 33 %, that took place in 2008-2009, whereas power generation will be reduced in 2009 almost by 500 million kWh compared to 2008. At the same time, it is proposed to export power to Kazakhstan in the volume of about 1 billion kWh, which almost exceeds twice from last year volume.

The Inherent problem on the export of energy

As for the transfer of energy facilities to investors, including transfer of energy companies, the issue has to be addressed not by means of sale, but rather by means of concession, and only when all potentialities would be exhausted to restore technical, institutional and financial operation from the part of the state. Experience of France and Norway in this respect could have been quite useful for Kyrgyzstan.

Without thorough analysis of available resources conducted by independent experts, including material, financial, engineering technical resources, as well as expected benefits and losses, including political ones, it does not make any sense for Kyrgyzstan. Attracting investors for new energy facilities is welcome, however, only upon the determination of the main technical – economic indicators of the operation, including cost of production, production profitability, sale price for the goods (services), as well as terms and conditions of investment agreement that should indicate maximum shares of each party in relation to ownership right for the facility and manufactured product. The electricity export to Afghanistan and Pakistan requires thorough consideration and analysis, including on the problems of funding of additional energy facilities construction (power transmission lines and super high voltage power substations).

The Only Way Ahead

Have ADB or World Bank found any alternative source of electricity for Afghanistan and Pakistan? Definitely ‘No’. The banks must look for suitable alternative options for electricity for the South Asian needs. However, before proceeding to finance the CASA 1000 project, the Banks must hold public consultations with several stakeholders in Kyrgyzstan and Tajikistan in accordance with local procedures. The Banks must present all study reports including economical and technical feasibility of the project and assessments of all risks, including political risks on the public domain before meaningful consultation. ADB should provide insurance of political risks while exporting electricity to other countries. As we know the export of electricity from Kyrgyzstan to instable and war torn countries like Pakistan and Afghanistan is not at all a profitable option. So, the ADB must put the
guarantee to the Kyrgyz government of any future risks. If there is any problem cropping up during the implementation or the delay of the project or the abrupt end of the project due to the situation in Afghanistan and Pakistan, the government must not pay back any single dollar of the project to the ADB. Also, as the main objective of this project is to satisfy energy needs of Pakistan and Afghanistan, the total project loan must be borne by Afghanistan and Pakistan.

During 2007-2009, Kyrgyzstan and Tajikistan faced severe energy blackouts for different reasons: water shallow period, illegal transmission and so on. Moreover, Kyrgyzstan and Tajikistan may build new hydro-power stations in Vahsh, Pjandge and Naryn Rivers to meet the commitments of exporting energy will exacerbate the conflict over transboundary rivers if they don’t take into consideration irrigation needs of Uzbekistan and Kazakhstan.

In its Long-Term Strategy Framework-2020, ADB says that inclusive development can be achieved through regional integration, stable ecological development and education. However, the project mentioned above contradicts ADB’s main strategy. It is already clear that ADB will fail to achieve its objective of reducing poverty if it supports this unviable project. Government officials are eager to attempt to implement this doubtful project instead of improving people’s every-day life. The citizens will be deprived of access to a basic right such as electricity for their consumption in necessary quantity and at an acceptable price if this project is on. The CSOs do not want to see closed door discussions among the IFIs representatives and the government officials on this project. The CSOs demand appropriate public consultations on this doubtful project immediately.
From outside the country, ADB operations in China appear uncontroversial and uncontested. This could be for a number of reasons.

Firstly, the Bank's strategies and priorities in-country are very closely aligned with that of the PRC Governments. This can mean that any criticism of the ADB projects in China is seen as a criticism of the government itself. The absence of public criticism, debate and engagement from Chinese civil society groups may be limited in part by the kinds of criticism they can be made on the Government's development agenda, due to restrictions on freedom of expression and association. But they are also limited by a general lack of information about what the ADB is, and understanding of what the Bank is actually doing in China. Another reason is that ADB investments in China are low compared to the size and complexity of the Chinese economy. This means that the power and influence that the Bank has in countries such as Laos — where it has a larger stake in the economy and therefore more influence with government — is much lower in China. That is not to say however, that the Bank has little influence inside the government. ADB (and other IFI) financing provides cheap capital investments in key domestic projects, in a way 'subsidizing' China's development.

Chinese NGOs and civil society advocates have over many years raised the need for greater public participation in debating the implications of large scale development projects in China. These same groups also lament the absence of independent — meaning non-ADB, non-Government sponsored — analyses of what development program implications actually are and what kind of development paradigm should ultimately be pursued in China.

Despite 30 years of 'careful' ADB financing, the social and environmental costs of the kind of economic development pursued in China have continued to rise. This careful approach is largely pursued by the Bank due to Chinese government wariness over the potential destabilising social and economic effects of foreign investment, but also in part to avoid perceived conflicts with ADB policy. For example, some NGO's commented that ADB does not touch projects involving controversial large scale involuntary resettlement in China, a source of growing conflict between the Chinese government and its people.

The current ADB strategy plan for China does little to effectively address the main causes of poverty (development induced displacement, widespread environmental degradation and weak local government) let alone work to address pressing China's stake in global issues such as climate change. For example, some Chinese researchers contend that the majority of the millions of people displaced by large hydroelectric projects throughout China continue to live in poverty despite government and financier claims that electricity generation will naturally result in increased local economic activity and therefore incomes.

This article is organised into four main sections. The first section provides some general information on the relationship between China and the ADB. Secondly, the article looks specifically at the growing role of China in the ADB’s regional economic integration programs like the Greater Mekong Sub-region (GMS) Program. The next section of the article considers the social and environmental impacts of ADB involvement in economic development programs in China. Finally, the article outlines NGO involvement and engagement with the ADB over its operations in China from both Chinese and foreign organisations.

Research for this article was gathered through accessing public documents on ADB and China through the Banks website, as well as news reports in Chinese and English and reports published by civil society organizations involved in monitoring ADB operations. A small survey of 10 NGOs in China was undertaken to inform and enhance the NGO engagement section of the guidebook.

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1 Pallavi Avar, 'Damming Spree' in Frontline 23(11) 3-6 June 2006.

2 马军 (Ma Jun) 1999, 中国水危机 (Managing China’s Water Crisis).
China’s Membership & Status

The People’s Republic of China (PRC) is the second largest shareholder among regional members (the first being Japan) and the third largest overall (after the United States and Japan). China joined the ADB in 1986 and holds 228,000 (6.43%) shares and 241,232 (5.44%) votes.\(^3\)

The PRC is currently the bank’s third largest borrower after India and Pakistan and the second largest client for ADB private sector financing after India.

<table>
<thead>
<tr>
<th>Top Recipients by Approval (Sovereign Loans) as at end 2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>Country</td>
</tr>
<tr>
<td>--------</td>
</tr>
<tr>
<td>India</td>
</tr>
<tr>
<td>Pakistan</td>
</tr>
<tr>
<td>China</td>
</tr>
<tr>
<td>Indonesia</td>
</tr>
<tr>
<td>Vietnam</td>
</tr>
<tr>
<td>Philippines</td>
</tr>
<tr>
<td>Bangladesh</td>
</tr>
<tr>
<td>Kazakhstan</td>
</tr>
<tr>
<td>Azerbaijan</td>
</tr>
<tr>
<td>Sri Lanka</td>
</tr>
</tbody>
</table>

*Source: ADB, Annual Report 2008*

China sends missions to the ADB between two and three times a year as part of their review visits to assess implementation of technical assistance projects funded under the PRC Regional Cooperation and Poverty Reduction Fund, as well as to keep updated with developments in regional economic development programs. This increased presence has been noted, leading one ADB official to claim that ‘China doesn’t let ADB rest’. China has been advocating an acceleration of the regional economic integration and cooperation programs and wants activities and initiatives to be accelerated.\(^4\)

More recently, China has become a donor to the ADB. As such, China has become the first developing nation to donate funds to an international development organisation through the establishment of a poverty reduction fund in 2005 and as a contributor to the Asian Development Fund (ADF). Some have argued that this is a strategic way to ensure greater regional support for the expansion of Chinese trade and investment in the region.

The PRC Government agency responsible for handling ADB affairs is the Ministry of Finance. The People’s Republic of China Resident Mission (PRCM) that provides a link between the Bank, the Chinese government, private-sector, and civil society stakeholders was opened by the Bank in 2000. The PRCM is one of the ADB’s largest Resident Missions.

China’s Official Development Policy and the ADB’s country strategy for China

The Chinese Government’s long-term development goal is to establish “a balanced and harmonious society”. China’s official development policy, known as *ke xue*, has been described as a ‘scientific yet people-centred’ approach to development.\(^5\) The 17th National Congress of the Communist Party (CPC) - held in 2007– amended its constitution to reflect *ke xue* in its program plans.

China’s development model is broadly defined in a series of Five Year Plans. The objective of the current 11th Five Year Plan (2006–2010) is to achieve the “five balances”. These refer to efforts to achieve a balance between rural & urban development; inland & coastal development; economic & social development; people & nature; and foreign & domestic investment, which explains the increasing emphasis on investment in the Western regions of the country.

The ADB’s country strategy for China is very closely aligned with China’s official development goals and strategies, particularly in the Western regions.\(^6\) The ADB claims that its current Country Strategy and Program for China is based on consultations with a variety of stakeholders—including the central government, certain provincial governments, other development financiers and donors, NGOs and the private sector.\(^7\)

The ADB’s last CSP (2007–2011) for the PRC has five key priorities. The first is to ‘kick start’ investments

\(^3\) ADB & PRC Fact Sheet, above note 1.


\(^5\) Ibid.

\(^6\) For more information about the current five year plan see http://www.china.org.cn/english/features/guideline/156529.htm

in certain sectors, especially in transport infrastructure development and environment and energy efficiency, and to increase the overall role of private sector operators. The second priority is to include poor rural communities in development by targeting investment in rural areas and making ‘social development interventions’. The third priority of the ADB’s strategy for China is on promoting regional cooperation and integration. The fourth and fifth priorities relate to managing environment risks and improving governance and preventing corruption. The ADB’s CSP for China has also given special emphasis on strengthening the role of nongovernmental organizations (NGOs) in ADB-PRC efforts to reduce poverty. This has lead to the implementation of the first joint ADB-PRC-NGO funded poverty alleviation initiative with the Jiangxi provincial government (see below).

Overall ADB financing to China

ADB financial assistance to China is relatively modest compared to the size of China’s economy and the governments’ stated financing needs. ADB financing is also small in comparison to private foreign investment to the country. Because of this, ADB says it has focused its financing support in priority sectors of the economy (transport infrastructure, agriculture and energy) and funds what the bank calls “dissemination of innovation, good practice, and demonstration effects of projects”. The Bank claims it does this because it is a way to maximise the ADB lending programs ‘development impact’ and it is a way to pursue greater regional economic integration.

The vast majority of ADB loans and grants to China have been used to develop large scale infrastructure projects such as roads, railways, and power production. Although ADB loans and technical assistance have facilitated economic growth in China, they have not necessarily made any great impact on how that wealth has been distributed, or made meaningful efforts to ensure that wealth actually reaches the poor. The Bank is willing to lend money to support social sector projects, but according to observers, the PRC Government is not willing to sign loan agreements for projects that will not turn a profit, making it difficult, if not impossible for the ADB to finance direct, poverty reduction work.

Loans

China has received approximately $19.25 billion loans in total assistance since 1978. The following table depicts the total loan amount made to China by economic sector since becoming a member of the ADB.

The ADB acknowledges its sees investments in infrastructure development as the main way to reduce poverty in China. As such the Bank has a greater focus on financing infrastructure projects in rural areas, and especially rural areas of the central and western regions, where the Bank has decided to focus its activities.

In 2007, the ADB made sovereign loans (loans to the government) amounting to $1,146.7 million. The Bank also made approximately $160 million in non-sovereign loans, and invested more than $57 million in equity stakes. The Bank also authorized a $107 million credit guarantee, and $200.0 million B-loan for the PRC.

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12 ADB & PRC Fact Sheet above note 1.
Focus Asien No. 34: Current Trends of ADB

Cumulative ADB Lending to China (as of 31 December 2007)

<table>
<thead>
<tr>
<th>Sector</th>
<th>Loans (no.)</th>
<th>Amount ($ million)</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture &amp; Natural Resources</td>
<td>13</td>
<td>1,142.60</td>
<td>5.93</td>
</tr>
<tr>
<td>Energy</td>
<td>26</td>
<td>2,680.70</td>
<td>13.92</td>
</tr>
<tr>
<td>Finance</td>
<td>2</td>
<td>80.72</td>
<td>0.42</td>
</tr>
<tr>
<td>Industry &amp; Trade</td>
<td>9</td>
<td>1,044.80</td>
<td>5.43</td>
</tr>
<tr>
<td>Multisector</td>
<td>13</td>
<td>1,435.12</td>
<td>7.45</td>
</tr>
<tr>
<td>Transport &amp; Communications</td>
<td>59</td>
<td>11,172.50</td>
<td>58.03</td>
</tr>
<tr>
<td>Water Supply, Sanitation &amp; Waste</td>
<td>17</td>
<td>1,617.66</td>
<td>8.82</td>
</tr>
<tr>
<td>Management</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>139</td>
<td>19,254.10</td>
<td>100.00</td>
</tr>
</tbody>
</table>

Source: ADB, Annual Report 2007

Technical Assistance

China received about $20.5 million for 33 technical assistance (TA) grants in 2007. The following table represents the TAs made to China in 2007 by sector. The ADB has focussed its technical assistance granting in recent years on assisting the Chinese Government to “build an enabling environment for the private sector”. The Bank has provided TA grants in two major areas: 1) developing laws, policies and institutions and 2) developing a policy framework for Small and Medium Enterprises (SMEs) and facilitating their access to financial resources. The ADB aims to create a more transparent, rules based system in which the private sector can operate which will attract more investment and ultimately flourish.

While there are more than 8 million SMEs active in China’s industrial sector, over 6 million are private businesses. However, less than half of one percent of loans from Chinese banks to industry is being accessed by privately owned SMEs. The ADB highlights the lack of access to financial resources as one of the most significant barriers to SME growth in PRC today and has designated this as an area of work with strategic importance.

<table>
<thead>
<tr>
<th>Sector</th>
<th>Amount in USD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture &amp; Natural Resources</td>
<td>5,481,300</td>
</tr>
<tr>
<td>Education</td>
<td>4,700,000</td>
</tr>
<tr>
<td>Energy</td>
<td>36,395,950</td>
</tr>
<tr>
<td>Finance</td>
<td>25,960,000</td>
</tr>
<tr>
<td>Health, Nutrition % Social Protection</td>
<td>3,700,000</td>
</tr>
<tr>
<td>Industry &amp; Trade</td>
<td>25,218,000</td>
</tr>
<tr>
<td>Law, Economic Management &amp; Public Policy</td>
<td>36,454,400</td>
</tr>
<tr>
<td>Transport &amp; Communications</td>
<td>51,087,000</td>
</tr>
<tr>
<td>Water Supply, Sanitation &amp; Waste Management</td>
<td>17,706,000</td>
</tr>
<tr>
<td>Multisector</td>
<td>17,687,000</td>
</tr>
<tr>
<td>Total</td>
<td>270,389,650</td>
</tr>
</tbody>
</table>

Source: List of Approved TAs by Sector as of end 2006

China’s Contribution to ADB Funds

Ordinary Capital Resources (OCR)

Funding for OCR – the Bank’s main pool of money available for loans – comes from three places. Firstly, funds that have been borrowed from private placements and capital markets by the ADB. Secondly, ‘paid-in capital’ provided by shareholders...
Focus Asien No. 34: Current Trends of ADB

(members of the ABD), and thirdly, accumulated retained income (or reserves). China’s paid in capital stake in OCR was recorded at over USD200 million in 2001, representing more than 31% of capital from borrowing member countries.

**Asian Development Fund (ADF)**

The Asian Development Fund (ADF) makes low interest loans to the least developed borrowing member governments of the ADB. Funds are contributed by donor governments who decide how much to add to the fund every four years. At the end of June 2008, the ADF was worth USD31.3 billion, contributed by 32 Bank members. The largest contributors are Japan, the United States, Germany, Canada, Australia, France and the United Kingdom. In 2005, China made a contribution of $30 million to the Asian Development Fund.

**Regional Cooperation and Poverty Reduction Fund (PRC Fund)**

China made $20-million commitment to a special fund known as the Regional Cooperation and Poverty Reduction Fund from 2005-2009. The goal of the Fund is to “accelerate economic growth, spur private sector development, promote peace and order, and provide regional public goods that address joint constraints and opportunities (like) communicable diseases and environmental degradation”.

As of 31 December 2007, 31 project proposals amounting to $11.7 million have been approved by the PRC Ministry of Finance (PRC-MOF). The projects have largely been for technical projects for such things as monitoring and evaluation, negotiation, design and implementation of free trade agreements. The bulk of projects have been for GMS initiatives, while CAREC (Central Asia Regional Economic Cooperation) and ASEAN +3 have been able to access funds.

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15 For more information see [http://www.adb.org/RCFund/projects.asp](http://www.adb.org/RCFund/projects.asp)

16 For more details about the amount PRC Fund allocated to specific projects see [http://www.adb.org/Documents/RCFund/contribution.pdf](http://www.adb.org/Documents/RCFund/contribution.pdf)

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**China and the ADB’s Regional Economic Cooperation Programs**

“All GMS [Greater Mekong Sub-region] countries are close neighbors of China. Nourished by the same river, our peoples have fostered long-standing friendship. As we Chinese often say, ‘A close neighbor is more helpful than a distant relative’. We are resolved to work together with other countries to further consolidate and develop our traditional friendship and constantly expand our equal-footed and mutually beneficial cooperation so as to jointly foster a secure and stable regional environment, thus paving the way for regional economic and social development” (Wen Jiabao, Kunming 2005)

China has been an active participant in the ADB’s regional economic cooperation and integration programs: the Greater Mekong Sub-region Program and the Central Asia Regional Economic Cooperation Program. Both programs have provided funds for transport infrastructure projects in Western China, itself an important geographical link between two regional trading ‘hubs’ and closely aligns with the ADB’s country strategy and program for China. China’s support for both regional programs has developed alongside its own bilateral aid program and increasing Chinese private investment to GMS and CAREC member countries.

**GMS Program**

The Greater Mekong Subregion was started by the ADB in 1992 as an ambitious economic cooperation program among countries previously in conflict with each other. The program is made up of a large number of initiatives, sectors, programs and projects all aimed at creating a single GMS market through developing integrated infrastructure networks and increasing trade. At present the vast majority of GMS funds are allocated to the transport and energy sectors.

To date China has received a total of 8 loans under the GMS program mostly for road developments and railway improvement projects. The ADB contributed $1,532 million to these projects, while the Chinese Government itself provided 2,586.2 million in funds. Other financiers, such as the Agence Francaise de Development and the China Development Bank,

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among others, have provided 1,125 million in funds for GMS badged in China.\(^\text{18}\)

China and the ADB share a vision for the GMS program to integrate the economies of Yunnan and Guangxi Provinces of southwest China — both geographically landlocked and therefore dependent on neighbours to develop and expand trading markets — with the Mekong region to achieve economic growth. China has been an enthusiastic backer of the proposed Kunming to Bangkok highway via Laos, a key component of the GMS regional roads network and the North-South Economic Corridor initiative. Beyond direct economic benefit, China views the GMS program as a means to advance its regional leadership aspirations through “strengthening economic interdependence” \(^\text{19}\). Along with greater trade relations, China also hopes that all its regional trade partners will benefit from China’s economic ascendancy, thus generating a mutual interest in China’s continued growth.\(^\text{20}\)

Prior to 2002 when the Chinese Premier attended the first GMS Summit, Chinese interest in the GMS program mainly lay in the two provinces formally involved in the program – Yunnan and Guangxi. At the second GMS Summit, which was hosted by China in Kunming, Chinese officials played a greater role in setting the Summit agenda and program priorities. For example, at this Summit China led efforts to establish the GMS program’s core environment program, a number of human resource development initiatives agriculture partnerships and a number of initiatives in telecommunications, trade facilitation, renewable energy and rural electrification sectors. Despite this diversification of interests, infrastructure has remained the key priority of China.\(^\text{21}\) It is clear that much greater interest now comes from the central government in Beijing and China has gone, according to research conducted in 2006 with ADB staff, “from being a silent to significant partner” \(^\text{22}\) in the GMS program.”\(^\text{23}\)

**CAREC Program**

Initiated later in 1997 on the back of successes with the GMS program, the ADB established the Central Asia Regional Economic Cooperation (CAREC). The Bank claims that the program will ‘improve living standards’ and ‘reduce poverty’ by pursuing economic globalisation and growth in 8 countries - Afghanistan, Azerbaijan, PRC- (particularly Xinjiang Uygur Autonomous Region), Kazakhstan, Kyrgyz Republic, Mongolia, Tajikistan, and Uzbekistan. The Bank aims to facilitate more efficient and effective regional economic cooperation. To date, the Program has focused on financing infrastructure projects and improving the region's policy environment in transport, energy, and trade, in a similar fashion to the GMS program. CAREC’s transport corridor projects, as in the GMS program, would link these countries physically to China, but also create opportunities for China to exploit the region's hydropower, coal and oil resources for their own benefit, meeting China’s demands for cheap energy while keeping the environmental impacts of these projects out of the country.

**China & the ADB Safeguards**

The ADB has three key ‘safeguard policies’ meant to ensure that vulnerable groups and the environment are not unjustifiably threatened by Bank funded projects: The involuntary resettlement, the indigenous peoples and the environmental policy.

It is unclear to what extent the ADB safeguards have worked to protect the environment and vulnerable communities in China due to a general lack of information available on the topic. It is not clear if safeguard issues have played a role in the Bank limited or withdrawing support for any projects in China, but some reports have been issued by the Bank mentioning ongoing problems in the operation of national level safeguards.

When informally researching awareness of the ADB and its safeguard policies among NGOs in Yunnan province and Beijing, the author found a very low level of awareness and understanding, even among

\(^{18}\) To see the full list of loans made to PRC access http://www.adb.org/Documents/Others/GMS/2008-GMS-Loans-30April08.pdf

\(^{19}\) Thomas Chang (2006), Ibid.


\(^{21}\) Lindsay Soutar (2008), above note 5.

\(^{22}\) Ibid.

\(^{23}\) Ibid.
NGOs involved in ADB poverty reduction initiatives. Social and environmental impact assessments on ADB funded projects appear more widely available in English, for an international audience, rather than for Chinese communities being impacted by projects. One NGO worker interviewed stated that as an ordinary citizen, “no-one really knows if the ADB’s social and environmental impacts assessments are actually released in China or how to get this information”. Efforts to contact the resident mission in Beijing to obtain information about the three projects highlighted in this report were not fruitful. Chinese NGOs, however, seem to be able to better access information from the Bank’s headquarters in Manila, especially when partnering with environmental organisations located outside China.

Some NGOs stated that the ADB is not scrutinised as much by Chinese NGOs in China because they are considered to be a relatively small financial player. Civil society advocates note that most large scale development projects in China are monopolised by state-owned corporations and local government. As ADB loan criteria is considered much less attractive in the competitive banking sector, the Bank has traditionally funded smaller, less profitable projects. These smaller projects have arguably lower social and environment costs. But a thorough analysis of the actual social and environmental costs of ADB activities in China is yet to be undertaken.

The lack of an independent groups undertaking regular tracking and monitoring of ADB funded projects in China also contributes to this gap. Groups are however starting to show some interest in learning more about the Banks operations both in China and abroad, and both the constructive and destructive roles that China is playing in regional economic cooperation initiatives.

Chinese CSO/NGO Engagement with the ADB.

Like many countries throughout Southeast and East Asia, Government Organized NGOs (GONGOs) play an important role in China24. While they possess varying degrees of independence from government agencies, GONGOs generally enjoy greater access to government officials. This means that GONGOs are at times more able to influence the direction of Chinese government policy. This has been particularly evident in the environment movement in China where GONGOs of various sizes and shapes have been active in promoting greater awareness of environmental issues and engaged the Chinese government resulting in a range of new environmental policy interventions25. Civil society organizations or NGOs considered independent from the Chinese government have a relatively short history in China in part due to political sensitivities associated with organizing communities considered outside of the purview of the State. That being said, friendly relations with the Government is vital for a Chinese NGO’s survival, whether that group is considered a GONGO or not. This situation has meant that civil society has a unique role where the need to address pressing social and environmental issues must be balanced carefully against the governments ability to tolerate and accept input and feedback on a particular issue.

All Chinese NGOs are required to follow the Regulation for the Registration of Civil Groups which states that NGOs must find governmental departments to supervise or sponsor them. If a NGO cannot find a government department to be its “supervisor”, it cannot get registered as a NGO, but must register instead as a company. This means that it cannot benefit from tax relief like registered NGOs. The registration process has somewhat limited the development of Chinese NGOs, but not entirely, as Chinese groups find creative ways of co-existing with the government throughout the country. Because of the limitations in the Chinese tax system for NGOs, it is very difficult for a local NGO to raise funds. An NGO with a governmental background finds it much easier to get financial support from government, but for grass-root

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24 According to China Development Brief, “China’s first generation of GONGOs included the Leninist “mass organisations” such as the Women’s Federation (which no one in those days thought to describe as an NGO of any kind) as well as groups like the Chinese People’s Association for Friendship with Foreign Countries (人民 外文化 会) established in 1954 to promote international solidarity links at a time of relative diplomatic isolation. The “reform and opening” era has seen some of the mass organisations try to acquire more of an NGO cachet, and many more GONGOs began to appear in the late 1980s and early 90s, when the state created a number of foundations to raise and deliver funds for public benefit programmes”. China Development Brief. Editorial: “GONGOs” are here to stay, but need to reform and open up available at http://www.chinadevelopmentbrief.com/node/1071

organizations, funds are mostly sourced from international NGOs and overseas charitable foundations. For some grass-root organizations, particularly those with poor English skills, any funding at all, is very hard to obtain. Chinese government’s management of NGOs could therefore be considered a kind of tacit control, which renders organizations highly dependent on government funding and support. This limits the kind of monitoring role that NGOs can play as government ‘watchdogs’, a role often played in other parts of the world. ADB’s projects have been widely questioned and criticized by civil society and affected peoples groups across Asia. Some ADB projects have even been postponed or cancelled due to lack of community support. However, because of the necessary cooperative relationship required between NGOs and the Chinese government, groups have been reluctant to criticize ADB programming in China. In order to exist and maintain, NGOs can neither monitor nor criticize the government actions but must instead, try to gain its favour.

Because of the Chinese Government’s emphasis on reducing economic inequalities in the national development policy, NGOs working on poverty

<table>
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<tr>
<th>ADB Funded NGOs and their Activities</th>
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<tr>
<td><strong>China Association for NGO Cooperation (CANGO)</strong></td>
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<tr>
<td>China Association for NGO Cooperation (CANGO) is a nonprofit, voluntary, membership organization operating nationwide established in 1986 and sponsored by the Chinese government. To date, CANGO has raised funds to support 272 development projects throughout China. Currently CANGO has 100 member organizations across China, and keeps good relations with governmental agencies on various levels, colleges and universities, research institutes, and domestic NGOs. CANGO’s partnerships with international NGOs and organizations cover various fields.</td>
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<tr>
<td><a href="http://www.cango.org/english/index.htm">http://www.cango.org/english/index.htm</a></td>
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<tr>
<th>The Ningxia Center for the Environment &amp; Poverty Alleviation</th>
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<tbody>
<tr>
<td>Ningxia Hui Autonomous Region’s largest independent Chinese NGO supports rural communities overcome gender inequality, poverty, and environmental degradation. Using a participatory approach, the Center works with individual villages to increase their capacity to identify problems and develop solutions that work in a local context. It then provides financial and technical support to assist the villagers in implementing these projects, mainly in the fields of microfinance, the environment, and education.</td>
</tr>
<tr>
<td><a href="http://www.nxcepa.org/">http://www.nxcepa.org/</a></td>
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<tr>
<th>Project Jiang Xi Online – Jiang Xi Callan’s Development Fund</th>
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<tr>
<td>Found in 1991, Jiang Xi Callan’s Development Fund implements 'The Hope' project, a long running state-funded education development initiative that builds school infrastructure and provides educational subsidies for poor students.</td>
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<tr>
<th>Mountain-River-Lake Sustainable Development Promotion Association</th>
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<tr>
<td><a href="http://www.mrl.org.cn/">http://www.mrl.org.cn/</a></td>
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<tr>
<th>Heifer China</th>
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<tr>
<td>Heifer China has implemented 51 projects in 13 provinces, autonomous regions and municipalities of China with a total funding of US $8 million. Heifer China responds to natural disasters, and implements rehabilitation projects for snow disasters and landslides on the Qinghai-Tibet Plateau, rainstorm disasters in Sichuan Basin and flood disasters along the Yangtze River.</td>
</tr>
<tr>
<td><a href="http://www.hpichina.org/index.html">http://www.hpichina.org/index.html</a></td>
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Other organizations funded under this TA include the Jiangxi Youth Development Foundation, the Shaanxi Research Association for Women and Family, Beijing Liangsuming Rural Development Centre, Kunming Earthwatch Institute for Sustainable Development of Natural Resources and the recently established Ningdu County Community Poverty Alleviation Research Association.
focus asien no. 34: current trends of adb

alleviation have been given more freedom relative to those in other sectors. in addition, international NGOs from all over the world have been accepted into the country and numerous poverty alleviation projects have been established. despite the influx of funding, the establishment and relative freedoms afforded to poverty reduction NGOs, it remains hard for groups to access detailed information about ADB funded poverty intervention projects.

Another issue affecting the availability of information about ADB projects in China is the declaration of Chinese authorities that project details are State secrets. In practice this has meant that important data related to geology, hydrology and other natural sciences are not allowed to be publicly released and discussed. Further, studies about the social impacts of these projects, especially ones that detail how indigenous people will be affected by projects, are never disseminated in public, let alone to affected minority peoples themselves. This is done with little or no explanation from the authorities and is proving to be a constant source of frustration with Chinese NGOs. It remains, therefore impossible for the public to fully understand the impacts of ADB financing in China.

The ADB claims that a strong relationship is maintained with all development partners and stakeholders in China. However, information gathered from NGOs indicates that ADB consultations and partnership only occur with a set of carefully selected organizations, perceived as more comfortable with its vision for economic development in China.

ADB has also worked recently with the PRC Government to look at models for ‘outsourcing’ state-funded public services to NGOs – an activity pursued by governments around the world, but particularly attractive to both the ADB and China, who can manage these NGO relationships to their advantage. More recently, the ADB has undertaken a handful of initiatives to strengthen “NGO effectiveness, quality, and sustainability of the services” they provide. Under a TA project on NGO–Government Partnerships in Village-level Poverty Alleviation, the Bank and the PRC Government have drawn on funds from the DFID funded Poverty Reduction Cooperation Fund to finance Jiangxi Province poverty agencies and a leading PRC poverty reduction NGO to implement state-funded program to address poverty. This initiative is now briefly examined as it is a model that the Bank appears willing to pursue with NGO’s as government and ADB ‘sub-contractors’. As part of this initiative the Bank funded an Award that helps Sichuan groups replicate “innovative approaches to education and care for children in poor areas who have been left behind by migrant parents”.

In December 2005, a new funding program was launched by the ADB, the State Council Leading Group Office of Poverty Alleviation and Development (LGOP), the Jiangxi Provincial Poverty Alleviation & Development Office (Jiangxi PADO) and the China Foundation for Poverty Alleviation (CFPA). The LGOP and Jiangxi PADO provided an 11 million Yuan (USD1.35 million) to the CFPA who oversaw a bidding process for NGOs to conduct 22 key projects in Jiangxi villages and who is supervising funds dispersement and NGO ‘performance’. The ADB invested USD 1 million from its Poverty Reduction Cooperation Fund of the United Kingdom Department for International Development.

An initial evaluation of the project found that contracted NGOs have made “great efforts to ensure that the people at the village level are involved in local planning processes”, and that surveys of villagers in project sites showed a much higher awareness of the project. The evaluation also made note of changes being observed in the way local projects are being implemented, including more consideration being given to local views and issues, especially of women and poor people. The evaluation also notes that NGOs work best as “facilitators in the process, ensuring that a wide range of voices are heard in planning and helping build the capacity of villagers themselves” while local government is an important local coordinator between the various government departments.

This article is an abbreviated version of the 2008 NGO Forum on ADB guidebook “The ADB and the People’s Republic of China. A Primer” (available online: http://www.adb.org/PRF/knowledge-products/PRC-NGO-Gov-Partnerships.pdf). It was edited by Katharina Trapp.

26 ADB & PRC: Fact Sheet, above note 1.
27 To access more information about this project see http://www.adb.org/Documents/PRF/PRC/ta4580-prc.asp
Poised to Engage: The ADB in Burma

Yuki Akimoto

In recent years, international financial institutions have played an increasingly prominent role in the economic and political reconstruction of post-conflict and transitional states. The Asian Development Bank (ADB), along with the World Bank, likely will play a significant role in providing assistance to Burma (Myanmar). Although Burma officially has not yet “normalized” its relationship with either institution, both the World Bank and the ADB have increased their level of engagement with Burma since a deadly cyclone, Cyclone Nargis, hit the country in 2008.

Once there is agreement among Burma and the financial institutions, reengagement, or “normalization of relations” will proceed very quickly, and mid- to long-term development strategies will be formulated as bases for financial assistance. Past examples show that international financial institutions, even if they mean well, often dominate this process, which may not include direct or indirect participation by a country’s citizens. It is critical that Burmese professionals and academics eager for change, as well as leaders in the democracy movement, consider how they may contribute to the formulation of a development policy that is beneficial for Burma, and work to ensure that the people of Burma maintain ownership and control of the process.

Background: Burma’s Relationship with the International Financial Institutions

Burma used to receive development assistance from both the World Bank and the ADB until the late 1980s. Burma borrowed more than USD700 million from the World Bank since 1956, but there has been no World Bank loan to Burma since July 1987.

Burma is in arrears, and since 1998, Burma has been in “non-accrual status” with the World Bank, meaning that the arrears must be cleared before there can be any new lending.

Similarly, Burma became a member of the ADB in 1973 and received loans totaling about USD530 million (see Table). The ADB has not provided any loans or technical assistance grants specifically to Burma since 1986-87, and here also Burma is in arrears. Burma, however, is a member of the Greater Mekong Subregion economic cooperation program (GMS) which is strongly supported and facilitated by the ADB. The purpose of the GMS programme is to facilitate regional growth and development. For example, one of its flagship initiatives, the ‘East-West Economic Corridor,’ plans to establish a land route connecting the Indian Ocean and the South China Sea through Burma, Thailand, Laos, and Vietnam. As a member of the GMS, Burma participates in certain GMS activities and projects funded by technical assistance grants from the ADB.

Burma is a member of another regional co-operation grouping called the 'Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation' (BIMSTEC) which consists of Bangladesh, Bhutan, India, Burma, Nepal, Sri Lanka and Thailand. The extent of assistance from the ADB to Burma as part of BIMSTEC, however, is unclear.

In addition, the IMF conducts a mandated annual “Article IV consultation” in Burma. To conduct an Article IV consultation, IMF economists visit each member country to review a range of economic policies. The last consultation was held in January 2009. Staff from both the World Bank and the ADB participate in these missions.

Partial Engagement After Cyclone Nargis

After Cyclone Nargis struck lower Burma in May 2008, killing an estimated 140,000 people and destroying the livelihoods of 2.5 million people, the Association of Southeast Asian Nations (ASEAN) took the lead in coordinating humanitarian
Table: ADB’s Lending to Burma as of 31 December 2008

<table>
<thead>
<tr>
<th>Sector</th>
<th>Number of loans</th>
<th>US-Dollar (million)</th>
<th>percentage of total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture and Natural Resources</td>
<td>16</td>
<td>316.1</td>
<td>59.5</td>
</tr>
<tr>
<td>Social Infrastructure</td>
<td>6</td>
<td>99.1</td>
<td>18.7</td>
</tr>
<tr>
<td>Transport and Communications</td>
<td>2</td>
<td>42.5</td>
<td>8.0</td>
</tr>
<tr>
<td>Energy</td>
<td>5</td>
<td>31.8</td>
<td>6.0</td>
</tr>
<tr>
<td>Industry and Nonfuel Minerals</td>
<td>2</td>
<td>21.4</td>
<td>4.0</td>
</tr>
<tr>
<td>Finance</td>
<td>2</td>
<td>20.0</td>
<td>3.8</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>32</strong></td>
<td><strong>530.9</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>


assistance. The World Bank and the ADB quickly pledged support for efforts by ASEAN, and shortly thereafter ASEAN, UN, and the Burmese military regime (State Peace and Development Council, or SPDC) set up a “Tripartite Core Group” (TCG) to coordinate, facilitate, and monitor the flow of international assistance into Burma.

The World Bank, ADB, and SPDC all benefited from using the TCG structure. The military regime, which initially had blocked and delayed humanitarian aid provided by the international community, may well have been wary of the prospect of the World Bank and the ADB taking an official lead in the post-disaster assistance activities. In addition, the institutions themselves would have had to clear procedural hurdles – and deal with political opposition – before working directly with a country with which they were officially disengaged.1

The establishment of the TCG provided a cover for the World Bank and the ADB to take part in the post-disaster assistance activities. Seeing this, several civil society organizations based on the Thai-Burmese border expressed concerns that the World Bank and the ADB may view the humanitarian crisis in Burma as an opportunity to increase engagement with Burma’s military regime and cautioned both institutions against increasing engagement with the military regime.

In post-conflict or post-disaster situations, international financial institutions typically begin by conducting a needs assessment in the area of concern. Burma after Nargis was no exception: In June 2008, TCG conducted an assessment of recovery needs in collaboration with the SPDC. The World Bank and the ADB sent dozens of experts to the cyclone-hit areas and provided technical assistance for conducting and documenting the needs assessment. In addition, the World Bank gave a USD850,000 grant to ASEAN for “disaster assessment and recovery activities.”

The result of the needs assessment was compiled into the “Post-Nargis Joint Assessment” (PONJA) report. While it detailed the impact of the cyclone and resulting recovery needs in many sectors and most parts of the affected area, the PONJA report also showed clearly how the SPDC’s censorship limited the scope and depth of the assessment. Significantly, the PONJA failed to address the obstructions of aid and human rights abuses committed by the Burmese military regime in the areas affected by the cyclone.

Civil society organizations working on various issues in Burma questioned the objectivity and comprehensiveness of the PONJA report, saying that it “omits reference to certain aspects of the situation in the cyclone-hit areas that is [sic] relevant to further relief work, while giving questionable descriptions of several other aspects.”

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1 For example, the United States, the largest shareholder and voting power at both the World Bank and the ADB, is bound by law to oppose financial assistance from those institutions to Burma.

2 World Bank and ADB cautioned against increasing engagement with Burma’s military regime following post-Nargis assessment, Statement by the Ethnic Community Development Forum (endorsed by seven other organizations), June 17, 2008.

3 ASEAN media release, June 16, 2008.

Nevertheless, based on the PONJA report, the UN issued a call on the international donor community to make contributions for the USD1 billion that was considered necessary for recovery work in Burma over the following three years. Further, in February 2009, TCG published the “Post-Nargis Response and Preparedness Plan,” which followed up on the PONJA report and provided “a platform for the transition from emergency relief and early recovery towards medium-term recovery,” estimated to require USD691 million over a three-year period. In addition, TCG is conducting a “periodic review” process under which teams are sent to affected areas to monitor the effectiveness of relief and recovery efforts in households and communities impacted by the cyclone. These activities provide opportunities for the agencies involved to gather information on the ground, build networks and trust, and generally prepare for further collaboration. Slowly but surely, reengagement appears to be happening, although without active participation by civil society organizations that have voiced concern about aid agencies partnering with the military regime.

Is the Ground Really Ripe for Reengagement?

Over the past two decades, as the military regime solidified control over the country, Burma has gone deeper into political and humanitarian crises. The crackdown on Buddhist monks in the “Saffron Revolution” in 2007 shocked the world. The number of political prisoners is at a record high. Since 1996, over 3,300 villages in eastern Burma have been destroyed by the military. The use of forced labour and rape as a weapon of war by the military is widespread, and over a million people are internally displaced. Tens of thousands have fled to neighboring Thailand as refugees. The World Health Organization ranked the SPDC at 190th (of 191 countries) for delivery of health services. About 30% of the population is estimated to be below the poverty line. Yet it is not that the SPDC is poor: The SPDC draws an enormous income from natural gas exports, and its foreign reserves are estimated to rise over USD5 billion by the end of 2009.5

The SPDC is planning to hold general elections in 2010. The elections will be based on a new constitution that was approved in 2008.6 Although it provides for a bicameral parliament, the new constitution essentially ensures that the military will retain sufficient power to control the key parts of Burma’s legislative, judicial, and the executive branches. In addition, over 2000 political prisoners, including Nobel Peace laureate and democracy leader Aung San Suu Kyi, currently are in detention, making it highly unlikely that the elections will be conducted in a free or fair manner. Under these circumstances, many observers doubt that the elections will promote the rule of law, good governance principles, or democracy.

International financial institutions, however, do not wait for democracy, establishment of the rule of law, or other basic good governance practices before they begin operations in a country. Burma, particularly with its abundant natural resources, has enormous room for development and the potential to become a thriving market for development projects with external assistance and investment. Donor governments and aid agencies may regard the prospect of a “new” government with a parliamentary system, however superficial, as an opportunity to begin a new phase of relationship with Burma. Indeed, a leading think tank has encouraged such reasoning, arguing that economic sanctions and isolation have exacerbated the humanitarian crisis in Burma and calling on donors and aid agencies to increase aid and to work with the government to establish a mechanism for negotiating general procedures for aid operations.7 Further, recent developments and statements made by representatives of the SPDC indicate that it would welcome the resumption of financial assistance.8

6 The draft constitution was produced through a national convention which lasted over a decade. Only those selected by the military regime were allowed to attend, and even they were not permitted to speak freely or suggest agenda items. In addition, many reports indicated that the SPDC systematically used threatening measures to force citizens to vote in favor of the constitution at the national referendum. See, e.g., Burmese Constitutional Referendum: Neither Free Nor Fair, Public International Law & Policy Group, May 2008.
8 At the ADB’s Annual Meeting in May 2009, Hla Thein Swe, Head of Delegation for Burma, stated: “...I would like to call on for donor countries and international financial organizations such as ADB, to consider debt relief for Myanmar....I would like to take this opportunity to encourage the international financial organizations to resume normal relationship with Myanmar as

5 Burma Isn’t Broke: The junta, not a lack of resources, is to blame for the people’s poverty, The Wall Street Journal (op-ed by Sean Turnell), August 6, 2009.
For external assistance to be truly effective, however, a country needs to have clearly defined development objectives, as well as a comprehensive social and economic policy framework. A country also needs good governance principles and practices to ensure that public resources are not diverted from their intended use and misappropriated for private gain. None of these objectives, principles or practices has been formulated in Burma, and the military regime so far has not shown any commitment to using external assistance for the benefit of the country’s citizens. Donor governments and international financial institutions should acknowledge this fact before considering raising levels of assistance. At the same time, those who consider themselves stakeholders in Burma’s development should realize that the time to interact with and work to influence the decision-making of donors and international financial institutions is now.

For more information, see: Opportunities and Pitfalls: Preparing for Burma’s Economic Transition, Open Society Institute, 2006.
About the NGO Forum on ADB

Institutional Background of the NGO Forum on ADB

The NGO Forum on the ADB is an Asian-led network of civil society organizations and community groups that have been monitoring policies, projects and programs of the Asian Development Bank. The Forum is an arena of solidarity and it advocates greater democratic space, for wider and more meaningful public participation and dialogue, access to information, good governance, and the promotion of social and environmental justice.

The Forum's institutional objectives are the following:

- Stimulate public awareness and action and develop closer working ties with other Asian People's Organizations (POs), Non-Government Organizations (NGOs) and other public interest groups on issues related to the Asian Development Bank;
- Develop a cohesive framework and overall strategy for running advocacies involving ADB policies, projects and programs in coordination with partner NGOs and community-based organizations;
- Sharpen public understanding and debate regarding the ADB’s growth-fixated, market-driven goals and its centralized, top-down development strategies;
- Offer policy and institutional reforms and promote genuinely poverty reduction-focused, grassroots-based, sustainable development alternatives; and
- Assist local communities to achieve social and environmental justice.

The Forum was first established in 1992 as the NGO Working Group on the ADB. Since then, the network has expanded to include core members of the ADB-defined five Asian sub-regions and major donor countries such as Japan and the USA. The Forum was formally registered as the NGO Forum on ADB in 2001, under Philippine laws, with an International Steering Committee (IC) as its Board.

The Forum is present in Central Asia and the Caucasus, South Asia, Southeast Asia, and the Mekong. The Forum also has member groups in the USA, Europe, Japan and Australia. The Forum is based in Manila, Philippines where the ADB has its headquarters.

Forum’s Work Focus

Forum’s work focuses on developing the mechanisms to facilitate the functioning of the Forum’s five areas of activities: (a) information management and facilitation; (b) policy research and publications; (c) support for communities adversely affected by the ADB projects, policies or programs; (d) capacity-building; and (e) advocacy support and network development.

The Forum publishes development perspectives from network members as well as critiques of ADB policies and programs. The Forum publishes a quarterly journal called Bankwatch along with guidebooks and thematic reports on issues and regional approaches of the ADB. The Forum initiates intra-NGO and multi-sector dialogue and helps organize meetings between community groups, CSOs, government officials and the ADB to bring specific issues directly towards open discussion.

Strategies employed by the Forum include advocacy engagement and campaigns with different officials, including the ADB Board, and involving region-wide participation of impacted communities and other members.

The Forum plays the role of bridging civil society and community groups with donor and developing country organizations and governments.

Major Advocacies

Since its inception in 1992, the Forum has engaged the ADB through the following:

Safeguards

The Safeguards are a very important issue for the Forum Network because it encompasses Safeguards on Environment, Involuntary Resettlement and Indigenous Peoples. Policies of that kind are also determined by the pressure from community and
civil society organizations (CSOs). The engagement arises from the reality that most of the ADB's projects result in more empowerment, destroyed ecosystems and greater hardships. The Forum has been active in the Safeguards review started in 2005, and continues to be vigilant in ensuring that the Bank's Safeguards are not weakened, watered down and contradictory to the Bank's pronouncements. The current outcome of the process is also a result of the tireless engagement of the Forum.

**Energy**

One of the bigger challenges of the Forum is the work on Energy Strategy. The Bank's Strategy 2020 (Long-Term Strategic Framework) rests on the fundamental tenet that a private-sector led development is front-and-center in the pursuit of economic growth. Undoubtedly, ADB will remain thoughtless and impervious to the consequences because the business model that they are using is for the corporate agenda. The energy that they need to power the economic objectives for developing Asia will always be conventional, often, that means either large-scale fossil or large-scale hydro.

The Forum continues to engage the energy debate in the Bank. The Forum maintains its pressure on the drafting of the ADB's Energy strategy, which was later reclassified into a Bank-wide updated Energy policy draft that would undergo the scrutiny of the ADB's Board. The Forum is presently resisting the attempt by the ADB to change its Energy policy to allow for greater financing of coal mining projects.

**Gender**

In March 2007 Forum Annual Meeting, a Gender Working Group was created. This is to keep the effort to ensure the continuity of the gender initiatives and to draw the active involvement of Forum members.

Recognizing the ‘gendered’ impact of the ADB projects and policies and being aware of its strategic role as a broad network that aims to catalyze change to support local communities and mobilize its alliances at the regional/international and national levels, the Forum is committed in catalyzing gender transformation internally and externally and to explore specific ways on how gender is significantly and critically integrated into its work.

Meanwhile, the external track focuses on how the Forum brings about Gender Transformation in its advocacy and campaigns work. Given the strategic niche and the success of the advocacy work of the Forum, bringing out the ‘gendered’ impacts of ADB programs and projects, remains a challenge. While the ADB has a gender policy, what the Forum wanted to do is to be in a better position to lobby ADB for better gender inclusion.

**Climate Change**

The Forum has started its work on climate and energy. It has undertaken a scoping study on climate-related ADB operations and next steps in terms of pushing for a real climate change. In December 2008, for the first time, the Forum participated in the UN-organized climate negotiations held in Poznan, Poland. It was a vital learning opportunity for the Forum which led to the crafting of different proposals designed to make the Forum's contribution to the resolution of the climate debate more nuanced, more targeted and more strategic.

**Projects**

**Southern Transport Development Project, Sri Lanka**

The project has been touted by the Bank as a landmark project - Sri Lanka's first expressway connecting the southern city of Matara with the capital Colombo. With two-pronged objectives of “facilitating development in the southern region” and “reducing poverty with improved access to employment opportunities and basic needs”, the 128-kilometer long, six-lane road, funded by ADB- and the Japan Bank for International Cooperation, costs USD 295.9 million. The NGO Forum has been monitoring the project and supporting campaigns of its network member-partner Centre for Environmental Justice (CEJ). In fact, the Forum was part of a 3-day fact-finding visit (together with the Bank Information Center and CEJ) to the STDP sites to prepare an independent assessment of the situation on ground. The objective of the visit was to better understand grievances of the affected communities, record violations of ADB's

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1 NGO Forum on ADB, Gender Audit Report, December 2007
Resettlement Implementation Plan. STDP is the first case which was fully processed in 2005 by the ADB’s new Accountability Mechanism.

**Highway One Project, Cambodia**

In December 1998, the Asian Development Bank approved a USD40-million soft loan to support the Cambodian government’s plan to improve a 105.5 km section of the road that connects Phnom Penh, the country’s capital city, to Ho Chi Minh City, a commercial center in Southern Vietnam. This project has affected more than 5,500 Cambodians living in 1,100 households, some of whom had to be completely relocated. Clearly, the ADB-funded Highway One (HW1) Rehabilitation Project in Cambodia made many families in the country landless, houseless, and jobless. Some of these families now live near the road, which has already been upgraded or “developed,” and yet are still waiting for just compensation or restoration of their life and livelihood. In keeping with the NGO Forum’s advocacy of upholding the *Safeguards*, it continues to support like-minded organizations and project affected communities by raising their concerns (meaningful participation by project-affected people, creating better compensation entitlements, information awareness and dissemination on the plight of project –affected people) to the ADB.
Authors

Nila Adhianie is the Director of Amrta Institute for Water Literacy in Indonesia. Nila is an experienced researcher on water privatization projects in Indonesia including the ADB’s Multitranche Financing Facility water projects. Amrta Institute focusses it’s work in Indonesia on water resources including the private sector participation.

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Maya Eralieva presently works as Central Asia and Caucasus Coordinator with NGO Forum on ADB. She has immense experience on advocating justice and rights through public participation in development projects especially in the ADB and the World Bank in Central Asia and Caucasus region. Earlier she worked in various Civil Society organizations in Kyrgyz Republic on election procedures and public participation. Maya worked in two thoughtful and well reviewed documentary films entitled, 'Gold Accident' and 'Lost Children'. She holds a master degree in international politics from Kyrgyz National State University.

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