Focus-on-Trade is a regular electronic bulletin providing updates and analysis of trends in regional and world trade and finance, with an emphasis on analysis of these trends from an integrative, interdisciplinary viewpoint that is sensitive not only to economic issues, but also to ecological, political, gender and social issues. Your contributions and comments are welcome.

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COMMENT

The State of Hawaii's apparent over-reaction to security concerns during the 34th Annual Govenor's meeting of the Asian Development Bank had a very real basis.

Peoples and communities adversely affected by ADB projects are showing their dissent more vigorously than ever before and some, like the villagers of Thailand's Samut Prakan province, have challenged the ADB using its own processes by filing the first-ever formal "inspection request". Needless to say, the ADB has the jitters. Until the protests during last year's meeting in Chiang Mai, the ADB had an easy run. But now, having had a taste of bad publicity, the ADB is trying to do some damage control, and with good reason. First, there is a lot of damage to control and it must at least give the impression that it is doing something about it. And second, the ADB is taking advantage of the World Bank and IMF crisis of legitimacy to position itself as 'the' legitimate development bank for the Asia Pacific.

The ADB's next moves are crucial and will indicate how much of all of this actually gets processed between their ears. Or how well they calculate the explosive energy of angry and disaffected people.

In this issue of Focus on Trade Shalmali Guttal and Walden Bello assess the ADB's reaction to mounting civil society pressures for accountability and transparency. Chris Adams describes how the ADB profits from the privatization of infrastructure in the South and Stephanie Fried dissects the Indonesian experience. Raghav Narsalay gives an insider's view of the Hawaiian Convention Center and Joy Chavez outlines some of the reasons why frustration runs when people deal with the ADB.

We have also included the peoples' petition presented to ADB President Tadao Chino outlines a pointed challenge to the bank.

Meanwhile trade negotiations are in full swing in Geneva against the hum of the "trade is good for the poor" propaganda machine.

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But, as Aileen Kwa shows, the onslaught on the South continues inside the WTO – especially in agriculture negotiations — despite the public relations promises of a "development round."

HONOLULU FACE-OFF: CIVIL SOCIETY 1, ASIAN DEVELOPMENT BANK 0

By Walden Bello and Shalmali Guttal*

When President Tadao Chino of the Asian Development Bank (ADB) came down to meet representatives of the over 1000 protesters that had gathered in front of the Honolulu Convention Center on Wednesday, May 9, the move was a major victory for opponents of the Manila-based agency. For years, the ADB president had refused to meet critics of the ADB in a public, transparent situation. During the Bank's annual meeting in Chiang Mai last year, ADB staff had gone to considerable lengths to prevent such an occurrence, and they were prepared to stonewall us again at this year's meeting.

But the ADB's 34th Annual General Meeting (AGM) created tremendous controversy in Hawaii for a number of reasons. For a start, there is the history of US imperialism and colonialism, which, according to local organizers, has made Hawaii the most, militarized piece of earth in the world. Through a combination of brainwashing, economic dependency and old fashioned repression, US authorities have done their best to contain indigenous and local Hawaiians' struggles for sovereignty and self determination. What a site for the annual meeting of an institution that claims to advance the interests of the poor and under-privileged! Despite Hawaii's distance from most anywhere in Asia, the 34th AGM attracted critics from across the Asia-Pacific and North America and served as a coalescing point for anti-globalisation protesters who very effectively linked traditional US imperialism with the market capitalism promoted by institutions such as the ADB.

A CAPTIVE AUDIENCE

President Chino expected a perfunctory meeting, in which the civil society delegation would hand him a petition and he would scamper back to the safety of the convention center and his retinue of assistants. What he did not expect was that Ms Dawan would not release his hand once he had offered it to her in a handshake. Her firm but gentle grip allowed Dr. Bello to read aloud the collectively written petition to a captive Chino for the next 15 minutes. And despite the demands of Chino's assistants that the police break up the meeting—since the ADB president had come to receive a written petition, not to hear it read aloud to him—the police were pretty much unable to do anything.

The statement, signed by 50 non-governmental and people's organizations from throughout the Asia Pacific region, read in part:

"The Asian Development Bank...is an institution that is now widely recognized as having imposed tremendous sufferings on the peoples of the Asia-Pacific. In the name of development, its projects and programs have destroyed the livelihoods of people, brought about the disintegration of local and indigenous communities, promoted the sharp rise of inequality, deepened poverty, and destabilized the environment.

We, representatives of peoples, communities, and organizations throughout the region, have had enough of this destruction in the name of development. We have had enough of an arrogant institution that is one of the most non-transparent, undemocratic, and unaccountable organizations in existence.

The people of the region want the ADB out of their lives...and yield the space for others to promote alternative strategies of development that truly serve the people's interests."

The petition specifically demanded the cancellation of four controversial projects: the Samut Prakarn Wastewater Management Project in Thailand, which threatens irreparable damage to a sensitive coastal ecosystem and is ridden with corruption; the Cordillera Highland Agricultural Resource Management Project in the Philippines (Charm), which is undermining traditional community-based farming by encouraging cash-cropping; the Chashma Right Bank Irrigation Project in Pakistan, which involves involuntary resettlement of villagers; and the Sri Lanka Water Resource Management project, which threatens serious ecological disruption to affected communities.

SMALL VICTORY

The 15-minute long airing of peoples' demands was a small victory for transparency, but that it will result in cancellation of controversial projects, or changes in the ADB's non-transparent decision-making structures is unlikely. All Chino could promise once Dawan gently released his hand was the same old mantra that ADB officials have been reciting to critics for years: "your views will be taken into account."

The meeting with Chino was the highpoint of a rally that saw the participation of some 1500 people, who marched from Magic Island, through the famous Waikiki Beach area, to Ala Moana Park. Despite police and media warnings about the potential for violence instigated by "external agitators," the events of May 9 were peaceful, though militant. The Honolulu police had spent from US$ 4 to US$ 7 million to upgrade its coercive capacities for the protests in response to the ADB's request for protection. The security syndrome pretty much took over in the weeks leading up to the conference, leading ADB officials themselves to complain that (in the words of a senior staff member) "the US neglected substantive preparations for the event." Indeed, except for events and programs related to dealing with NGOs and people's movements, the substantive agenda of the 34th AGM was remarkably thin, consisting largely of vague declarations regarding the non-functioning Asian Currency Arrangement.

The success of the protest march was due in great part to the work of ADB Watch, a local coalition of indigenous, peace, social justice, and environmental groups. In addition to the march, the coalition organized a conference on indigenous rights and struggles, a teach-in on globalization coordinated with the International Forum on Globalization (IFG), a seminar on globalisation and militarisation, and a two-day series of talks, "Voices of the South," featuring speakers from across Asia and the Pacific. Observers remarked that the participation of native peoples and the theme of native people's rights distinguished the mobilization against the 34th ADB AGM from previous protests. Indeed, about half of the participants in the May 9 march were native Hawaiians, and a prominent theme in the weeklong anti-ADB events was protest against the US's destruction of their national sovereignty.

POOR JUDGMENT

The protesters in Honolulu—both Hawaiian and non Hawaiians were also reacting to a growing trend that the ADB's 34th AGM symbolized: the refashioning of our cities and towns to become meeting sites for the institutions of global capitalism. Hawaii State and Honolulu City authorities were emphatic that the 34th AGM would serve to showcase Hawaii as the "Geneva of the Pacific." They see an enormously lucrative future in being able to host international meetings and summits organized by institutions such as the World Bank, International Monetary Fund and the World Trade Organization. All the more reason for them to ensure that one way or another, the Aloha spirit would prevail during the ADB meetings, if not through willing acceptance by local residents, then through beefed-up security measures and repressive ordinances. In the words of a prominent local resident, the ADB's AGM was part of a longer-term vision "to make Hawaii a safe place for global pariahs to meet."

Hawaii, with its decades-long history of military build up and its relative geographic isolation must appear a particularly appropriate candidate for a future global convention centre. It is the home of the US Pacific Fleet and has over 50 surveillance stations tracking ship movements from Peru to Madagascar. Different parts of the islands serve as storage areas for nuclear and biological weapons, incineration sites for weapons disposal, sites for bombing exercises, and training areas for tropical mountain and jungle combats. Not only has land been appropriated from native and other local residents in the name of "national security," but also, parts of the islands have experienced widespread environmental destruction and contamination as a result of military exercises and storage. And to protect this military pearl, US authorities have ensured an adequate supply of security personnel around the clock.

Not surprisingly, many local residents were bitter about the future implications of holding the ADB's 34th AGM in Honolulu. According to a local community organizer, "Hawaii is already a safe place for the military to be. Now we see all the institutions of finance capital coming in to the same point that is a military stronghold, using the same military structure to control the public and resulting in even more militarisation as with the ADB AGM."

Given Hawaii's historical particularities, the ADB management displayed remarkably poor judgment and ineptitude in dealing with the range of sensitive issues that cropped up both before and during the AGM. At the forefront of these were public outrage at the huge costs of providing security for the AGM and at the special measures taken by local security authorities to ensure that the AGM went off smoothly at any cost. President Chino's brief adventure with the masses outside the Convention Centre was perhaps the only prudent move that the organization took in its attempts at damage control.

NON-TRANSPARENT GOVERNANCE

The ADB prides itself for being the first multilateral lending agency to have a Board-approved policy statement on good governance, which it defines as governance marked by "accountability, participation, predictability, and transparency." Many Bank staff members are, however, extremely cynical about the new policy. One senior person we interviewed said: "It's a question of practicing what you preach. There's a lot of discontent inside the Bank, precisely because it is one of the most non-accountable. non-participatory, and non-transparent institutions around."

As an example, she pointed to informal rules that reserve certain positions to the dominant countries, in particular the US and Japan. The US speaks loudest when it comes to good governance, but it considers key positions in the Bank "its private property, and no talk about democracy and transparency will change that." A good case in the position of the General Counsel of the Bank. The US has locked up this position, an attitude that has brought it criticism from the Board for "lack of transparency." Mindful of the criticism, the US last year pushed to have a US citizen continue to fill the post, but chose an American citizen from Hawaii with a Japanese name.

Japan is equally non-transparent in its relationship to the ADB. Japan's Ministry of Finance (MOF) determines who will be president — Chino is a graduate of the MOF— and who will fill the key position of head of Budget and Staffing. This has had detrimental consequences for innovation. One is ideological: the MOF is probably the most conservative of Japan's economic agencies. The other is structural: the chief of Budget and Staffing, for instance, is replaced every three years by the MOF and according to a member of the Bank's Executive Board who we interviewed, "which means that the occupant has little incentive to innovate and all the incentive to carry on as usual."

Ironically, Japanese control of the Bank has not resulted in the adoption of the bottom-up, participatory management that Japanese firms are noted for. Instead, the ADB has reproduced the over-centralized, hierarchical structures of the MOF, with hiring of the lowliest programmer for a small project and travel outside the Asia-Pacific region by any Bank staff needing the personal approval of the president. "Hierarchy is everywhere; quality control is nowhere," said one senior informant. "This is, let's face it, a mediocre organization."

THE THREAT FROM CIVIL SOCIETY

The 34th AGM underlined the reality that the days when the ADB could pretty much ignore peoples' movements and civil society organizations (CSOs) are pretty much over. The institution is getting more and more defensive as more and more damning facts come into public view. A recent internal evaluation of a sample of ADB projects in 1998 and 1999 showed that close to 70 per cent of ADB projects are not sustainable. A report to the Bank's donors admitted that although the ADB boasts of poverty reduction being its "overarching vision and goal," the fact of the matter is that "few projects have been designed specifically to address this objective," and that "there has been little lending directly targeted at women or the environment."

In addition to project lending, "structural adjustment lending," which seeks to transform economies across the board in the direction of greater market freedom, has also come under criticism internally. One key review decries the "proliferation of policy conditionalities" or measures promoting liberalization, deregulation, and privatization, noting that the average number of conditionalities per program loan is 32! Practically admitting the failure of the Bank's conditionality-burdened program lending, the document states that "besides the issue of proliferation of conditionalities is the more basic issue of the efficacy of the policy conditionality approach."

With the ADB no longer able to dismiss the scrutiny and demands of civil society, reform was one of the notes sounded at the Honolulu meeting. Whether anything will come out of this institutional breast-beating remains to be seen. But as the alternative events and protests that accompanied the annual meeting underlined, CSOs and people's organizations are determined to keep up the pressure on the ADB.

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PRIVATISING INFRASTRUCTURE IN THE SOUTH

*By Chris Adams**

In the Asia Pacific region, infrastructure projects - roads, ports, power stations etc. - have traditionally been initiated, owned and managed by the state. The projects have been financed through taxes or by borrowing from commercial banks and international financial institutions such as the Asian Development Bank (ADB). The role of the private sector has been relatively limited, usually restricted to subcontracting in the construction phase. Our governments have retained ownership and control over the assets and any associated revenue stream and, in exchange, have borne all risks and contingent liabilities.

INCREASED DEMAND

All this has changed over the last two decades. Demand for infrastructure investment has increased dramatically in response to rapid industrialization and urbanization in Southeast Asia and the transition from centrally planned to market economies in the Mekong sub-region. Governments are no longer able to finance infrastructure projects solely or even predominantly from the public purse. Many governments in the region have a narrow tax base and regressive tax regimes. All face budgetary constraints, in part due to declining terms of trade for primary commodities and the high cost of debt servicing. Aid flows have also declined, reflecting global trends, as well as the cessation of aid from the former Soviet bloc to the Southeast Asia transition economies (SEATEs) and the high cost of yen denominated loans from Japan. Governments are also under pressure from multilateral agencies to strengthen fiscal discipline. This precludes state financing of infrastructure projects through borrowing from state-owned banks or expansion of the money supply.

Governments are also reducing their involvement in the design, construction and management of infrastructure projects in response to the prevailing emphasis on privatization in development discourse, the poor performance of some - but by no means all - state-owned enterprises and public utilities and the policy prescriptions of bilateral and multilateral agencies.

As a result, governments are looking to the private sector to not only finance but also to build and operate infrastructure assets. The SEATEs in particular have relatively low saving rates and weak domestic capital markets and have looked to regional and global private capital markets and the multilateral development banks (MDBs) to fill the gap. This has coincided with a dramatic surge in private capital flows from developed countries and later the newly industrialized economies of the region to emerging market economies (EMEs). This began in the late 1980s, particularly in response to a cyclical downturn in interest rates and a longer-term fall in rates of return on investment in mature industrial economies.

PRIVATE SECTOR ENTERS THE PICTURE

These private capital flows have been highly skewed geographically, a characteristic that has became even more pronounced in the wake of the Asian financial crisis. Private capital flows are now concentrated in Northeast Asia, particularly in Korea, China and Taiwan. Foreign direct investment (FDI) in Southeast Asia has increasingly gone into mergers and acquisitions rather than into green field projects. Transnational corporations (TNCs) from the US, the UK, the Netherlands and Singapore have been able to pick up productive assets at fire sale prices, aided and abetted by the IMF's policy emphasis on the liberalization of foreign investment regimes as a condition of emergency lending to crisis-affected countries after the crash in 1997. Similarly, new commercial bank lending - albeit on a much smaller scale - is being used to restructure existing external liabilities rather than invest in new plant and equipment.

Even before the crash however, the private sector was reluctant to invest in large-scale infrastructure projects in emerging market economies because of: long lead times; high up-front costs; frequent cost and time over-runs; a high level of disputes; a high proportion of sunk costs; restricted markets for project outputs; limited availability of foreign exchange; restrictions on currency convertibility and profit repatriation; vulnerability to policy and regulatory change and weak dispute resolution and legal systems.

In response, the MDBs have tried to increase the level of private sector involvement in public sector infrastructure projects, particularly through the use of turnkey contracts and build-operate-transfer (BOT) schemes. The MDBs have reduced the cost of credit and the risks accruing to private investors by providing political risk insurance and partial credit guarantees as well as by providing concessional finance from their own sources and/or mobilizing finance from export credit agencies (ECAs) and commercial banks. In addition, the MDBs have used their substantial leverage over small, heavily indebted countries to impose policy, regulatory and institutional changes that favor private interests.

This is part of a larger change in the role of the MDBs that began in the 1980s, initially with the World Bank (WB). In response to falling donor support and the surge in private capital flows to developing countries, the MDBs - fearing a loss of their rationale and hence legitimacy - shifted away from their traditional emphasis on providing low cost finance for public sector projects to providing strategic policy advice, policy-based lending; support to the private sector and mobilizing private capital flows to developing countries.

All this is now done in the name of poverty reduction rather than growth in GDP. However, the macro-economic framework for the ostensibly nationally owned but WB/IMF Board approved poverty reduction strategies remains largely unchanged, retaining the neo-liberal emphasis on privatization, capital account liberalization, market-based pricing and trade liberalization that characterized adjustment programs in the 1980s and 1990s.

The ADB has followed suit.

ANGLO-SAXONS RULE, OK

Despite a brief flirtation with an Asian, particularly Japanese, development model, the ADB has largely fallen into line with the Anglo-American orthodoxy that has held sway in the WB and the IMF since the early 1980s. Japan's preference for project lending, investment in public infrastructure, protection for infant industries, a strong regulatory role for the state and mercantilist trade and industry policy has given way to the US emphasis on private sector development, private capital flows, a reduced role for the state, policy-based lending and structural adjustment. This reflects the primacy given by Japan to the maintenance of the relationship with the US, the slowdown in the Japanese economy that has undercut the appeal of the Japanese model, the high degree of integration between the US economy and the economies of many smaller countries in the region and resistance from many Asian countries to a Japanese-dominated ADB.

This policy emphasis has led to significant changes in the scope and cost of services provided by the ADB over the last ten years. The ADB has placed an increasing emphasis on providing policy advice, both in terms of macro-economic as well as sector-specific policy. As a result, the ADB has increased program or policy based lending relative to project lending. In response, the number of conditions attached to ADB loans has steadily increased over the last five to ten years. The ADB is also placing an increasing emphasis on co-financing i.e. mobilizing funding from other sources for ADB-funded projects, particularly from ECAs and commercial banks that charge higher interest rates and have lower, if any, social, environmental and human rights guidelines or standards. The ADB is also increasing its direct support to private sector projects. Whilst this still accounts for a relatively small proportion of ADB lending, the head of the ADB Policy and Strategy Unit has spoken in favor of establishing a separate entity similar to the WB International Finance Corporation within the ADB. Finally, up until the recent replenishment of its concessionary loan facility - the Asian Development Fund (ADF) - the ADB was increasing the proportion of hard loans relative to soft loans.

To add salt to the wound, the ADB has increased the cost of its loans and other services. The scale of the ADB's unprecedented lending to crisis-affected countries in 1997/98 weakened its financial position, threatening its credit rating in global capital markets. Borrowing governments wanted the ADB to address this by increasing donor government contributions. Donor governments wanted to address this by increasing the service fees and interest rates on ADB loans, suspending the transfer of operating profits to the ADF and reducing the term for loans extended to crisis-affected countries and large middle income countries. That the donor governments prevailed is of no surprise - donor governments control 54% of the votes on the Board of Directors and hold five of the twelve executive director positions. In addition, the President, as well as other key positions in the ADB, is almost always drawn from the Japanese Ministry of Finance.

In summary, ADB lending has become expensive, with more strings attached and, for some countries at least, repayable over a shorter period. Not surprisingly, loan disbursements slowed and repayments increased in FY2000. As a result, the net transfer of resources from the ADB to developing countries fell dramatically from $1.7 billion in 1999 to just $3.7 million in 2000. If the smaller ADF flows are put aside, then there was a *net inflow* of OCR resources to the ADB worth $778 million in 2000. This means that the ADB took more money out of the region than it put in.

POOR COUNTRIES LOSE OUT

These changes privilege middle-income countries and larger low-income countries at the expense of the least developed countries and small island states. This will reinforce an existing geographic skew in ADB lending. Just eight of the thirty-nine borrowing countries in the ADB have received 80% of all ADB loans since it was established in 1966. Up until recently, most if not all of these were strategic and commercial allies of the US and Japan. Only one of these - Bangladesh - is a least developed country (LDC). The other twelve LDCs in the region have received less then 4% of all ADB loans since 1966.

These trends will be reinforced by the operationalization of the ADB private sector strategy that was approved by the Board in 2000. This strategy has three strategic thrusts: a) creating enabling conditions for business; b) generating business opportunities in ADB-funded projects, particularly through the use of turn-key contracts and BOT schemes; c) catalyzing private investment through direct finance, cofinancing and the extension of partial risk and partial credit guarantees to private investors.

That the ADB Board approved a poverty reduction strategy soon after adopting the private sector strategy is of no surprise. This was the key, after all, to shoring up donor support for a financially troubled institution. The ADB has, as a result, developed an ostensibly participatory approach to the development of its country strategies, including participatory poverty assessments. However, these strategies - now developed in close collaboration with the IMF and the WB - uniformly promote the role of the private sector and good governance, the later often narrowly focused on private property rights, contract law and commercial dispute resolution.

Private sector support is nothing new for the ADB. The private sector has always been the principal beneficiary of ADB lending since it was founded in 1966. In its first decade of operation, companies from donor countries like Japan, Germany and the UK - three of the largest shareholders at that time - captured 80% of ADB-funded contracts for goods, services and civil works (GRSCW). Between 1966 and 1999, Japanese and US companies have won contracts worth more than all ADB lending to the 13 LDCs in the Asia Pacific region. Companies from the top ten donor countries won contracts worth more than the combined value of all ADB loans to 30 of the 39 borrowing countries in the region over the same period. All donor countries, with the exception of Japan and Canada, get back more money from the ADB by way of commercial contracts than they put in as grants and capital subscriptions. In effect, donor governments are using the ADB and the rhetoric of poverty reduction to channel taxpayer funds to private companies without any democratic oversight.

Whilst the proportion of ADB-funded contracts for GRSCW going to donor country companies has declined over the last three decades, the proportion of ADB-funded contracts going to donor country consulting companies has actually increased over the last five years. This is of particular concern because many of these companies were established in the 1980s and 1990s to take advantage of the ideologically driven processes of privatization initiated by Reagan in the US, Thatcher in Britain, Keating in Australia etc. This severely proscribes the policy options offered to borrowing governments in receipt of ADB-funded technical assistance from ideologically driven consulting companies.

Private companies have particularly benefited from participation in BOT projects. These have been heavily promoted since the 1980s by the ADB, the WB, the IFC, ECAs, bilateral agencies and companies specializing in BOT projects. In a typical BOT project, the sponsor - usually a joint venture (JV) between several private companies and/or state-owned enterprises - is granted a concession by the state to design, finance, build and operate an infrastructure asset for a set period, usually 25 to 30 years. During the concession period, the JV is allowed to sell its product e.g. power from a hydropower plant, at a rate high enough to repay any debts accrued in the construction of the asset over a 10 to 15 year period and generate a profit at an internal rate of return of at least 15%. At the end of the period, the asset is handed over to the government free of charge.

BOT projects are very complex in financial and management terms, typically involving a host of players, including governments, private companies, legal advisors, financial intermediaries, private investors, consulting companies, NGOs and research institutes. As noted previously, private investors are reluctant to put money into large-scale infrastructure projects in EMEs because of real or perceived commercial and political risks. It is the allocation of these risks and contingent liabilities between the various players involved in a BOT project that determines whether investors will support a project or not. The risks and liabilities are usually identified, priced and allocated to different players through a complex and interlocking set of contracts, including concession agreements, licenses, shareholder agreements, purchase agreements, project agreements, guarantees and loan agreements.

These contracts price and allocate risks and contingent liabilities in a number of ways, some of which are outlined below.

LOTS OF RISKS, FEW BENEFITS

BOT projects are usually financed on a non-recourse basis i.e. in the event of default, the investors in the project do not have recourse to the assets of the JV partners, only the assets and revenue stream of the project itself. Project financing is also usually highly geared i.e. the project is predominantly financed by borrowing money rather than through equity investment. Whilst this reduces the risk to the JV partners, the high level of external borrowings, coupled with the high cost of imported technology and the repatriation of profits and dividends can exacerbate balance of payment problems for the host country and lead to an increase in external indebtedness. Furthermore, the loans are usually raised from ECAs or from a syndicate of commercial banks. These loans have higher interest rates and shorter repayment terms than both non-concessional and concessional loans from MDBs or grants from bilateral sources, driving up project costs. In addition, ECA loans are linked to purchases from specific companies in the ECA's home country, which precludes competitive bidding and further inflates project costs.

As noted previously, commercial lenders will not invest in large-scale projects in EMEs without risk insurance and/or partial credit guarantees from ECAs and MDBs. These typically require a counter-guarantee from the host government. For example, if a private company defaults on loan repayments, then the ECA or MDB will reimburse the lender using its own taxpayer guaranteed funds and then transfer the cost - plus a penalty - to the host government, thereby adding to that country's bilateral or multilateral debt stock. Both the MDBs and the ECAs have preferred creditor status, ensuring debt repayment ahead of other parties involved in the project. These instruments effectively transfer both commercial and non-commercial risks from the JV to taxpayer-funded institutions and in turn to the host government.

Project revenues are usually paid into an offshore "escrow" account, managed by an independent party or an MDB involved in the project. The revenues are then periodically dispersed to the various players, beginning with the commercial investors, then the JV itself for operation and maintenance costs, then the host government for taxes and royalties and then the equity investors in the form of dividend payments. If the host government is also an investor in the project, then it has a vested interest in maximizing dividend payments. This can conflict with its role as an independent regulator or advocate for affected communities.

The concession agreement will usually grant the JV free or heavily discounted access to land and other natural resources e.g. land and water for a hydropower plant. Similarly, the agreement will often grant the JV exemptions on import taxes during the construction phase as well as tax and royalty holidays on project revenues. The concession agreement will also often externalize social and environmental costs by transferring responsibility for environmental and social impacts to the host government and/or by capping the financial responsibility of the JV for mitigation measures and compensation.

Most if not all of the output from the project e.g. power from a hydropower plant are usually sold to a single purchaser e.g. a state electricity utility. The terms of sale are covered in an off-take agreement. This requires the purchaser to buy a fixed quantity of the project output at a fixed price for a set period e.g. 25 years on a take-or-pay basis i.e. the purchaser must pay for the product regardless of need. This transfers market risk from the JV to the purchasing utility that then transfers the associated costs to consumers.

In summary, risks in BOT projects are rarely if ever removed. Rather they are identified, often unrealistically priced and then reallocated. Reducing risk to private investors typically means increasing risks to the host government, consumers and communities affected by the project. Ideology, economic and political power and institutional capacity have as much, if not more, of an impact on the final allocation of risks and contingent liabilities, than do public interest criteria. Least developed countries with limited experience and institutional capacity are at a distinct disadvantage in this process. The resulting contracts are treated as "commercial in confidence", reducing transparency and participation. Furthermore, the contracts are usually drawn up in accordance with international rather then national law and, in the event of disputes, are subject to the jurisdiction of third party courts, reducing national sovereignty. The contracts also typically preclude policy and regulatory change that would have a detrimental effect on the project for the life of the concession agreement, further reducing sovereignty in policy-making processes.

In summary, the uncritical privileging of the private sector and private capital flows in development discourse, in MDB policy, in structural adjustment and crisis-lending and most recently in MDB-supported poverty reduction strategies at the national level, has had disastrous consequences for the poor. The processes that this has unleashed - privatization, capital account liberalization, market-based pricing, commercial cofinancing, the diversion of taxpayer funds into non-concessionary lending and subsidies for the private sector, the externalization of social and environmental costs in private sector projects and reduced participation in project design and policy formulation - have, when taken together, benefited private interests at public cost.

Furthermore, it has undermined the capacity of progressive and activist states to design, finance and deliver infrastructure assets in particular and public goods in general. Instead, it has reinforced a model of dependent development, a model dependent on external finance, imported technologies and ideologically driven policy prescriptions.

Progressive taxation reform and the redistribution of productive assets to expand the domestic market and hence the domestic tax base - as well as increasing grant aid - is part of the solution to the financing of infrastructure development. Similarly, a much greater reliance on endogenous technologies and expertise is key to developing assets that are responsive to local needs and consistent with local institutional capacity. As Keynes once said, let finance be national. Let the design and delivery of public goods be likewise.

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THE ADB IN INDONESIA: THE OPERATION WAS A SUCCESS, BUT THE PATIENT DIED

By Stephanie Fried*

Indonesia is, by far, the Asian Development Bank's largest client country. In 1969, the ADB made its first loan to Indonesia for an irrigation project. By 2000, Indonesia owed the Bank over $16 billion. This paper represents an attempt to assess the ADB's record in Indonesia, based entirely on the Bank's own documents. It includes assessments and summaries in the Bank's own words of over half a billion dollars worth of ADB loans to Indonesia. The shocking conclusion is that if we utilize the standard of project success as defined by the 2000 bipartisan Congressional International Financial Advisory Commission (the Meltzer Commission) "project sustainability" it appears that at least 70% of Indonesia's ADB projects are not likely to produce lasting economic or social benefits for the country — a disaster for heavily indebted Indonesia.

In 1993, when Indonesia's debt to the ADB totaled $10 billion, auditors rated a mere 57% of the Bank's Indonesia projects that it had assessed between 1966 and 1993 as "Generally Successful." This reflects the average "Success" rate of ADB projects throughout the Asia-Pacific region as documented in the March 2000 "Report of the [ADB] President to the Board of Directors on 1998 Evaluation Activities and the Twenty-First Annual Review of Evaluation Reports." The 2000 President's Report finds that "in both 1998 and 1999, just under 60% [of the loans audited] were generally successful, 30 percent partly successful, and the remainder unsuccessful."

If we assume, for the moment, that ADB projects rated "Generally Successful" actually were successful, and if we extrapolate these numbers to the $16 billion of debt generated by Indonesian ADB projects through 2000, this would mean that by 2000, close to $5.9 billion of Indonesia's debt load was generated by largely unsuccessful, wasteful, or harmful projects. This does not include the additional matching counterpart funds that the Government of Indonesia spent directly on ADB projects or corresponding "sister institution" loans, i.e., from the World Bank, export credit agencies, and other lenders for projects involving ADB finance.

However, such an assumption most likely greatly understates the failure of ADB investments to provide lasting economic and social benefits to the Indonesian people since, by the ADB's most recent estimate, half of the projects rated "Successful" are, nevertheless, of questionable sustainability. That is, they do not provide long term economic benefits either during or after the lifetime of the project. Again, from the 2000 President's Report:

"The Operations Evaluation Office uses four criteria to measure project and program success: relevance, efficacy, efficiency, and sustainability. It is in the fourth category, sustainability, where many otherwise successful endeavors are found wanting. More than half of the Project Performance Appraisal Reports, Technical Assistance performance audit reports, and reevaluation studies from 1999 discuss sustainability issues. While it is to be expected that the unsuccessful projects would be questioned on the grounds of sustainability, half of the generally successful projects and several of the generally successful TAs were as well. These projects, programs, and Technical Assistance covered practically all sectors: agriculture and natural resources, physical infrastructure, social infrastructure and a range of countries in all four country groups.1"

MEASURES OF SUCCESS

Last year's bi-partisan Congressional International Financial Institution Advisory Commission (the Meltzer Commission) found, in its assessment of multilateral development finance, that project sustainability determines whether or not a project provides lasting, long term economic and social benefits. The Meltzer Commission considered the lack of project sustainability synonymous with project failure and found sustainability to be a much more important indicator of failure or success than what the ADB calls "General Success" or what the World bank calls "Successful Outcomes."

If the "Successful" rating of the ADB's Indonesia projects has been overstated, or merely reflects the provision of ADB "inputs" during a loan period and does not reflect actual project sustainability, then the level of wasted funds is likely to be much higher. Given that, in 2000, the ADB's Operations Evaluation Office found that half of all audited projects rated "Successful" by the Bank were of questionable sustainability, there is a considerable likelihood that, more than 70% of Indonesia's ADB projects will fail to produce lasting economic or social benefits to the country. This is a clear disaster for the heavily indebted Indonesian economy, given that unsustainable and failed projects are potentially the equivalent of $11.36 billion of Indonesia's $16 billion in ADB debt.

Of the Indonesian projects evaluated by auditors in 1993, the "agro-industry sector" made up the majority of ADB loans. A total of $2.9 billion in loans had been made for 71 projects, representing 40% of the Bank's projects in Indonesia. Seventy percent of the agricultural projects assessed were not "Generally Successful" that is, the auditors rated them "Unsuccessful" or "Partially Successful", a term which appears, upon closer scrutiny of Bank documents, to be a euphemism for "troubled" or "largely unsuccessful." Only eight projects were rated generally successful. The agricultural projects had an average implementation delay of 2.2 years, or a 59% time overrun. Twelve projects had cost overruns averaging 108%, while 14 projects experienced cost underruns of 25%.

A few years ago, the ADB announced that it would make its project documents widely accessible to the public. By April, 2001, the Bank's website listed 104 Indonesian projects, of which 19 individual project reports were "clickable" and for which Performance Audit Reports or similar documents were available directly via the internet. It is assumed that the project audit documents posted on the Bank's website represent a non-random sample, in that they are a small portion of existing project documents and are therefore those that the Bank wishes to be made available for public access via the internet. This paper presents a brief analysis of documents typical of those posted on the web, chosen to represent categories of projects rated "Generally Successful", "Partially Successful", and "Unsuccessful" by the Bank.

WHEN SUCCESS MEANS FAILURE AND FAILURE MEANS DISASTER

A search through the ADB's records of its projects revealed that projects rated "Generally Successful" by the ADB can involve massive unmonitored resettlement components, can be (according to ADB auditors) patently unsustainable, can include projects where "record keeping also seems to have been abandoned" and can be (according to auditors) so poorly structured that rapid deterioration of project infrastructure is inevitable.

The "Partially Successful" category appears to be an ADB euphemism for "largely unsuccessful" or "troubled", and includes projects such as a $250 million Food Crop Sector loan where auditors found that the Bank had failed to carry out the most basic analyses of the implications or impacts of its policy recommendations, had failed to identify "intended beneficiaries" of the policy changes and found that "the overall impact of the Program Loan is not clear" because "there were no performance indicators against which Program impact could be assessed." This loan also appeared to involve significant procurement irregularities.

The "Partially Successful" category also includes a $38 million health project where auditors found that "user demand, actual needs, and operating capacities of the hospitals" funded by the project had never been analyzed by the Bank or by the Indonesian implementing agencies, leading to a failure to supply badly needed medical equipment to the hospitals. Auditors found that, despite the Bank's intention of increasing public access to health care via this loan, hospital "bed occupancy rates did not change significantly over the past six years" of the project. They also discovered that it wasn't until six years into the project that the establishment of a system for "benefit monitoring and evaluation", including the collection of baseline data, was discussed. Auditors stated that they "did not have the impression that a functioning Benefit Monitoring and Evaluation system was in place and used by management."

An examination of publicly available ADB documents indicate that the ADB's Unsuccessful Project category appears to mean "abysmal failure" and includes the $29.5 million Agro-Industries Credit Project which provided capital to an Indonesian agricultural bank, Bank Bumi Daya, that it, in turn, was to lend (in seven instances, representing 35% of project funds, lump sums of more than $1.5 million) to "agro-industries." This project not only bankrolled environmentally destructive shrimp farms ("all discharges from the shrimp ponds were directly diverted to the sea without any treatment") and an "environmentally unsound" animal feed factory. In addition, according to auditors, 3/5 of the projects failed and 90% of the projects with outstanding loans defaulted on their loans. The project also sharply negatively affected the "creditworthiness", such as it was, of Bank Bumi Daya, itself.

Of the 19 individual project reports posted on the ADB website, eight were initially appraised as "Generally Successful" and eleven were considered "Partially Successful" or "Unsuccessful." This paper examines a series of recent (1996-2000) audit reports and presents a compilation of the ADB's own comments on projects representing $528.2 million of ADB loans to Indonesia.

Generally Successful:

Nusa Tenggara Agricultural Development Project, evaluated 1999, $137.3 million;

Marine Science Education Project, Evaluated 1997 (re-evaluated 2000 as "partially successful"), $73.3 million;

Partially Successful:

Food Crop Sector Program, evaluated 1997, $250 million;

Health and Population Project, evaluated 1997, $38.4 million

Unsuccessful:

Agro-Industries Credit Project, evaluated 1996, $29.5 million;

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THE "CHINO GESTURE" AND ADB TOKENISM

By Raghav Narsalay

The 34th Annual Governors Meeting of the Asian Development Bank held in Honolulu, Hawaii on May 9-11, 2001 was nothing short of historic. At this meeting the highest-ranking official of the ADB, President Tadao Chino, was forced to come out and listen to the charter of demands of civil society. For the first time ever, the ADB President went out and met with the NGOs at a time, occasion and place that was decided by the civil society and not by him. Thus came about "the Chino Gesture".

A number of "structured" interactions between NGOs and the ADB took place after "the Chino Gesture" but whether these are actually to civil society's advantage is an interesting question.

It is time to take stock of recent NGO-ADB interaction history and the political context associated with "the Chino Gesture".

THE IMPACT OF THE CHIANG MAI AGITATION…

The seeds of "the Chino Gesture" were sown last year during the 33rd Annual Meeting of the ADB in Chiang Mai. At this meeting Chino "snubbed" the invitation from the People's Forum to dialogue with civil society, mentioning that the invitation came too late and that he was "too busy" to accommodate the request. This kind of a Presidential response invoked a strong reaction from NGOs, prompting Thai NGOs and the entire People's Forum to boycott any form of dialogue inside ADB meeting premises. On top of the ADB was heralded by a huge rally of groups from all over Thailand and foreign participants from the People's Forum.

The 'different' form of protest in 2000 apparently made an impression on the ADB. Not only did it result in some staff reshuffle within the NGO Centre at the ADB, but dictated a change in the ADB approach towards NGOs for the Honolulu meeting as well. One, the ADB NGO Centre distributed an agenda of proposed "structured" institutional interactions between the ADB staff (operations, programme & management) and activists well in advance. Two, the ADB included in its 'Guide to NGO Consultations' a detailed list of events that the NGOs organized independently.

All this gave indications that if NGOs just pressed hard enough, the following might be possible. Either President Chino would come out and meet with civil society and hearing their petition *outside* of the Convention Center; or the ADB staff would have to respond to serious institutional, project- and programme-related questions during the so-called "structured" ADB interactions with NGOs.

A LAME CHINO -NGO MEETING

NGOs decided to yet again stay away from the 'official' meeting with Chino. So, instead of the ADB's staunchest critics, Chino met with a more comfortable audience composed mainly by the Foundations, existing and aspiring consultants to the ADB, students from University of Hawaii and of course the ADB staff. There were very few of the critical NGOs there.

It was not surprising then that the Chino and his staff did not face a barrage of stinging political questions with respect to the power structure of the ADB; the level of internal non-transparency in decision making; the lack of coordination between staff at programme, country and project level; and the steps being initiated by the inspection and audit department of the ADB to repair the glaring errors and corruption that had taken place in its projects *et al*. The discussions were highly apolitical. Worse, they did not even look towards seeking any commitments from Chino and his staff. The interaction focused on: the inclusion of certain new issues in future RETAs (regional technical assistance); improvement of procurement procedures which would help consultants as well as consultant-NGOs; existence of and how the ADB should address fake NGOs; and the relationship between energy issues and poverty. The meeting ended with the regulation assurances about trying to work closer with civil society.

The meeting turned out to be so benign so as to amuse university students, commenting "everything sounded so 'goody-goody'". They stressed that no questions were raised at the meeting that would put ADB officials in the dock. "Everything seemed to be so synchronized", they said. Indeed quite amusing! So unexciting was the meeting that not even the ADB bothered to produce a single press release on it.

"STRUCTURED" INTERACTION

Most of the "structured" interactions only began after President Chino actually came down to meet with NGOs on the road before the Hawaii Convention Centre at noon of May 9. It must be also noted that President Chino did enjoy support of some Executive Directors and some staff who convinced him about the importance of going down and meeting NGOs. Which also reveals that there were some senior staff and Executive Directors with a very different opinion on this issue and they had to make up for the 'Chino Gesture' during future interactions of the ADB with NGOs.

Also important to note were the remarks made by the US-Treasury Secretary on May 9, while addressing Governors from various countries. These comments essentially conveyed to the Governors/Executive Directors/ADB officials that the US, the largest donor to the ADB, in future, would be more concerned about "efficiency" of ADB operations, which he felt would automatically help its poverty reduction programmes via private sector participation. He further mentioned that ADB officials at all levels should be awarded more "autonomy" in order to achieve "efficiency" in operations. There was no mention about the missing 'equity' or 'justice' dimensions of ADB programmes.

All the more interesting that President Chino had a quick meeting with the US Treasury Secretary (unscheduled, according to one insider) before coming down to meet the NGOs.

This means that, in spite of the President coming down to meet NGOs, the ADB staff was in a position to take political advantage on the basis of statements made by their largest institutional donor and can afford to remain non-committal on 'equity' and 'justice' dimensions. If they succeeded in doing so, then it was going to be very easy for them to impress upon the people that President Chino's gesture was just a token one, and his coming down was nothing more than an attempt to avoid any major fiasco at Honolulu.

It is in this context that the outcomes of the 11 official meetings between ADB officials and the NGOs need to be looked into.

UNRELENTING TOKENISM

Some of the key outcomes are:

- The ADB Executive Directors admitted that there is no singular office or identified function that deals with general accountability issues. In short, it is difficult if not impossible to identify a person or an office responsible for anything. Only when issues are brought before the Governing Board or various committees like the Inspection Committee will it be possible for them to look into the issue more seriously. This is a very serious observation, especially in the context of an organisation that is more than 30 years old. It speaks volumes about how the Board and other staff of ADB has been keeping their donors, i.e. taxpayers from donor countries and supposed beneficiaries from several developing countries, in the dark vis-à-vis accountability issues. Unless of course this is a tack used by some overzealous ADB staff, i.e. using the veil of ignorance to dodge responsibility, at least till the next AGM.

- Bank staff were best when responding to the various 'efficiency' dimensions of their programmes/projects, but succeeded only in evading questions on issues pertaining to 'equity' and 'justice'.

- ADB authorities more or less conceded that their loan agreements and policies do not contain a language that protects the 'rights' of the supposed beneficiaries. In short, those affected by projects cannot use these agreements and policies to defend their rights.

- A familiar ADB refrain goes, "NGOs need to question their governments and not the ADB, as it is their governments that implement projects and programmes. The ADB just gives loans when governments ask for them." This has been an oft-repeated ploy by the ADB to dodge responsibility for its decisions and operations. But what the ADB cannot deny is that repeating this mantra tells on its failure to seriously integrate people participation and involvement in projects and decision-making, be it on internal Bank structures or those of its clients.

- There is appreciation, but not acceptance, of the need to make Bank staff including the Board more accountable to peoples and not just governments. And this appreciation-and-not-acceptance stance is reflected on how up to this day, there are no clear accountability structures within the Bank and its field offices.

SPECIFIC ISSUES

Inspection policy:

A glaring error in this policy is that it excludes the private entities (like private companies, consultancies, etc.) from any inspection exercise. Interestingly, ADB Executive Directors mentioned that they were 'thinking' of amending this policy to include the private sector but did not mention any specific date.

Furthermore, the current policy does not have any language that facilitates inspection of policy loans.

Neither does the policy speak about authorizing the Board with the right to appoint an Inspection Committee to conduct *suo motu* investigation. Interestingly, John Lockhart – chairman of the present Inspection Committee— has been a judge and prior to that spent nearly twenty years adjudicating public interest cases before he joined the ADB. He promised to try his best to use the current policy framework to the best of his ability to award justice to peoples, citing "one knows how elastic the English language is." One could test his promise, if the Governing Board decides to instruct the Inspection Committee to investigate into the Samut Prakarn Case.

Project Evaluation/Audit:

Serious errors were pointed out in the area of conducting participatory evaluation of projects. In fact when the group was discussing the Lunugamvehera Dam built under the Kirindi Oya project financed by the ADB, the Sri Lankan NGO participating in the discussion revealed that the pre-final Project Performance Audit Report was never discussed with the so-called beneficiaries of the project before it was finalized.

The question as to who audits the performance of contractors appointed by the ADB went unanswered.

Apparently adding to the lack of transparency even inside the ADB bureaucracy is the lack of coordination and rapport between and among ADB departments. At least, the ADB seems to be true to its rabid praise of competition!

Indigenous Peoples' Policy:

Although Bank staff would say that the ADB understands that the Policy on Indigenous Peoples was unclear as to how the rights of indigenous people and communities will be protected vis-à-vis existing class battle in the client country, it remains curious how the exactly how the ADB "understands".

An example cited was the case of the South Asia Growth Quadrangle (SAGQ). Notwithstanding the sensitive political climate in the areas to be covered by the SAGQ, Bank staff who are responsible for the SAGQ have not been part of the SAGQ inception. Worse, the ADB has yet to initiate a discussion with vulnerable groups like the indigenous communities in North East India in the context of the SAGQ.

The ADB has not taken any position on the patenting indigenous knowledge, choosing instead to hide behind the statement that they welcome NGO inputs on this.

Privatization Policy:

The ADB has so far failed to provide a satisfactory political and social reasoning to its beneficiaries with respect to policy on privatisation that is skewed in the favour of the private sector participants.

The policy does not mention how it would protect the interest of the small and marginal farmers given that ADB is making a foray in privatisation of agriculture.

The policy does not delve into class issues that could result from the privatization of natural resources.

It is indeed unfortunate that the ADB implements the privatization policy without regard for national and local realities.

Policy on Corruption:

Curiously, the ADB so far fails to link its disclosure policy to its policy relating to corruption.

The ADB offers but a vague definition of 'corruption' and which, as is becoming apparent in the Samut Prakarn case, needs to be updated to be relevant at all.

What examples like Samut Prakarn were also showing was that ADB officials had been pretty irresponsible while administering the disclosure and the policy on corruption.

A DAUNTING TASK

During the various NGO meetings with the Bank, ADB staff including the EDs accepted several anomalies in the existing Bank structure and processes. But they failed, or took very good care not to sound 'committal'. The most they could give was an assurance that they will try their best to rectify the anomalies using the *existing* policies, the very same policies and processes that have been understood as flawed. Tokenism indeed!

As far as the ADB is concerned, they managed to still have substantial interactions with NGOs, both in and out of the Convention Center. Hence, they have not totally lost face, even if there was a tremendous snub of the Chino-NGO meeting just before the May 9 march. But as far as civil society is concerned, "the Chino Gesture" only opened up a bit more space to a daunting task ahead.

Civil society has the advantage of knowing the system better and is in a better position to relate 'who-is-who' in the large and amorphous system that is the ADB. Civil society representatives have also shown a lot of gumption and preparation that managed to catch ADB officials off guard many times during the various ADB-NGO interactions in Honolulu. For instance, not only did the Samut Prakarn protesters know of the issue, they even had documents in the original to prove their claims, something not even smooth EDs were prepared to hear.

Knowing the predilection of institutions like the ADB, their next target is the preparations for the 35th AGM in Shanghai, yet again a new territory for civil society to muster. But with active campaigns, most notably Samut Prakarn and Theun Hinboun, taken by civil society, the ADB can be sure that cosmetic preparations for their annual event will become even harder. Civil society, after all, does not share an affinity for tokenism as the ADB has.

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WILL THE ADB PASS THE REALITY TEST?

By Joy Chavez*
(with information from the Bank Information Centre and the International River's Network)

The few ADB Executive Directors who responded to the invitation of the People's Forum in Chiang Mai last year issued a challenge to NGOs and peoples affected by ADB projects: there are existing ADB processes of accountability, use them. Not known to shun confrontation, NGOs and affected communities have taken the ADB up on that challenge. Unfortunately, the experience of civil society engaging with the ADB leaves so much to be desired. The ADB has been less than forthcoming and less than prepared for the offensive.

In Honolulu, some of the same EDs again met with the NGOs on basically the same issues raised last year, and more. Some key ADB staff also faced NGO critics in panel debates on ADB policies and projects. For NGOs all this was part of engagement. But the ADB should do more to erase a bad image of being patronizing, and give more substantial indications that it is taking its own challenge seriously.

EDGY OVER SAMUT PRAKARN(1)

On April 5 this year, the ADB received its first-ever formal Inspection Request. The request came from the affected communities of Khlongdan subdistrict in Metropolitan Bangkok, Thailand. While the ADB's exposure in the Samut Prakarn Wastewater Treatment Project stands at only 34% (US$240 million) of the total cost, the project has become its biggest (PR and otherwise) headache since last year.

Originally intended as two mid-sized wastewater plants in the Bangpu and Bangplakod subdistricts, the project was eventually moved 20 kilometers from the original site to Khlongdan. This resulted in the new design of a single and much bigger plant double the original cost, but without a new EIA. Apart from the lack of transparency and consultation of the whole process, the project also threatens the surrounding environment and the livelihoods of nearby villages. The relocation of the project alone violated more than a dozen ADB policies. Still, villagers even allege that the project was also mired in corruption.

For three years, affected communities struggled to air their concerns and receive just response. It was only in Chiang Mai in May 2000 where they displayed an impressive show of protest that the Khlongdan people finally got the attention they deserved, both nationally and internationally.

Since then they have patiently followed ADB accountability procedures to the letter. They sent complaint letters, forwarded allegation complaints, received investigation teams, etc. But pro forma responses from the Bank did little to assuage the villagers' greatest fear: the project still continued. When the Khlongdan people brought the Samut Prakarn case to international attention last year the project was 30% complete. Now it is 65%!

The villagers of Khlongdan sent Darwan Chatarahassadee to be their voice in Honolulu. Darwan laid out three very basic, very clear demands to the ADB: (1) freeze the project – stop further loan disbursements until the Inspection issue is resolved; (2) affected villagers should have full involvement in the Inspection process; and (3) make the decision now – the Board should recommend that the Inspection process start soon.

Again Darwan patiently received explanations from Bank staff and EDs. They cannot freeze a project unilaterally, it has to be the client Government's decision. Knowing full well how very subtle the ADB can be when it comes to unilateral freezing of projects (she after all heard the case of the Philippine power sector loan) *if* it chooses to be so, Darwan stayed polite and offered to work on the Thai Government on the matter. She did ask however if the ADB would waive or at least momentarily suspend the mandatory commitment fees that the Thai Government will have to pay, just in case they agree on a temporary suspension – an idea that nearly choked the EDs.

The Khlongdan people and other Thai advocates were not being unreasonable. They were quick to stress that they appreciate the need for wastewater treatment, but that smaller decentralized systems should work better and imply less negative environmental impact.

The concept of the ADB Board having no power to do anything on a project, in this case a project where it has committed one-third of total financing cost, simply confused Darwan, and indeed most of the other NGO representatives present during the meetings. The confusion turned into frustration when the EDs present could not even guarantee that the Samut Prakarn case would be discussed on the Board during the 34th AGM.

If anything, the Samut Prakarn case demonstrates that it is not just the ADB who is capable of issuing a challenge. On behalf of the affected villagers Darwan might have vowed to carry the fight against the project "till the end". But the promise did not end there. Upon sensing the apparent doubt on the part of the ADB, Darwan stressed, "if you don't believe us, we'll see".

DELUGE OF THE THEUN HINBOUN (2)

The issue of accountability begs a myriad of questions. When does accountability start? When does it end? For the ADB, the issue of whether accountability ends with the closure of the final formal transaction will hound it for as long as it gives loans to problematic projects.

For over three years the Theun-Hinboun Hydropower Project in the Lao PDR, a project brokered and supported by the ADB, has been causing harm to the livelihoods of over 3000 households living in 55 villages. This is the same project that, when it opened in April 1998, the ADB hailed as a "model project" with "little for the environmental lobby to criticize." The Theun-Hinboun Hydro is a build-own-operate-transfer project owned by the Theun-Hinboun Power Company (THPC) in which the Lao Government has 60% equity.

The 1998 International Rivers Network report, Trouble on the Theun-Hinboun, outlined the adverse impacts (including loss of fisheries and drinking water supply especially in downstream communities, impaired boat and pedestrian access to surrounding areas, inundation of agricultural lands, bank erosion, etc.) suffered by communities around the Theun-Hinboun project. Both the THPC and the ADB initially refused to acknowledge these impacts and tried to discredit the report. When the THPC finally hired an independent fisheries expert (Terry Warren), it was found that the impacts indeed were happening. Both the THPC and the ADB to this day refuse to officially release Warren's report.

The ADB was compelled to publicly acknowledge the negative impacts of the Theun-Hinboun project in late 1998 after an ADB mission confirmed the earlier IRN report and even admitted that the impact area was much larger than earlier reported. In September 2000, the THPC released its Mitigation and Compensation Program (MCP) Report.

To date villagers have yet to receive direct compensation for fisheries and other losses, in clear violation of the ADB/THPC commitment to provide timely assistance to those affected. This despite continued pressure from international groups for the ADB to honor its commitments.

In behalf of affected communities international advocates who have closely worked on the Theun-Hinboun project presented four basic demands to the ADB. These are: full direct compensation for livelihood losses; a neutral and independent resolution of the minimum downstream release requirement; improved standards for information sharing and provision of input; and the establishment of independent monitoring mechanism. As proof of their resolve to pursue engagement with the ADB, the advocates note and appreciate even the slightest improvement on the side of the ADB, e.g. an indication of openness from Bank staff and small assurances that they are working on the compensation package. Promises and assurances, however, need to be implemented and monitored, and it is up to the ADB to pick up the pace and be true to its word.

The least the ADB can do now is to refrain from dodging responsibility and share the accountability with the Lao Government and the THPC for the consequences of the Theun-Hinbuon hydro. For the ADB's accountability – for its ideas, projects and policies – does not end when some client DMC finally takes them up. Not even when the loan has officially been "closed".

THE DEBATES: IN OVER THEIR HEADS?

When NGOs brace themselves for face-to-face discussions with routinely aloof Bank officials, the least they expect is to be answered on the solidly researched issues that they raise. It was therefore a big disappointment to everyone when the ADB chose to send somebody who was barely two weeks on the job to a high-level debate with NGOs. True, the person was the newly appointed Chief Economist of the Bank, but the high rank did very little to build the confidence of NGOs in the ADB's approach towards engagement.

However, the series of panel debates with NGOs sponsored by the University of Hawaii Center for Globalization Studies was not the first time that ADB staff tried to evade the issues by citing (feigning?) constraint to respond due to insufficient information. Ironic, yes, but maybe even instructive that Bank staff came short of admitting they usually do not know whereof they speak.

Most irksome is the Bank staff's insistence on false choices, a tactic that was repeatedly used during the UH debates. Let's follow their logic for the moment: just because NGOs are very critical of the privatization policy of the ADB, the NGOs are anti-private sector? Is it globalization versus protectionism? And yes, will it (say, environmental standards) be better with or without the ADB?

During the debates, the ADB highlighted: their pitch for big multinational corporations ("they're not in it for the money"); their blind faith on supposed win-win solutions ("the lifeline tariff always works to the advantage of poor consumers"); and their breast-thumping ("the ADB is part of the solution, and not the problem").

In a particularly heated part of the debate, the Head of ADB's Private Sector Group mumbled something about accountability resting heavily on governments, not the ADB. To this one member of the audience remarked, "We know our governments are corrupt and inefficient, we will deal with them. But the question is, who will deal with the ADB?"

Perhaps the ADB needs reminding that the "antis" are not an unreasonable, miseducated, autarkic subculture. But what we are sure to give them is a greater dose of reality. The two biggest campaigns now ongoing, the Samut Prakarn and the Theun-Hinbuon cases, should be enough reason to keep them on their toes. Civil society is ready to face the ADB even on its own terms, but is the ADB ready for this? If the ADB genuinely believes in engagement, they need to rethink the way they do it.

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(1) For more information on the Samut Prakarn case, visit the Bank Information Center (www.bicusa.org) website.
(2) This section takes from materials provided by the International Rivers Network (www.irn.org).

PEOPLE'S CHALLENGE TO THE ASIAN DEVELOPMENT BANK
Honolulu, Hawaii

The Asian Development Bank (ADB), which is holding its 34th Annual Meeting in Honolulu on May 7-11, 2001, is an institution that is now widely recognized as having imposed tremendous sufferings on the peoples of the Asia-Pacific. In the name of development, its projects and programs have destroyed the livelihoods of people, brought about the disintegration of local and indigenous communities, violated ancestral domains, undermined sovereign self-determination, promoted a sharp rise in inequality, deepened poverty, and destabilized the environment.

We, representatives of peoples, indigenous communities, and organizations throughout the region, have had enough of this destruction in the name of development. We have had enough of an arrogant institution that is one of the most non-transparent, undemocratic, and unaccountable organizations in existence.

We seek genuine dialogue with the ADB, demanding that it recognize the error of its ways and yield the space to promote alternative strategies of development that truly serve the people's interests.

In this spirit, we are presenting the following demands to President Tadao Chino:

1. Development must not be a process that creates refugees. The ADB creates refugees through physical displacement of peoples as well as alienating them from their communities, livelihoods and culture.

We demand an immediate halt to and independent review of all controversial/ disputed ADB projects, especially those that directly threaten people's livelihoods and economic and social security like the Samut Prakarn Wastewater Management in Thailand and the Cordillera Highland Agricultural Resource Management Project in the Philippines. The ADB should not take any further action on these projects until critical issues are resolved.

a. The ADB should acknowledge that ADB-financed projects have displaced peoples and created a new class of "development refugees."

b. The ADB should assess the compensation needs of all those people whose livelihoods have been negatively affected, particularly those displaced as a result of past ADB projects, using open, transparent and participatory processes. Following such assessments, the ADB should develop and implement adequate, just and timely compensation measures. The Bank Funds earmarked for compensation should be used for direct compensation and not for further studies and assessments, or to pay for consulting companies or experts. Funds for assessments and eventual compensation must be provided through project budgets and the ADB's own resources.

Full direct compensation must be provided to all people negatively affected by ADB funded hydropower and other infrastructure projects in the Asia Pacific region. This must be done in a timely and transparent manner, in consultation with local peoples, and with ongoing monitoring and input from truly independent observers.

c. The ADB must put into place appropriate mechanisms to monitor the environmental, social and economic impacts and costs of all projects and programs it supports in any manner or form. These mechanisms must include guidelines for mitigation of impacts and how mitigation costs will be met; such costs cannot and must not be externalised and passed on to affected communities, society at large, or the public purse. Those who benefit most from projects must be responsible for the proportionate share of the costs.

d. The ADB must put into place transparent and universally accessible arbitration/grievance procedures through which the ADB can be held accountable for violation of its own guidelines. The ADB should put particular emphasis on this in both its public and private sector operations.

e. The ADB should put justice high on its agenda. A rigorous mechanism for reparation for the negative impacts of past and existing projects should be set up.

f. In solidarity with the people of Klong Dan, we demand that the Samut Prakarn project be immediately stopped, and that no further release of funds be made until the Inspection process is fully completed in a transparent and participatory manner.

g. In solidarity with the advocates in Sri Lanka opposing the Sri Lanka Water Resource Management Project, we demand a halt to the project and a review of the Wildlife Management Project.

h. The ADB should adopt and implement the fundamental principles and guidelines recommended by the World Commission on Dams, especially those regarding prior informed consent and the assessment of alternatives.

2. Current sectoral reform processes such as those in the agriculture sector in Pakistan and Thailand and in energy in the Philippines fail to fully capture the complex

political-economic realities in these countries. Indiscriminate scaling down or abolition of agricultural and social subsidies exposes poor households with low access and endowments to start with to even greater insecurity.

We call for an independent evaluation and an immediate stop to all sectoral reform processes. The results of these evaluations must be used to re-work and restructure reforms, including content, sequencing and even alternative models.

3. We call for an immediate and independent review of the ADB's Private Sector Development (PSD) strategy with special focus on the impacts of this strategy on local populations, the public sector, national and sub-national government capacities and the overall business climate. The results of this review should feed directly into a fundamental rethinking and reworking of this strategy to serve local, sub-national and national economic priorities and needs, rather than those of external investors and foreign governments. During the period of the review and re-strategising, ongoing PSD initiatives should be slowed down and no new initiatives should be started. The review should also take into consideration political, social and economic realities such as distributional disparities that render markets uncompetitive and exclude the poor, as well as weak governance structures that render regulation ineffective and incapable of upholding consumer and worker rights.

4. The ADB itself acknowledges that close to 70 percent of its loans to the developing countries will fail to produce lasting economic or social benefits in these countries. Yet the ADB insists that these debts be repaid, further contributing to the impoverishment in these countries.

We demand full and unconditional cancellation of the illegitimate debts of ADB's borrowing countries. The ADB must also immediately undertake a region-wide assessment of the debts owed to it by all borrowing countries. In particular, the assessment should focus on; a) the impacts of debt servicing on social and other essential services; b) the programmes and conditions under which the debts were contracted, as well as their legitimacy in terms of debt repayment.

When the ADB experienced an internal financial squeeze at the height of the Asian crisis, it chose to remedy this by making capital costlier for borrowing governments. We demand that the ADB shift the burden back from the borrowing to the donor countries.

5. We deplore the inconsistency with which the ADB requires good governance, transparency and accountability from borrowing governments while at the same time fails to impose the same strict standards on itself.

In its push for privatization, the ADB turns a blind eye to corrupt practices employed by borrowing governments such as the Philippines in the case of the power sector reform loan in order to meet conditions for the release of ADB loans.

Furthermore, we challenge the ADB to stop placing the entire blame for the failure of projects and programmes on governments and take institutional responsibility for the projects and programs it supports.

a) The ADB should democratize decision-making within the highest levels, and function on the principle of one country, one vote, and not on the current practice based on the amount of subscribed capital.

b) In general, the ADB should open to public scrutiny decision making and agreements between the ADB and host governments about projects and programmes. The ADB should review past and current decision making processes in light of their impacts on national sovereignty and where found wanting, these decision making processes must be changed to respond to national, rather than external interests.

c) All of the ADB's review panels for projects, programmes, operations and governance must be equally balanced in their composition among affected peoples, civil society and independent experts. Further, affected peoples and civil society must have the right to select their own representatives on these panels.

d) The ADB should locate all reviews and assessments of its projects, programmes, lending practices and decision-making processes within national and sub-national democratic processes such as parliaments, congresses and national assemblies. Directions for future policies and practices must emerge from public debates and discussions, and not through closed-door negotiations among elite groups of ADB management, national and government elites and technical "experts."

WE CALL ON THE ADB TO RESPECT THE RIGHTS OF PEOPLES OVER THEIR RESOURCES AND LIVES AND IMMEDIATELY IMPLEMENT THE AFOREMENTIONED DEMANDS.

ON MAY 9, WE MARCH IN SOLIDARITY WITH THE PEOPLES OF HAWAII WHO REJECT ANY FUTURE USE OF THEIR ISLANDS BY MULTILATERAL INSTITUTIONS LIKE THE ASIAN DEVELOPMENT BANK KNOWN FOR THEIR ANTI-PEOPLE AND ANTI-DEMOCRATIC POLICIES.

Endorsed by:

Northern Farmers Alliance, Thailand
Kanchanaburi Conservation Group, Thailand

Bor Nog Conservation Group, Thailand
Ban Krud Natural and Conservation Group, Thailand
Klong Dan Local Community Projection Group, Thailand
Isaan Framers Cooperative Federation, Thailand
Committee for the Solution of Farmer's Problems, Chiang Rai
Committee for the Solution of Farmer's Problems, Payao
Local Theatre Project, Thailand
Four Regional Alternative Agricultural Network, Thailand
Northern Farmer Network, Thailand
Kok-Ing-Nan River Network, Thailand
Mae Thood River Network, Lampang
Mae Mog River Network, Lampang
Mae Soi River Network, Lampang
Isaan Forest and Land Network, Thailand
Thai Network for People Living with HIV/AIDS, Thailand
Isaan River Network, Thailand
Chiang Mai Consumer Network, Thailand
Women Rights Network, Thailand
Chiang Rai-Payao Rural Women Network, Thailand
Labor Network, Thailand
Four Regional Slum Network, Thailand
Chiang Mai Community Network, Thailand
Media Center for People, Thailand
Eastern Farmer Network, Thailand
Southern Local Fisherman Federation, Thailand
Student Federation of Thailand
Committee for Natural and Environmental Conservation 16 Educational Institute, Thailand
Assembly of Isaan Farmer, Thailand
Assembly of Cassava Planter Thailand
Assembly of Indigenous People, Thailand
Assembly of the Poor, Thailand
Assembly of Moon River Basin, Thailand
Group for Save Wand River, Thailand
Nam Ping River Community Forest Network, Thailand
Love Muang Nan Group, Thailand
Assembly of Northern Community Forest, Thailand

NGO-Coordinating Committee for Development (NGO-COD), Thailand

Freedom from Debt Coalition, Philippines
Cordillera People's Alliance, Philippines
Focus on the Global South, Thailand
Focus on the Global South - India Programme
Fukuoka NGO Forum on the ADB, Japan
AID/WATCH, Australia
Creed Alliance, Pakistan
Global Justice Coalition, Australia
NGO Forum on the ADB (International Committee)
Non-Timber Forestry Project, Cambodia
Oxfam America
Oxfam Community Aid Abroad-Australia
International Rivers Network, USA
Asia Pacific Movement on Debt and Development (Jubilee South AP)
Environmental Foundation Ltd., Sri Lanka
ODA Reform Network, Japan
Mekong Watch, Japan
NGO Forum on Cambodia
PADETC, Lao PDR
ACTION AID, UK
Green Movement of Sri Lanka
Shelly Rao, Fiji
SUNGI Development Foundation, Pakistan
Youth for Unity and Voluntary Action (YUVA), India