Development Debacles

A look into ADB's involvement in environmental degradation, involuntary resettlement and violation of indigenous people's rights

NGO Forum on ADB

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Cover Photo:

Toxic pollution pours from the huge chimney stacks of the Mae Moh power plant, Southeast Asia's largest lignite fired power generating facility. Villagers in the area have long complained that the plant, which supplies north and north-east Thailand with power, is contaminating the surrounding area, posing hazards to their health as well damaging their agricultural lands.

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The Asian Development Bank's Safeguard Policies

Introduction

On July 25, 2005, the ADB announced that it was conducting an 'update' of its safeguard policies for purposes of "enhancing its effectiveness, and ensure its relevance to changing client needs and new lending modalities and instruments."[1] The ADB recognizes that the implementation of its policies on the ground has been a problem. A key aspect of the update is a plan to streamline operations and consolidate the three safeguard policies into one.

At present, ADB's Social and Environmental Safeguard Division (RSES) within the Regional Sustainable Development Department (RSDD) is leading the safeguard policies update. A steering committee, and internal and technical working groups were formed to facilitate and discuss the safeguard issues. They are in charge of distilling the principal policy elements of the SPU and drafting the policy paper (also known as the W-Paper).

ADB's expects to finish the entire update process is in November 2007 where the Board is expected to review the final policy paper. Between July and October 2006, the ADB will have its own internal consultations. After which, the Bank will conduct external consultations.

ADB's Safeguard Policies

The ADB's safeguard policies require the Bank to avoid, minimize, or mitigate adverse environmental and social impacts from its funded projects extended to its Developing Member Countries (DMCs) in Asia and Pacific region. Currently, the ADB has three safeguard policies:

- Involuntary Resettlement Policy (1995)
- Indigenous Peoples Policy (1998)
- Environment Policy (2002)

The *Involuntary Resettlement Policy* states that forcible resettlement should be avoided whenever possible. Resettlement plans must be developed in consultation with affected communities. Affected people should be fully informed about the resettlement. They should be justly compensated and provided with appropriate land, housing and infrastructure, among others.

Affected communities must be at least as economically and socially well off after the project as they were before the project.

The *Indigenous Peoples Policy* states that the ADB should ensure that equal opportunity for indigenous peoples are provided. Projects should be implemented with the informed consent and participation of the IPs. Interventions that will affect the IPs should be consistent with their needs and aspirations.

The *Environment Policy* states that the environmental impacts of projects should be evaluated and minimized. The public should be involved in the evaluation of environmental impacts. Environmental impact assessments should be conducted and disclosed to the general public.

The safeguard policies are very important to the civil society organizations (CSOs), concerned stakeholders and affected communities because these are the basic guiding principles that ensure the Bank's accountability as regards the environmental and social impacts of its projects. When the operational policies and procedures are violated, affected communities and concerned stakeholders can file a complaint with the ADB's Accountability Mechanism. Complaints are filed with the Office of Special Project Facilitators for problem-solving purposes, and elevated to the Office of Compliance Review Panel for compliance.

Problems with the Safeguard Policies

There are some key problems with the safeguard policies. One is that they do not allow communities to say "no" to a certain project. The policies only help lessen potential social and environmental impacts. Another one is that the ADB has a poor track record in implementing its own policies. Despite the existence of the safeguard policies, evidence suggests that many ADB projects have damaged the environment and caused social and economic harm to vulnerable communities.

Some high profile ADB-funded projects have exposed serious shortcomings, such as the Southern Transport Development Project (STDP) in Sri Lanka, Chashma Right Bank Irrigation Project (CRBIP) Phase III in Pakistan, and the Samut Prakarn Wastewater Management Project (SPWMP) in Thailand, just to name a few.

Another issue is the lack of accountability for safeguard compliance. In STDP (Sri Lanka), ADB's own Compliance Review Panel (CRP) reported that "the ADB management has not complied with most of the proposed remedial action in the CRP report prepared in July 2005 to solve the problems of the STDP." The ADB rarely sanctions its clients or its own staff and management for failure to comply with the safeguard policies.

CSOs' concerns with the Update

CSOs are concerned that the update will weaken the safeguard policies that could result in ADB being less accountable for its projects and interventions. CSOs believe that the present update is related to ADB's ability to successfully compete with export credit agencies and other development financiers in the region that do not require borrowers to follow stringent safeguard policies. CSOs are also concerned that the ADB is following what the World Bank did in the mid-1990s when the latter initiated a similar process and resulted in the simplification of its safeguard policies.

Another concern of the CSOs is ADB's adoption of a 'country systems' approach in addressing social and

environmental safeguard issues. This approach means that for certain projects it finances, the Bank will rely on the borrowing government's own environmental and social systems rather than its own safeguard policies. National systems will be evaluated against a set of the Bank safeguards and if judged 'equivalent', they will be used for project preparation and implementation. Although CSOs have always advocated the strengthening of social and environmental standards and the building of institutional capacity at the national level, they have been concerned that the shift towards country systems will result in a dilution of the Bank's own responsibilities for its safeguard policies.[2]

What Do CSOs Want?

CSOs want the ADB to stop supporting highly destructive projects and to be held responsible and accountable for social and environmental damages its projects bring. The ADB should seek the informed consent of affected communities before developing projects, and retain this strong voice throughout the project cycle. These strong requirements, among others, should be part of the safeguard policies. CSOs want the ADB to view environmental and social planning as a way to minimize problems arising in the future, rather than as a constraint on competitiveness. In evaluating the effectiveness of its safeguard policies, CSOs believe the ADB needs to listen to the voices of project affected people and civil society from developing countries.

In response to ADB's Discussion Note in March 2006, forty eight CSOs sent an open letter to the ADB, expressing concerns about the update. The letter contained a number of recommendations for the ADB to strengthen its environmental and social standards and hold ADB management accountable for policy implementation. These include: complying with international human rights, labor and environmental laws, conventions, and norms; developing clear and comprehensive social and environmental policy frameworks; establishing mechanisms for compliance and ensuring accountability for results on the ground; and protecting the rights of all affected communities and ensuring respect for indigenous peoples' internationally guaranteed rights.

(Footnotes)

[1] See http://www.adb.org/Safeguards/policy.asp

[2] For more information on the recent trends at the World Bank, see Shannon Lawrence "Retreat from the Safeguard Policies: Recent Trends Undermining Social and Environmental Accountability at the World Bank," January 2005, available at http://www.environmentaldefense.org/documents/4279_RetreatSafeguardPolicies_0105.pdf

The Saga of Disrupting Social and Environmental Safeguards in the Southern Transport Development Project (Sri Lanka)

Background

The Southern Transport Development Project in Sri Lanka is a construction of a 128 km long six-lane expressway connecting Matara, a southern city in Colombo, the capital of Sri Lanka. While the primary objective is to spur economic development in the southern region and to significantly reduce the high rate of road accidents, the secondary objective is poverty reduction. Main financiers are the Asian Development Bank (ADB) and Japan Bank for International Corporation (JBIC). The project is implemented by the Road Development Authority (RDA). The project was in a controversy since 1992 and the ADB got involved in it in 1996. The EIA was approved in 1999. However, implementation was delayed due to strong opposition from both affected people and the National and International environmental/advocacy groups, due to safeguard violations.

Environmental and social Impacts

The road passes through four river basins and over hundreds of other wetlands. It also crosses many villages. Over 1,300 houses were demolished due to the project. Around 8,745 lots are planned to be traversed by the highway. Current estimate shows that 5,683 households of all categories will be affected. The project has already destroyed thousands of hectares of paddy fields and home gardens. It has blocked waterways leading to flooding in the region. The project has pushed the affected families to depend on the market by destroying their sustainable livelihood.

According to affected communities, the compensation issue has not been settled even though the project was approved seven years ago. They allege that the RDA did not conduct proper asset and land evaluation. As a result, this has pushed many of them into further economic vulnerability. Affected people have spent most of the compensation money to construct new houses, thus, leaving little resources for their sustenance. Even worse, many families have not been compensated for trees and crops loss due to the project. These were their major sources of income. Affected people, who have resettled voluntarily, experienced loss of earning, which forced them to spend their compensation on other things instead of new homes. The situation is further aggravated by the lack of basic amenities in the resettlement sites provided by the RDA.[1]

Cutting or clearing of very steep hills, rock blasting and dumping soil into the paddy lands have created serious soil erosion along the road trace. The filling of paddy fields with this loose soil has threatened livelihoods as it is now difficult to farm. The filling of wetlands without adequate drainage system is also very damaging as this could lead to flooding problems in the future especially during rainy season. Further, dust pollution is unbearable in some areas. Rock blasting and heavy vehicle movement further poses health risks to people who live near the construction site. While the ADB claims that additional environmental studies have been undertaken to address these issues, situation has remained the same.

ADB Safeguard Policy Violations

The Compliance Panel Report prepared in July 2005, in response to the complainants of the affected communities, concluded that, "*there have been, at some time during the Project from project processing to its implementation, lapses of compliance with the following applicable ADB policies and operational procedures*."

Involuntary Resettlement Policy

A year after the ADB Accountability Mechanism's Compliance Review Panel issued its final report on the Project, it has continued to violate ADB's Involuntary Resettlement Policy. The CRP concluded that, "compliance with this OM Section has been problematic since the Board approval, with the significant shifts of the trace without public participation. The CRP is also concerned about Management's inattention to independent monitoring and the need for supporting performance in the areas of compensation and resettlement."

Local communities have been complaining of continued violations of various ADB safeguard policies, despite the CRP findings. Most of the affected communities expressed their dissatisfaction over (1) compensation procedures and amount, (2) land possession by the authorities for the project, (3) evaluation of assets, (4) living conditions in resettlement sites, and (5) transparency of both the ADB and RDA procedures.

Environment Policy

The CRP report produced in July 2005 stated that, "*Management cannot be satisfied with the sufficiency of the Environmental Impact Assessment done in 1999 and the ensuing Environmental Findings Reports for the ADB section. Also, the Galle access road has not received an adequate review of its environmental impacts, and some stretches of the Final Trace well away from the Combined Trace need more attention. Public information and participation in the environmental review process has been inadequate since late 1999.*"[2] The complainants claimed that non-compliance by the ADB of its operational policies and procedures had impacted their lives negatively. They stated that the project implementing agency altered 40 percent of the original alignment of the highway leading to loss of homes, livelihoods as well as negative impacts on local ecology and wetlands. However, there has been no environmental monitoring for the project. While social impacts were prioritized due to the involvement of the affected communities, the environmental issues were not properly addressed.

After the ADB Board approved the CRP findings, the Bank's South Asia Regional Department prepared a Course of Action. This laid out steps to bring the project into compliance based on the 15 recommendations of the CRP. In its October 2005 progress report, ADB

Management informed the Board that it had started implementing remedial actions including the required additional studies on Supplementary Environmental Assessment, Income Restoration Program, and gender issues.

However, progress on the Course of Action has been considerably delayed. The CRP recommendations are yet to be implemented after nearly one year. Many affected people have not yet received full compensation. There has also been a lack of progress in the income restoration program. Moreover, details about the project and its implementation status, as per the Board decision, have also not been provided to affected people in local languages.

The Monitoring report issued by the CRP in July 2006 stated that the Management has fully complied with only three recommendations and partially complied with six specific recommendations. However, it also stated that the Management has not complied with three general recommendations and seven specific recommendations that include: *"Management should require that all affected persons be fully compensated by actual payment before they are moved."*

The Panel also reported that *"some of the affected people remain dissatisfied with specific impacts of the project. There are many potential reasons for these objections, ranging from highly specific issues such as construction-related cracks in buildings to broad anxieties related to the disruption of cultural norms such as the integrity of extended families in landholdings of historical significance."*

Lessons to Learn

Affected people believe that STDP and the violation of ADB Guidelines, Resettlement Implementation Plan (RIP) and Loan Covenants are inseparable twins. Since its inception, the project has been marred by interruptions due to infringement of project guidelines. Implementation arrangements and oversight processes have been far from adequate and have resulted in numerous instances of policy violations. The Road Development Authority (RDA) is now expected to complete the project by 2009.

On paper, the ADB safeguard policies are one of the best among the IFIs. But the Bank has been repeatedly criticized for their non-implementation. The recent CRP report on the Southern Transport Development projects stated that, "*Management should review selected road projects as to how changes of scope may make the application of environment and resettlement policies more difficult." The report further state "The Panel wishes to make clear that its intent in this recommendation was that ADB should assess the potential for weakening of application of safeguard policies when minor or major changes are made. It seems clear, in the case of STDP that the environmental safeguards were weakened with the changes of trace and stakeholders at each project stage until the Final Trace*."

The main reasons include the following:

- inadequate environmental impacts assessment during the design, lack of willingness to address the environmental issues due to vested interest;
- inadequate law enforcement in settling disputes over the affected environment at local level;
- inadequate human capacity, expertise and funds in the project monitoring and approving agencies;
- lack of clarity and disregard of ADB policies as well as local policies and how to implement them
- lack or transparency and public participation in project design and implementation,
- lack of binding of the contractors and subcontractors to environmental provisions required by ADB.

Bureaucracy is also one of the major problems in STDP case. It also shows that co-financing agencies have no clarity on how to implement safeguard policies.

(Footnotes)

[1] BIC, NGO Forum on ADB and CEJ."A Fact-finding Report on Status of Resettlement Implementation Plan." June 2006. Therea.

[2] ADB. "ADB Accountability Mechanism Compliance Review Panel Annual Monitoring Report 2005-2006 to the Board of Directors on CRP Request No. 2004/1 on the Southern Transport Development Project in Sri Lanka(ADB Loan No. 1711-SRI[SF])." Manila, 11 July 2006.

Liquid Gold: The Oil Palm and Disregard of Social and Environmental Norms (Papua New Guinea)

Background

In 2000, the Government of PNG requested assistance from the Asian Development Bank (ADB) for the preparation of an agro-industry development project to generate income-earning opportunities for the rural population. A project preparatory technical assistance (PPTA) was approved in November 2000.[1] The Prime Minister of PNG stated, "*The Government, in recognition, identified the Oil Palm industry as a vehicle and growth strategy to enhance the economic and socio-indicators of Papua New Guinea. The Government through the PNG-ADB Nucleus Agro Enterprise Project, has identified areas in PNG which are suitable for Oil Palm Development, such as: Turubu/Sepik Plains in East Sepik, Bewani in West Sepik, Amazon Bay in Central Province and Arowe in West New Britain Province*."[2] Thus, the Nucleus Agro-Enterprises project (NAEP) was approved for lending by the ADB to the Independent State of Papua New Guinea on 18th December 2001.

In October 2001, the government endorsed a proposal from Ramu Sugar in PNG to set up an 8,000 hectares oil palm plantation in Usino-Bundi in Madang province. About 6,500 hectares would be operated by Ramu Sugar and the other 1,500 hectares by smallholders. In August 2001, the governor of the East New Britain province, which currently has no oil palm plantations, announced that the province would start to encourage the establishment of oil palm plantations. The provincial government plans to convert a large area of land in the Open Bay area of North Baining for this purpose. In August 2001, the governor of Morobe province presented a pre-feasibility study on a 30,000- hectare oil palm project on the border of the Morobe and Gulf provinces. In June 2002, the Oil Palm Industry Corporation (OPIC) announced that a large number of new oil palm projects could be developed in PNG within the next five to ten years if current feasibility studies on proposed projects are completed and approved by the government.

The ADB provided its first loan for oil palm development to PNG in 1986. The project completion report rated the project as partly successful. During appraisal, the project cost was estimated at $49.9 million. The output from the Project was about 70,000 tons of fresh fruit bunches in 1998. The peak harvest of about 107,000 fresh fruit bunches was expected by the year 2004. The total number of project beneficiaries was 1,731 or 79 percent of the appraisal target of 2,200 farmers. The report stated that, "*the farmers are very enthusiastic about this enterprise and virtually all are planning to plant an additional two hectares of oil palm. Overall, the project impacts are significant and the Project is rated as generally successful*."[3]

According to a 2001 ADB news release on the PNG NAEP, "Agricultural production in PNG is the mainspring of growth and the principal tool for reducing poverty in rural areas." These enterprises will in turn provide much needed employment to subsistence farmers, shifting them away from the informal subsistence economy. The Bank claimed that this will improve incomes and standards of living in rural areas throughout PNG. However, the project was heavily criticized for promoting export-driven approach to development rather than respecting and building on PNG's wise constitutional principles of culturally-sensitive and ecologically-sustainable development.

Environmental and Social Impacts

According to the ADB-OED report, "Land degradation, as a result of oil palm cultivation, is not expected to be significant as the Project has avoided steep land and gullies as planting areas. In addition, the rapid buildup of palm fronds on the floor of interrows minimizes soil erosion risks and conserves soil fertility." However, the report stated, "the concern on the environmental impact from oil palm development is from the mill processing of FFB was not addressed at appraisal as the processing of the fruit bunches by the plantation palm oil mills was regarded as outside the scope of the Project. However, the processing of smallholder's FFB by the privately owned mills would result in generation of additional waste. Because the privately owned mills have failed to install proper treatment plants, the waste is being discharged directly into the sea. The Government has established guidelines for palm oil waste treatment. Unfortunately, no monitoring is being undertaken to ensure that palm oil mills comply with the guidelines. It was observed that the full complement of treatment ponds necessary to treat palm oil waste has not been established in the mills. Thus, the discharge from these mills could have some adverse effect on the coastal ecosystem. It is important that the PNG Bureau of Water Resources monitor the situation regularly as untreated mill effluent could cause damage to the reef and inshore marine life." The report further stated, "there are no control measures to minimize air pollution from the burning of fruit fiber and empty shells in the mills. While the mills' contribution to the greenhouse effect is negligible, the fallout of fine dust is both a nuisance and a health hazard to nearby residents."

According to the local environmental Group CELCOR, many of the ADB-funded large-scale monoculture cash crops projects have been controversial as they were often socially and environmentally damaging. ADB has received much criticism for using poverty reduction as a front to subsidize and support the private sector. Furthermore, the conversion to cash crops often results in irreversible environmental damage. This is particularly significant for PNG since no less than 65 percent of its land are still forested and are ecologically intact. And over 85 percent of its five million population are dependent on a healthy and intact natural environment for survival.

In Oro Province, oil palm plantations have encroached upon the habitat of the world's largest and endangered Queen Alexander Birdwing butterfly, which is endemic to the area. Further expansion of oil palm in Oro Province would increase the risk of extinction of

this butterfly specie. There were concerns that in East New Britain, the Open Bay oil palm proposal would threaten one of the most spectacular cave systems on Earth -- the Caves of Pomio.

The rivers have been drained from inland areas where the oil palms are planted. The downstream of the operation has affected the livelihood of the people. Villagers complained of reduced food supplies from the river and coastal region, contaminated water, as well as skin irritation after the introduction of oil palm in their area.

PNG is known for its extensive and diverse coral reef and fringing reef systems. However, there is a concern that increasing land clearing for timber and subsequently for oil palm will increase the amount of pollutant and sedimentation entering the coastal region. Excessive nutrients run-off from the residues of fertilizers used in oil palm plantations are corrosive to the fragile and sensitive reef systems. This inevitably contributes to the destruction of pristine reef systems and hence, valuable fish breeding and spawning grounds.

Oil palm processing mills are usually located close to urban centers for ease of transportation and access to infrastructures. In Popondetta in the Oro province, the entire town and surrounding area have been infested with flies which are health hazards. The stench of rotting waste from the mill could be smelled for kilometers and the smoke from the Higaturu palm oil processing mill could be felt from as far as the Managalas plateau.[4]

ADB Safeguard Policy Violations

Like many large-scale projects, the introduction of agro-enterprises in PNG also brought many complex and costly social problems once unknown to rural PNG.

Indigenous Peoples Policy

The change that comes with this kind of externally imposed project is often disruptive and undermines the existing customary system and structure which has sustained local communities for as long as they can remember. Often, not everyone in the community is in agreement with the agriculture project. Sometimes, customary land boundaries are crossed to establish the crops. In other times, the parent company leases out lands to people from other areas for their agriculture plots resulting in communal tension and misunderstandings. This manipulation of land use and transfer of tenure is not based on customary process and often results in discontent and anger within a community and among communities. Conflicts from land disputes increased as these kind of schemes are introduced.[5]

The transition from subsistence to cargo or cash-dependency has both social and economic ramifications. According to CELCORE, "It is unfair and patronizing to classify rural Papua New Guineans as 'rural poor' as they have access to abundance of resources as long as their land remains intact and the natural environment healthy." The natural environment forms the basis for their subsistence and strong cultures and social safety net. However, agriculture projects as proposed by the ADB drastically undermined this strong system as these projects often require major cultural shifts and restructuring of community activities and relationships. Growers essentially lose control of their lifestyle once they become bound to a long contractual arrangement with the parent company of NAEP, they said.

Rise in drug and alcohol abuse was found as a major social problem. Money from cash crops production has increased the purchasing power of growers. Often, men were the key recipients of money from the produce even though the entire family may have been involved in the whole production cycle. Unfortunately, alcohol is one of the most popular items purchased by men in places with smallholder scheme. They also claimed that rise in crime rate was also very high in these project areas.

Landowners and smallholders in existing oil palm project areas are unhappy with the low return from their labour and once productive land. Many growers complained that big promises were made to coerce them into accepting oil palm as a good development project just to find themselves trapped in a situation of total dependency on the oil palm company and commodity price fluctuations. Normally, growers allocate the best farmland available in their charge to oil palm. According to local people, the oil palm cultivation is not the best crop. However, it was introduced to produce oil for developed nations such as Australia.

Environment Policy

The ADB-OED report accepts that some environmental issues were not addressed in the project. According to CELCORE, "downstream communities often bear the brunt of waterway pollution which is another source of communal conflicts."[6]

Due to the long delay in project start-up, the scheduled two-year project has just completed its first quarter of implementation. Selection of subprojects and pilot projects has recently completed so the analysis is based on one of out the total of four key activities to be undertaken by TASMU. No field monitoring of any of the selected projects has been carried out.[7]

The focus of the feasibility studies and piloting of projects of the Nucleus Smallholders Agro Enterprises Project offers a lot of scope for the ADB to implement its environmental guidelines and policy. In the Report and Recommendation of the President to the Board of Directors on a Proposed Technical Assistance Loan to Papua New Guinea for Nucleus Agro-Enterprises in November 2001, specific assurances in relation to the environment were given by GOPNG. These assurances which have been incorporated into the Loan Agreement were:

(i) The Government, through DNPM1 (Department of National Planning and Monitoring) and TASMU, will ensure that

a) environmental concerns are fully taken into account from the time of the formulation of selection criteria to the completion of the subproject feasibility studies;

b) opportunities exist to maximize potential environmental benefits and minimize environmental conflicts and costs; and

c) any investment proposal resulting from a subproject feasibility study is tested on the basis of environmental parameters as well as technical and financial parameters.

(ii) All environmental mitigation measures identified as the result of a subproject feasibility study or pilot project investment plan will be incorporated into the project design and followed during project construction, operation, and maintenance in consultation with the Government's Office of Environment and Conservation and in accordance with ADB's environmental guidelines.

These agreements were also reflected in the Environmental Considerations of the Loan Covenant. Specifically, it stipulated that: The Borrower (GOPNG) shall ensure that TASMU and the Screening Committee ensure that in evaluating and/or funding any Subproject in which environmental considerations are involved (including resettlement, gender and other social dimensions),

(i) Environmental concerns are fully taken into account from time to time in the formulation of detailed selection criteria to the completion of the SFS;

(ii) Opportunities exist to maximize potential environmental benefits and minimize environmental conflicts and costs; and
(iii) Any investment proposals resulting from an SFS is tested on the basis of environmental parameters as well as technical and financial parameters.

However, these provision were not properly adhered to in this project

In the loan document, the ADB said that it is formally committed to following its environmental policies including the Environmental Assessment Requirements and Environmental Review Procedures of the ADB. From the first Inception Report reviewed, it was evident that this requirement was conveyed to the executing agent, TASMU and GOPNG. How this translates into practice in the field remain to be seen.

The following are some issues identified to date:

- In accordance with the 2003 guideline, (para 4) ADB's environmental assessment process starts as soon as potential projects for ADB funding are identified. Environmental assessment is ideally carried out simultaneously with the pre-feasibility and feasibility studies of the project. In this project, some information related to the environment was captured in the RFA of the first batch of the potential projects but they were mostly very brief and have not included many of the components outlined in the guideline.
- It appears that the REA checklists have not been used contrary to the provision in the MOU. Relevant RDE checklists should have been used to categorize each of the projects selected during the preliminary rapid appraisal process under the new ADB policy.
- It appears that IEE was carried out in the RRA process which suggests that TASMU might have assumed that all potential projects fall into Category B without actually following through the REA process for categorization. However, the components of the IEE were different from those specified in the ADB guideline.
- Only one out of the six projects which went through the RRA process had been environmentally categorized. However, the categorization was based on the PNG Government and not as specified in the ADB environmental guidelines. The Bank's stipulates that it is the borrower's responsibility to carry out the EIA. And this was clearly reflected in the Loan Agreement. However, corruption and general governance failures within GOPNG as well as the capacity limitation of the Department of Environment and Conservation mean that this would be a highly unrealistic expectation.

Lessons to Learn

The project did not assess the environmental and social impacts of the main project as well as its sub projects. The project did not properly follow the ADB environmental guidelines. The public participation was not adequate or did not exist at all. The project did not produce a social program to educate people parallel to increasing income.

It created social tension in the local communities as their customary land rights was not properly considered during the design and implementation.

"We, the landowners are developing and will continue to develop OUR LAND on our own term. We therefore sternly warn all those parties involved in wanting to use OUR LAND for oil palm to STAY OUT! Any attempt to bring oil palm on our land will be strongly resisted." Excerpt from a newspaper advertisement put out by a group of landowners in PNG, February 2003.

(Footnotes)

[1] ADB. TA 3545-PNG: *Agro-Industry Development* for $500,000, approved on 14 November 2000.

[2] Address to the New Britain Palm Oil Limited & the business community in Kimbe, West New Britain.

[3] ADB. "Asian Development Bank PPA: PNG 19122 Project Performance Audit report on the West New Britain smallholder development project (loan nos. 784[SF]/785-PNG) in Papua New Guinea." 1999.

[4] Tan, Lee. "NGO Forum on ADB Briefing Paper." Australian Conservation Foundation/Friends of the Earth Australia,2003.

[5] CELCORE. "Case study on Nucleus Agro Enterprise Project." ADB and Environment. Manila: NGO Forum on ADB, 2003.

[6] Ibid.

[7] Ibid.

Impoverishing Laos: The Asian Development Bank and Industrial Tree Plantations

Background

A disastrous and monumental failure. The US$11.2-million Industrial Tree Plantations Project (ITPP) not only destroyed precious forest but also pushed affected communities deeper into poverty. By its own reckoning, the Asian Development Bank (ADB) rated the loan project "unsuccessful" and its performance as "unsatisfactory".[1] It cited the following reasons for the failure: poor site selection; poor planting stock quality; inadequate skills among Department of Forestry (DOF) staff; subsidized credit prone to abuse; inadequate and ill-timed expert inputs; and *insufficient supervision of the ADB*.

The first phase began in 1994 and was completed in 2003. The controversial project primarily espoused industrial forestry, eucalyptus planting in particular, and initially targeted more than 9,000 hectares of rural villages in Laos. Later on, the ADB financially supported the BGA Lao Plantations Forestry Ltd, a New Zealand majority-owned private company to develop eucalyptus plantations on 50,000 hectares of land in Khammouane and Bholimkasay provinces in Central Laos. The Lao government handed over the plantations land to BGA rent-free for 50 years in exchange for a share in the project. Moreover, the company paid only 5 per cent income tax on its operations because under Lao Forestry Law plantations are exempt from tax. In February 2005, shortly after taking part in an ADB-supported Private Sector Consultation Workshop in Vientiane, the Japanese pulp and paper giant Oji Paper bought the BGA concession.

These monoculture plantations, some of which destroyed and subsequently replaced land and forests important to the livelihoods of the local communities, failed. Consequently, ITPP created and increased poverty among the affected villages. Loan funds went missing and the Bank began investigating allegations of corruption.[2] To downplay the adverse social and environmental impacts of the project, the ADB released a publicity article[3] in 2002 claiming that the tree plantations protect the natural forest, that local villagers are involved in decision making, and that the project develops a promising new sector in the Lao economy. Nothing could be farther from the truth.

In 2003, the Bank started planning phase II of the project (after a 2001-approved Project Preparatory Technical Assistance). Aside from failing to get the inputs of local residents, the ADB also withheld relevant information from Civil Society Organizations (CSOs) and Non-Governmental Organizations (NGOs) monitoring the project. It also failed to encourage an open public discussion or debate on the possible social and environmental impacts of the projects.

Despite glaring failures and violations, which have been validated by the ADB's Operations Evaluations Department (OED), the Bank still approved a new six-year Forest Plantations Development Project. According to OED, the ITPP failed due to (1) increased poverty, (2) corruption, (3) weak monitoring, (4) poor environmental practices, and (5) loss of access to land by affected villagers. That it approved the new project immediately after the release of the OED's critical report and while investigations of corruption in the ITPP are ongoing stunned many observers inside and outside Laos.

The Bank has contended that the new project is needed because its predecessor proved that efficient forest plantations of all sizes are financially viable, and the existing Lao institutions have inadequate capacity to provide effective support to the emerging sector. Its long-term goal is to develop the plantations subsector to accelerate economic development and poverty reduction. It will give US$7-million loan and a US$3-million grant towards the project costs of US$15.35 million. It will set up a Lao Plantations Authority (LPA) and establish about 9,500 hectares of "small livelihood plantations." (In a 2004 ADB-supported Private Sector Consultation Workshop in Vientiane, a Principal Project Economist at the Bank described LPA as "a one-stop window for private investment in plantations". The same person added that the ADB views Laos as the pulp producer for the region and projects 500,000 hectares of industrial tree plantations in the country by 2015.)

Concerned CSOs and NGOs, meanwhile, have expressed fears that the new project would repeat the mistakes of ITPP and that the new project would further facilitate private foreign plantations companies to take over more land and forest while further impoverishing local communities.

Project Impacts

Throughout its involvement in promoting industrial plantations in Laos, the ADB has consistently ignored the importance of forests and common lands to rural Lao communities. Its entire plantations initiative has been formulated on a false premise —that there are large areas of unused or underused 'degraded' forests and that replacing these with industrial plantations would be an improvement. However, ADB's own reports reveal that many villagers have refuted ADB's assertions, saying that they have no degraded lands.[4] Thus, they have been provided with tree plantations that they do not want.

One blatant example occurred in Ban Nao Nua in Xiabouli district in the mid-1990s. Some 100 hectares of dry dipterocarp forest were destroyed to make way for the eucalyptus plantations. Villagers observed that the forest resources could no longer be found in such plantations. But instead of addressing their collective concerns, the non-Lao speaking ADB consultants even attempted to convince them that the plantations would not cause soil fertility problems and that a further 100 hectares should be planted with eucalyptus trees. The villagers refused and they have not planted any eucalyptus on common lands since then.[5]

Likewise, instead of acknowledging the reality of current land use by affected Lao villagers, the Bank has continued to pander to the needs of multinational corporations engaged in the pulp and plantations industry. Forests managed as commons by communities have been replaced with privately-owned industrial tree farms. These have resulted in the further marginalization of the poor and disadvantaged sectors that previously relied on these resources for livelihoods.

For example, wild mushrooms have traditionally been one of the most important sources of cash income for villagers in Ban Palay. The best areas for collecting mushrooms are in the dry dipterocarp forests that have been converted into eucalyptus plantations. Affected communities have substantially lost this critical source of livelihood.[6]

During the project preparation for the new forest management project, Bank consultants reported that farmers in six appraised rural villages did not include tree plantations in their livelihood improvement priorities.[7] This has confirmed findings from an earlier 2001 ADB Participatory Poverty Assessment wherein most villagers called for development to center on what they know most—swidden fields, livestock and forest.

ADB Safeguard Policy Violations

Environment Policy

The ADB has kept reiterating that tree plantations projects do not pose adverse environmental consequences as they are all established on degraded lands and not on natural forest areas. However, a 1995 report by consulting firm Jaakko Poyry revealed that plantations were to be established on "unstocked forest land."

In 2001, the sub-district leader of Xiang Khai in Xiabouli district told independent researchers that eucalyptus plantations are causing forest, soil and water resource degradation.

The Bank has also denied that herbicides have been used to control weeds in the plantations. What has been applied according to the ADB was a biodegradable product called 'glyhosate' which in actuality is a herbicide. Glyphosphate herbicides ensure that nothing grows in the plantation except trees. Villagers' knowledge and uses of the wide range of plants that grow in the forest have been destroyed as their forests were converted to monoculture.

A 2003 project preparatory document for the Bank's new project revealed that plantation establishment was not consistent with environmental care. Among the many environmental problems identified by the report were the conversion of "healthy forest" into tree plantations; the failure to retain protection strips of forest around streams, lakes, ponds and rice paddies; harvesting or removal of valuable nesting or fruit-bearing trees, and the destruction of significant trees/plants for non-timber products use by villagers.

Recently, some eyewitnesses and observers have noted that "degraded forest" in the eyes of the ADB and the Lao government means healthy, recovering forest with wide utility value to villagers and biodiverse in flora and fauna. They added that villagers do not consider eucalyptus plantations as reforestation and that they deem them vastly different to the forest that they know.

Social

Primarily, the ITPP failed to improve the socioeconomic conditions of the intended beneficiaries, as people were driven further into poverty by having to repay loans that financed failed plantations. As part of the project, the Lao state-run Agricultural Promotion Bank loaned some US$7 million to farmers, individuals and companies to set up plantations that became unproductive or yielded low produce. The OED report said thousands of inexperienced farmers and individuals were misled by prospects of unattainable gains leaving them with onerous debts, with no prospect of repaying their loans.

This may have been a direct result of the lack of meaningful consultations with affected villagers in the project decision making process. They did not have the power or sufficient information about the impacts of eucalyptus plantations to bargain with plantation companies. Thus, many of them have lost their lands and forest to eucalyptus plantations.

The OED report also detailed corrupt practices such as ghost borrowers, misuse of credit funds, inflated development costs, over disbursements of loan funds, and fraudulent reports on the part of the Agricultural Promotion Bank.

Regarding the loss of land access, the Bank's own report and evaluation make clear that there has been an ongoing fundamental difference in perception of how land is used and valued between the ADB and the Lao government versus local villagers. It underscored the use of forest along with rice production and livestock breeding as the three important sources of income of the communities. Contrary to the Bank's assertion that the lands covered by the project were degraded, the OED report stated that these have been traditionally used by villagers for shifting cultivation.

Lessons to Learn

In March 2006, the Indian Aditya Birla Group announced that it will invest US$350 million in industrial tree plantations and a 200,000 tons-a-year dissolving pulp mill in Laos. The Lao government has leased 50,000 hectares to the Group for 75 years. The pulp mill is planned to be built seven years after the first eucalyptus trees are planted.

Oji Paper's plantations in Laos will probably supply raw material to a massive US$1.9 billion pulp project that Oji is planning in Nantong City, in China.

These are precisely the type of projects that the ADB wants to encourage in Laos. But it is high time for the Bank to finally acknowledge the importance of forests and common lands to rural communities in Laos. To avert their further impoverishment and marginalization due to the plantations projects, the ADB must undertake several simple actions. First, conduct a comprehensive audit on the Laos Industrial Tree Plantations Project (ITPP). It has failed to do so despite its own critical internal reports. Second, immediately suspend the new Forest Plantations Development Project in Laos and arrange for a truly independent assessment of its entire plantation

strategy. Such an assessment would most likely conclude that the plantations strategy would not alleviate poverty or preserve the environment. Third, prepare reparations for Lao families and communities indebted and impoverished from the Bank's support for industrial plantations in Laos.

(Footnotes)

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Controversies Continue to Plague the Melamchi Water Supply Project

Background

Six years after its conception, the Melamchi Water Supply Project (MWSP), the Asian Development Bank's pet project in Sindhupalchowk District, Nepal, is still mired in controversy. Three of the project's original funding agencies—the World Bank, Swedish International Development Agency (SIDA) and Norwegian Agency for Development (NORAD) —had pulled out in the last three years brought about by several pressing issues. In fact, the water project has been on the donors' priority list in the last two decades but was never pursued due to conflict of interests among donors, mainly between the World Bank and the ADB.[1]

Envisioned by the Bank and its co-financiers to solve the chronic water shortage in Kathmandu Valley, the project is supposed to improve the health and well being of some two million inhabitants of the Valley. Attached to the MWSP is a Social Upliftment Programme (SUP) designed to promote the socio-economic well-being of people covered by 14 Village Development Committees in Melamchi Valley. A pre-condition of the ADB to fund the project is the privatization of the Nepal Water Supply Corporation (NWSC).

The inter-basin river project will divert 170 million liters of water per day from Melamchi River to Kathmandu through a 26.5 kilometer tunnel. ADB's loan is US$120 million of the initial project cost amounting to US$464 million. The cost later escalated to US$531 million in 2005.

In 2002, World Bank withdrew from MWSP citing the following reasons: (1) important options have not been explored to utilize the water resources within the valley; (2) the need to fix the distribution system first; and (3) MWSP would only benefit the richest five percent of the population.

In 2004, the ADB's Special Project Facilitator (SPF) received a complaint from the Water and Energy User's Federation-Nepal (WAFED) and three other affected individuals regarding MWSP's non-compliance in the following areas: access to information, environmental impact assessment, land acquisition, compensation and resettlement, the rights of indigenous people, the social uplift programme, and agriculture and forestry. After its investigation, the SPF concluded that there was no evidence of serious or systematic non-compliance with ADB policies in terms of design and implementation.[2] In effect, the report also dismissed the complaint saying it was filed not so much to resolve the specifics of the complainants' charges, but to actually question MWSP's compliance with ADB policies and reopen the debate on changing the process of project consultation and participation.

In 2005, SIDA and NORAD quit the project, citing their dissatisfaction with the progress of the project and the ADB, as well as, concerns about Nepal's unstable political situation following the February Royal Palace coup. After the political turnover in 2006, Norway revised its funding support to Nepal except for the MWSP. Norway's decision to withdraw from the project is linked to the recently endorsed Soria Moria Declaration on International Policy that restricts Norwegian aid to projects and/or programs that promote liberalization or privatization.

In July 2006, Melamchi works in Sindhupalchowk district were suspended for several days after locals padlocked half a dozen offices of the project after officials failed to meet their demands for employment. The ADB has announced that it will continue funding the project despite "minor hurdles in the construction process".

Project Impacts and Other Issues

Various studies, including those conducted by the ADB, clearly show that the MWSP is not necessarily the best option, since there are several other options within Kathmandu Valley. The Bank and other donors have conveniently ignored these. Given the Kathmandu's population growth rate, no river would be able to meet the water supply demand of its people. Huge groundwater resources is yet to be explored/regulated while the large potential of rain harvesting, and management of ponds and streams around the Bagmati River Basin are yet to be tapped.

Another highly sensitive issue is the price of potable water which will become very costly once a foreign private operator or private management handles the water supply system. There is no provision yet on how water will be made available to more than 30 percent of the poor population of the valley. The prescription of the Bank and its co-financiers is towards the dismantling of the Nepal Water Supply Corporation in favor of foreign private companies.

As regards public participation and consultation provision of the Environmental Impact Assessment (EIA), there has been a lack of transparency and democratic process involved in the implementation of the road survey, land acquisition, compensation, resettlement, and the SUP. Locals, including the ethnic Tamang communities, want the SUP to be thoroughly discussed, designed and implemented with their full consent.

<u>Environmental</u>

The project is not environmentally sound. The construction of the tunnel in between the mountain will cause irreparable loss to the surrounding environment. The prescribed release of 0.4 cubic meters per second of water in the river after diversion is insufficient to sustain present and future water demand of Melamchi Valley. It is not yet clear whether there is any budget for comprehensive environmental mitigation plans.

<u>Social</u>

The MWSP has also failed to identify the amount of water that will be required in the Melamchi Valley by the local people for their livelihoods and ecosystems. The reduction of existing water flow will lead to the closure of hundreds of existing irrigation canals and ghattas (traditional water mills), including those funded by

ADB loans. Water mill workers, fishing farmers such as the Majhi ethnic community and other locals will lose their traditional occupation. Moreover, the issue of guaranteed provisions for skill development training and employment for the locals has caused conflicts between the locals and the contractors. In principle, there is a provision for a minimum 30 percent of jobs to locals during construction.

A potential major conflict over water right among affected communities also looms ahead. People in the Melamchi Valley are also demanding a share of the profits in the form of a levy for their freely supplied water to Kathmandu.

On a larger scale, the MWSP has unwittingly promoted social injustice. While the project will benefit only 10 percent of country's population, the burden of debt will be shouldered by all Nepalis. More than 70 percent of the country's tenth five-year budget on water and sanitation has been solely allocated to the MWSP.

ADB Policy Violations

Information Disclosure

Claimants didn't have access to critical information and documents such as EIA, feasibility studies, options assessments, cost-benefit analysis, lending conditionalities, and agreement with donors/lenders, specifically in local Nepali language before the project was finalized. Few documents were provided after the official claim was made in the OSPF of the ADB, but these were largely insufficient. Critical documents like cost-benefits analysis, lending agreement and conditionalities have still not been disclosed by MWSP.

There was lack of meaningful public consultation. The project did not make sincere attempts to inform local people. It also did not make public the documents and information in time. Because of pressure from WAFED and the local people, MWSP was forced to release few documents.

Environment Policy

The EIA failed to study and incorporate all the environmental/ecological impacts of MWSP on the local ecology and people's livelihoods. The suggested mitigation plan is also grossly inadequate.

As far as forest issues are concerned, the project has been causing serious impacts in some of Melamchi's community managed forests. The current problem is the lack of adequate arrangement for the continuing access and management of these forests.

In terms of agriculture impacts, the project has seriously affected Melamchi's agricultural system due to the construction of access roads through the most fertile land. The loss of small and large scale irrigation canals after the diversion of the river has impacted adversely on food security, as well as on local ecology and biodiversity. There is also a question of inadequate investigation on the downstream impacts of the river diversion to the long-standing agricultural lands of the indigenous people and others in Melamchi Valley.

Involuntary Resettlement

The land acquisition, compensation and resettlement process and related activities have been grossly arbitrary. There has also been no reasonable offer for resettlement. Not only did MWSP also fail to assess all the direct and indirect impacts of its activities, it likewise failed to provide adequate compensation and relocation (i.e. displacement of ghattas or water mills, and electricity-run economic activities.)

Meantime, the Social Uplift Program has been grossly criticized and rejected by the claimants and other affected communities in Melamchi Valley. The program has failed to address the local needs, priorities and democratic process. It has also failed to include the most economically and socially neglected and marginalized communities and integrate them into the local development activities; and the trafficking-prone Tamang communities that suffer from worsening social and economic conditions and cultural exploitation.

Indigenous Peoples

There has been a gross denial of the rights and interests of IPS who have been directly and indirectly affected by the project. They include the Majhis (traditional fishermen/women) in the downstream as well as the majority Tamang communities in Melamchi Valley.

ADB's Denial

True to form, the Bank has denied all these accusations and has maintained that the vast majority of affected people is supportive of MWSP and is satisfied with the compensation received notwithstanding the slow process. In terms of information flow, the ADB said improvements have been implemented. Apart from available documents in Nepali, the project has undertaken workshops and consultation meetings. Three hundred of the 328 cases related to land acquisition, compensation and resettlement have been settled. A significant part of the SUP budget has been allocated to uplift the socially disadvantaged sections of the population, including women and ethnic groups.

The Bank has further claimed that mitigation of environmental and agricultural damage caused by access road construction is ongoing. Rigorous monitoring of water flow in the Melamchi River is ongoing with a view to ensuring adequate water for agriculture and irrigation. Forests and residents in four of the seven communities affected by the project have already been taken care of. Newly created conflict response teams operate regularly in the Melamchi Valley and have handled grievances.

Lessons to Learn

Despite the Bank's so-called efforts to mitigate the negative environmental and social impacts of MWSP, the project has failed to satisfactorily resolve/address its many controversial issues, concerns and problems. According to WAFED-Nepal, which has represented a large number of project-affected families over the years, the Bank and its co-proponents need to recognize the rights of and adhere to the basic human rights (civil, political, economic, social, cultural and environmental rights) of the Nepali people with regard to the Melamchi Water Supply Project. The group has asked the MWSP proponents to stop funding the project in view of its enormous social, environmental, and economic repercussions that are beyond mitigation.

The Bank must ensure that all persons directly and indirectly affected by the project would be properly compensated. All affected families and stakeholders, including NGOs critical to the project, must be involved in every public consultation and decision-making process. Relative to this, the Bank needs to re-examine its present accountability mechanism, which tends to be too bureaucratic and unfriendly to project-affected individuals/families.

Likewise, there is a need to redo the EIA with active participation of the people for the following reasons: (1) the site for the water tunnel is located in a seismic region. Natural disasters such as earthquakes and landslides will become frequent and intense once the construction work begins; (2) the prescribed release of water in the river after diversion will be insufficient to sustain the present and future water demand of Melamchi Valley.

Moreover, the outdated and failed privatization of public water utilities will not ensure adequate and safe water to all. Instead, the collaboration between the Nepal Water Supply Corporation and the five municipalities in Kathmandu Valley will be a model public-public partnership in water supply management and development.

Above all, the Bank and its co-financiers should consider empirically verified better and cheaper alternatives to MWSP in Kathmandu Valley. Rain-water harvesting, judicious use of ground water and better management of existing surface water sources like streams and ponds around Kathmandu are the good alternatives to meet the water demand of its populace. These alternatives must be harnessed to supply water at a reasonable cost. The Nepalese government should support cheaper, quicker, and better water supply alternatives within the Kathmandu valley, and thus, put a stop to the MWSP.

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Flooding Central Pakistan: The Chasma Right Bank Irrigation Project

Background

The Chasma Right Bank Irrigation Project (CBRIP) was approved by the Asian Development Bank (ADB) in December 1991. It involves construction of a 274-kilometer canal along the Indus River that will run through two districts in Punjab and Northwest Frontier provinces. According to the Bank, it will irrigate 606,000 acres of land in D.I. Khan and D.G. Khan Districts in central Pakistan.

The project primarily aims to provide a dependable perennial irrigation supply, ensure efficient distribution water and provide necessary drainage and flood relief. Aside from the main canal, 72 distribution canals, 68 cross-drainage structures and 91 bridges will be constructed.

However, the local community held massive protests citing the following complaints: (1) lack of comprehensive and participatory socioeconomic, cultural and environmental project assessments; (2) project-induced flooding and resettlement; (3) forced and illegal land acquisition and compensation; (4) lifestyle disruption, in-migration and disintegration of community networks and support systems; (5) termination of traditional irrigation system; (6) project management, irregularities and corruption; and (7) adverse social impacts;

The implementation of the project has been problematic. Due to numerous delays, the project incurred cost overruns. The project cost has ballooned to Rs17,000 million from the original Rs1,570 million. With only 15 percent of the project completed in 1999, there were already extensive delays and cost overruns. (Chasma Struggles, 2003) The project was due for completion in December 2002, but until now the project is not yet completed.

Environmental and Social Impacts

According to villagers, the construction of CRBIP has interrupted the natural flow of the floodwater that resulted in massive flooding in the west side of the main canal and in the riverine belt of the Indus River. They attribute the increased ferocity of the flooding to the disruption of *rowed-kohi nullah* (hill torrent streams).

The 274-kilometer main canal cuts through the flow of more than 150 natural hill torrents which come from the mountain range. In addition, some of the flood carrier channels (FCCs), which were built to redirect water flows from these torrents to the main canal or channel the water to the eastern side of the canal (which includes the riverine belt), were also blocking certain hill torrents. Some hill torrents end abruptly before reaching the river, while other torrents were combined into a single channel, increasing the amount and force of water that resulted massive erosion and silt deposition. (Shanon Lawrence & Mishka Zaman, 2004)

In the eastern side of the Chasma canal, the destructive project-induced flooding broke through the mud banks and dumped water into fields which were still planted with cotton crop. Many huts and mud settlements collapsed or were damaged by the flood. (Lawrence & Zaman, 2004) This resulted to loss of income and food insecurity.

On the west, farmlands remained under floodwater for months. Villagers attribute this to faulty design of the project. The canal and the embankments have blocked the floodwater from running towards the river on the eastern side.

The villagers submitted petitions about the flood damages. However, local officials, elected council members nor the Grievance Redress and Settlement Committee (GRSC) conducted a comprehensive survey of flood-related damages caused by the project.

The strong flood also eroded the surrounding hills that serve as protective barrier between the hill torrent and villages. It also eroded and degraded acres of arable land. Grazing land was also inundated that resulted in selling of livestock. Drinking water schemes and tubewells were also washed away by the destructive flood.

Villagers fear the coming rainy season from March to April that could lead to more flooding disasters. Farmers were reluctant to plant the next seasonal crop for fear of suffering additional crop losses and accruing more debt. This led to loss of income. Farmers also have to hire tractors and other equipment to level and plow the soil in the fields that cracked and hardened under floodwater. (Lawrence & Zaman, 2004)

During floods, mobility of the villagers was restricted. Some villages were not able to access essential social facilities such as hospitals. The floods also forced men to migrate in cities as day laborers to earn enough income to feed their families.

The floods increased women's labor. Now, women have additional burdens due to loss of livelihoods and income caused by floods. Destruction of drinking water schemes has also forced women to walk longer distance to fetch water, dramatically increasing their workloads. Due to the destruction of potable water supply, women have to work double time to care for their young children afflicted with stomach illness, causing more pressure to their time and meager finances.

Safeguard Policy Violation

<u>Environment Policy</u>

The project was erroneously classified as Category B despite it being large-scale irrigation and water management. According to the Panel, no initial environmental examination (IEE) was produced prior the conduct of a feasibility study. Further, the environmental impact assessment (EIA) was not completed before the approval of the loan. (ADB Compliance Panel Report, 2004)

By not making full appraisal of the probable impact of the project, the ADB

failed to identify the project's environmental impacts and neglected to incorporate provisions in the loan agreement warranting the implementation of mitigating measures against adverse environmental impact. Further, the Bank failed to secure the required funding for identified mitigating measures. (CRP, 2004)

For more than 10 years, an Environmental Management Plan (EMP) for CRBIP has not been implemented, nor has a Hill Torrents Management Plan (HTMP) been produced. HTMP serves as a guide flood management based on the traditional "rowed-kohi" system. (Lawrence & Zaman, 2004) The Panel said that "there are still no satisfactory plans or financial arrangements in place for securing the implementation of the plan. Moreover, there has been no adequate process that has enabled the informed and meaningful participation of affected communities of the project area in the implementation of the EMP." (CRP, 2004)

According to the Panel, the ADB failed to sufficiently understand and address problems relating to flooding; use of agricultural chemicals; forests and grazing lands; water-logging and salinity; and possible pollution and waste management issues.

Involuntary Resettlement Policy

No Resettlement Action Plan has been prepared for those who were moved even though land acquisition began more than seven years ago. (Lawrence & Zaman, 2004) Resettlement of villagers affected by flooding was not anticipated during the project approval in 1991. The need for resettlement was only identified in 1994; actual resettlement was only conducted in 2001. (Panel Report, 2004)

The Panel Report concluded that no resettlement plan was ever prepared which is a clear violation of ADB policy. The Bank also failed to include the necessary provisions in the loan agreement and budget for a resettlement program. The Panel also said that affected groups were not consulted in the valuation of their assets, nor the ADB provided compensation to protect the interests of the poorest affected persons by the CRBIP.

The Panel further stated that the ADB did not take action to assess accurately the need for resettlement plan after flood risk was identified in 1994; no resettlement plan was prepared. The Panel said that a resettlement program did not become part of the 1999 Loan Agreement on supplementary financing for CRBIP. Further, it said that the ADB did not conduct a proper consultation with the affected people in decision-making and valuation of their assets.

The Panel said that the Bank violated the rights of the affected people to be informed. Many villagers still face the threat of flooding. No new houses were built for the displaced families. Nor proper compensation and rehabilitation of the community were conducted by the ADB to ensure that the resettled families' living conditions would be restored. (CRP, 2004)

Indigenous Peoples Policy

According to the Panel, the feasibility study and appraisal document do not address the issues on the rights of tribal/ethnic minorities, cultural integrity and traditional land use control. (CRP, 2004) This can be seen in the disruption of the *rowed-kohi* system by the project.

Also, the Panel stated that the ADB has never made an attempt to apply its Indigenous Peoples Policy and Instructions to the project. It said that the Bank did not come up with any analysis regarding indigenous peoples for this project based on Pakistani Law and the Bank's policy. Nor a consultative process was done in this regard. The Panel said that it did not find any evidence that specific measures were taken by the Bank to address problems or issues that concerns ethnic or cultural identity. (CRP, 2004)

Lessons Learned

The CRBIP clearly shows that the conduct of a meaningful consultative process is very essential in the success of a project/program. The failure of the Bank to provide a venue for the participation of the community in the planning, implementation and assessment stages of the project resulted in disruption of natural river cycles and destructive floods that caused loss of income, dramatic change in the lifestyles of communities, displacement of a lot of families, and disintegration of community networks and support systems.

The CRBIP experience shows that faulty engineering and ADB's hasty approval of a project could lead to adverse environmental and social impacts.

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The Hazardous Masinloc Coal-Fired Power Plant

Background

The toxic-emitting, 600-megawatt Sixteenth Power Masinloc Thermal Power Project (MTTP) in Zambales, Philippines started operating in 1998. The two-unit plant uses imported high-quality bituminous coal, which produces 385,000 tons of ash per year and releases massive amounts of carbon dioxide that is toxic to both human health and the environment.

The US$441-million project was jointly financed by the Asian Development Bank (ADB), Export-Import Bank of Japan and the local executing agency, National Power Corporation (NPC). The Japanese bank reportedly required that NPC attain "100 percent social acceptability" before it agreed to fund the project. The ADB, meanwhile, provided risk insurance.

MTTP was primarily commissioned to provide reliable and inexpensive electricity in Luzon Island, and diversify the country's energy sources. Though the ADB approved its counterpart loan in October 1990, the project only took off in December 1994. This was due to problems concerning land acquisition, resettlement, and obtaining the much-needed environmental compliance certificate (ECC). An attached technical assistance grant aimed to improve NPC's environmental monitoring and management capacity.

In 2002, the Bank's Operations Evaluation Mission (OEM) report rated the project "successful"[1] saying that MTTP was relevant, highly-efficacious, efficient and sustainable. It also found the design and equipment in conformance with environmental standards while the operation and maintenance were deemed satisfactory. Unsurprisingly, the OEM said the project has had moderate environmental and socioeconomic impacts.

This was in direct contrast to a 2002 report[2] by Greenpeace which revealed that fly ash samples taken from the Masinloc Coal Power Plant and two other coal-powered plants were contaminated with a range of toxic and potentially toxic elements including arsenic, chromium, lead and mercury.

In terms of socioeconomic impacts, the project directly affected 198 families or around 1,000 individuals in Barangay Bani. It has also impacted on communities who use the Lawis River (where the plant gets water for cooling). The warm water from the cooling device goes directly into Oyon Bay. The Bank said these people were resettled in 1996, two years before the commissioning of MTTP. What the OEM failed to include in its report was the strong community opposition to the project during the project implementation period as well the militarization of the area.

In 1994, newspaper columnist Father Shay Cullen, who witnessed some of the protests against the project recounted that that NPC was desperate to convince potential funders that the project was socially acceptable. This was while protesters gathered noisily in opposition of the project and members of the clergy led candle lit processions mourning the cutting of trees and forced relocation of residents. NPC claimed they had settled amicably with residents when, in fact, it had to file cases against the landowners and send them threatening letters.

Cullen's earlier 1992[3] article reported that the people of Masinloc strenuously objected to the project, stating that their health and that of their children will be sacrificed while their land, sea, and skies will be polluted and poisoned. They started an international letter campaign to then ADB President Kimi Masa Tarumitzu and Bank's donor governments to stop the project. The entire clergy of Zambales also denounced the project as environmentally unsound.

The Masinloc mayor, who was initially against the project, was invited by then President Fidel Ramos, for a meeting in Malacanang in the mid-'90s. After his visit to the presidential palace, the mayor changed his position and stopped opposing the plant. Another report[4] alleged that the mayor changed his position because he was coerced by the President. Ramos eventually used his emergency powers to build the plant to address the regularly occurring 8-hour to 12-hour blackouts in Luzon.

As of 2002, there was no longer strong community opposition. One of the old community leaders was eventually hired by the plant as its chief security officer. One of the previous youth leaders also now works for the plant.

In 2003, the ADB through the Electric Power Industry Reform Act pushed for the privatization of the Philippine power industry, including the Masinloc Coal-Powered Plant. Tasked to sell the power plant is the privatization agency, Power Sector Assets and Liabilities Management Corporation (PSALM). In 2004, the controversial plant was awarded to the winning bidder, YNN Pacific Consortium of Malaysia. The consortium in turn failed to put up the required down payment because it was undercapitalized and had no experience in power industry.

In November 2005, a German Greenpeace volunteer was hit by a crowbar in the face and beaten up by armed guards of the Masinloc plant after he and other activists forced their way into the compound to stage a protest rally related to climate change. A New Zealander and some Filipinos were also injured when they were hit with stones hurled by the guards. The guards also fired warning shots. NPC denied that a violent scuffle ever occurred as it deplored the "premeditated illegal intrusion of Greenpeace activists."
In August 2006, PSALM announced that it would re-bid the Masinloc Power Plant following the termination of its asset purchase agreement with YNN Pacific Consortium.

Project Impacts

<u>Environmental</u>

Coal is the dirtiest, most carbon intensive of all fossil fuels, emitting 29 percent more carbon per unit of energy than oil and 80 percent more than gas. It is one of the leading contributors to climate change, the single biggest environmental threat facing the planet today. Furthermore, a study conducted by the European Commission in 2003 on different

types of power generation bared that coal-fired power plants registered the highest external cost. External costs arise when project impacts such as damages to human health are not fully accounted or compensated for by a power plant like Masinloc.

Ash samples taken from Philippine coal-fired power plants such as Masinloc all revealed the presence of mercury—a deadly neurotoxin, arsenic—a known carcinogen, as well as the hazardous substances lead and chromium.[5] Host populations/communities, like those in Masinloc, have been exposed to such health risks. This report runs counter to the Bank's pronouncements that the environmental impacts of MTPP are well within the limits set by the Department of Environment and Natural Resources (DENR).

Likewise, bleaching of coral reefs surrounding the coal plant in Masinloc has been reported.

Social

When the NPC developed and implemented a resettlement program in collaboration with the Municipality of Masinloc, the Bank did not have an involuntary resettlement policy yet. This has resulted to several issues that the OEM recommended for immediate resolution. These were: (1) lack of drinkable water at the resettlement sites; (2) lack of job opportunities and reduces incomes for some of the displaced households; (3) delayed transfer of titles to affected families; and (4) disputes over compensation of amounts.

A 1999 Balik Kalikasan Online[6] reported that the displaced Masinloc farmers benefited much from farming rice and mangoes before, enough to put their children through college. A provincial board member of Zambales was quoted as saying that the fruit yield dropped by 1/3 since the plant began operations. Many also grew a sustainable living from fishing. At present, their fish catch have become few and the *bangus* (milkfish) have disappeared. One fisherfolk said their catch has dwindled from 50 percent to only 10 percent. Meantime, a Barangay Bani officer said MTPP failed to provide jobs, at the same time damaged Oyon Bay. They no longer have income from seaweeds which have been gradually killed by the hot water coming from the coal-fired plant.

ADB Safeguard Policy Violations

Environment

In its OEM report, the ADB admitted that coal-fired power generation generally have major environmental impacts in the form of emissions, discharge of cooling water and wastewater, and ash handling. It has emphasized though, that environment protection has been well incorporated in the project design such as various forms of emission control and monitoring that are within the standards prescribed by the DENR. The Masinloc plant reportedly tries to control the emission of sulfur dioxide and nitrogen dioxide. It is equipped with electrostatic precipitators or ESPs, which the Bank says has 99.5 percent removal efficiency.

However, fly ash samples analyzed by the Greenpeace Research Laboratory in the UK showed significant levels of mercury, which almost exclusively escapes pollution control devices. The ash from the Masinloc plant contained arsenic, lead, and chromium as well.

Fly ashes pose a potential environmental hazard due to the very large quantities produced, as well as the toxic elements they contain that leach into the immediate environment. Fly ash particles that are extremely small and are not caught by pollution control equipment pose additional dangers since they can be inhaled into the extremities of lung airways and can lead to adverse human health effects. Likewise, these "respirable" particles can even be more poisonous than fly ash as a whole. Treatment processes to reduce the quantities of these harmful elements in the fly ashes will result in the production of additional waste-streams.

Ongoing use of coal combustion for power production will result in future releases of toxic and potentially toxic elements to the environment.

Resettlement and Other Issues

The appendix section of the OEM was even more telling of resettlement problems. A further evaluation of the resettlement program exposed issues like lack of key information on social planning and income restoration, absence of legal basis in the computation of compensation, and unverified environmental impact study (EIS) of the relocation site. Moreover, the resettlement site has been found to be vulnerable to soil erosion and flooding. NPC has also failed to define the responsibilities of its offices and the affected families in planning, implementing, monitoring and evaluating the resettlement program.

The report also downplayed the case for more compensation which was filed and won by a group of affected families against the MTPP management. NPC has filed for reconsideration, which is now being reviewed by the Philippine Court of Appeals.

With regard to the militarization of the area, a Greenpeace volunteer[7] disclosed that soldiers were sent to harass community members even during times like Earth Day. There where times when military personnel even lived in the area, especially upon approval of the plant's ECC. While community consultation did occur, the proponents glossed over the fact that the community opposed the plant.

Although many residents from Barangay Bani, were employed by NPC during the MTPP construction, promises of employment were unfulfilled when it started operations. Those who applied were deemed unqualified. Only a few from Barangay Bani and Masinloc were employed. The Mayor of Masinloc has had several exchanges of letters with NPC due to the non-priority of his constituents in the hiring of plant employees even for non-technical positions. The latter pointed out that 57 percent of their workers were from Zambales.

The local officials of Masinloc admitted that the Multi-Sectoral Monitoring Team (MMT) was incompetent. The MMT was established to monitor all that were related to the power plant operations. According to the Mayor of Masinloc, no real monitoring can be performed because of lack for funds. He said the coal-fired power plant is already an obsolete technology in the western world. He added that the country must maximize inherent resources like geothermal and natural gas.

Lessons to Learn

Communities hosting coal plants like in Masinloc have always ended up shouldering the massive costs and impacts created by burning coal for energy. The Masinloc coal-fired power plant has been found to produce fly ash contaminated with a range of toxic and potentially toxic elements. Despite the use of highly efficient pollution control devices such as ESPs, hazardous elements present in fly ash particles and in gaseous forms will be released to the atmosphere along with flue gases. Particles emitted to the environment either directly with flue gases, or a result of inadequate fly ash storage, pose a threat to human and animal health.

This can only be avoided with through the cessation of coal combustion and the implementation of sustainable production technologies such as solar and wind-power generation. Based on a study by U.S. based-National Renewable Energy Laboratory, the Philippine wind energy source potential can supply over seven times the current power demand of the country. Similarly, the country's abundant solar energy possesses one of the highest efficiency ratings in the world.

According to Greenpeace, there is no need to build or expand new coal-fired power capacity in the face of virtually untapped new renewable resources. The Philippine government and funding agencies such as the ADB should conduct a full-scale environmental audit of existing coal plants like Masinloc to determine the extent of risks faced by host communities, municipalities, cities and population centers. They should also ensure that the external costs of coal are fully internalized by proponents and that preferential policy treatment favoring new renewable energy is put in place.

In terms of resettlement issues, the Bank as well as the NPC should adhere to some of the OEM recommendations. That resettlement should be based on a time-bound action plan of documented measures, be founded on a sound legal basis and a cogent assessment of pre-project socio-economic situation. That NPC should provide affected families the following: a water supply system, their long-overdue land titles, and basic market.

On the part of the ADB, it should provide more supervision on resettlement issues during project implementation and conduct monitoring on resettlement after program implementation.

(Footnotes)

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[5] Greenpeace Southeast Asia. "Bringing Calamities to communities: Coal-Fired Power Plants and Mirant," 2005.

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[7] Interview with Danny Ocampo, Greenpeace campaigner, November 2004.

The Grievous Mae Moh Coal Power Plant

Background

The Mae Moh Coal Power Plant has 13 generating units with a total capacity of 2,625 megawatt (MW). It is located in the mountains of Lampang province in northern Thailand. According to the Asian Development Bank (ADB), it has been involved in Mae Moh mine for financing several units. It approved a series of loans amounting to more than US$352 million for the past twenty years.

The Electricity Generating Authority of Thailand (EGAT) constructed the plants in four phases from 1978 to 1996. It owns and operates the Mae Moh Power Plant which is fueled by an open pit lignite mine which produces 40,000 tons per day. With an area of 135 square kilometers, it is considered the largest coal-fired power plant in Southeast Asia.

The project aims to answer the growing electricity demand in Metropolitan Bangkok and rural areas. According to the ADB and EGAT, the project is highly successful since the project objectives involving least-cost nature, system loss reduction, and system stability and reliability have been met.

However in reality, taking into consideration the social and environment impacts, the project is far from being successful.

Environmental and Social Impacts

According to Greenpeace, the Mae Moh power plant approximately contributes more than four million tons of carbon dioxide emission in the atmosphere, annually. In addition, around 1.6 million tons of sulfur gas is released from the power plant into the air everyday. Such have caused severe health problems for the people near the site and have led to the deterioration of the environment. More than 200 people have died due to respiratory diseases and lung cancer ever since Mae Moh power plant was operated. (Jessica Rosien, 2004)

Greenpeace further said that from the time of the implementation of the Mae Moh coal power plant, more than 30,000 people have been displaced and thousands acquired severe respiratory problems. This was due to the inhalation and exposure to sulfur dioxide emitted from the mine.

The fly ash has also affected the crops of the villagers. According to one villager, her planted vegetables and fruits died because of the toxic that the coal power plant emitted. Another villager recounted that her pineapple plantation wilt over the years. Farmlands have been negatively affected by acid rain which is attributed to the sulfuric dioxide released by the coal power plant.

In October 1992, when EGAT operated the 11 units at Mae Moh, people residing within the seven-kilometer radius of the plant fell ill with breathing difficulties, nausea, dizziness and inflammation of eyes and nasal cavities. After two months of operation, 50 percent of the rice fields were damaged by acid rain and around 42,000 people were found to have breathing ailment.

In April and May 1996, six people in Mae Moh died of blood poisoning. Greenpeace further said that in 1999, more than 600 people suffered from respiratory problems caused by sulfur dioxide emissions. (Saksit Meesubkwang, 2006)

In October 2003, the State Natural Resources and Environmental Policy and Planning Office found high levels of arsenic, chromium and manganese in almost all water sources within the vicinity of the plant.

In May 2004, the Thai Provincial court awarded US$142,500 to the villagers for crop damages caused by the coal power plant. Greenpeace believes that this compensation is the government's way of recognizing the plant's disastrous effect to the lives of the people.

Safeguard Policy Violations

<u>Environment Policy</u>

In its technical assistance completion report, the ADB admitted that "the Mae Moh power station, including the Mae Moh mine, has caused environmental and social problems, in particular, local air pollution causing public health problems." (ADB, TA-CR, 2002)

In 2002, Greenpeace Research Laboratories conducted a study on the Mae Moh coal power plant. Results of the study showed that Mae Moh power plant releases around 4.3 million tons (MT) of fly ash along with 39 tons of neurotoxin mercury annually. Fine powders of fly ash sample were collected which contained elements that are highly toxic to the environment, animals, humans and plants.

Greenpeace said that sample from Mae Moh coal power plant contained very high concentrations of arsenic, mercury, lead and chromium. Arsenic is known to be carcinogenic to humans. It could easily enter groundwater and waterways. Mercury is a well-known neurotoxin. Lead is highly toxic and could damage the environment. It has a long residence time compared with most pollutants. Chromium is also a known carcinogen.

To mitigate the negative impacts of the plant, pollution control devices, such as flue gas desulfurization (FGD) and ionizing wet scrubbers, were installed by the government. However, Greenpeace Research Laboratories stated that the sample ashes still contained very fine particulates, called respirable particles. These elements include arsenic, cadmium, chromium, cobalt, lead, mercury and zinc. Pollution control devices fail to contain these respirable particles. In the case of Mae Moh, mercury was not completely removed and still reflected high concentration in the sample collected.

Greenpeace stated that end-of-pipe technologies cannot destroy toxic elements that were released to the atmosphere in gaseous form. Treatment of these hazardous elements will only result in the production of additional contaminated waste streams.

Involuntary Resettlement Policy

Due to the implementation of the project, more than 30,000 people have been displaced. According to reports, Thailand's cabinet previously offered to build houses for those who were affected. However, there has been no progress about this plan until now.

This clearly shows that the ADB and EGAT have no concrete plan and program to address the issue of resettlement of affected villagers. Compensation for the income loss due to farmland degradation was not even included in the implementation of the project. The villagers have to go through the process of filing law suits against the government just to receive just compensation.

Lessons to Learn

The case of the Mae Moh Coal Power Plant is another proof that burning fossil fuel to generate electricity is detrimental to the environment and human health. This has been proven by the many people who acquired respiratory diseases and numerous individuals who died due to toxic elements that were produced by the plant. In the long run, the use of coal power plants does not promote sustainable development.

In spite of pollution control devices, hazardous particles are still present at high levels in the environment. This only means that the only way to end the social and environmental disasters that a coal power plant brings is through a complete stop of its operation. This leaves the ADB and the government to resort to sustainable, renewable and environment-friendly sources of energy such as solar and wind-generation power.

According to Greenpeace, there is a need for the ADB and the host governments of coal power plants to conduct an environmental audit. Based on the Mae Moh experience, there is a need to institutionalize resettlement programs. Just compensation and medical treatment should be provided to the victims of the coal power plant releases.

The ADB should begin accepting responsibility for the social and environmental disaster that the coal power plant has caused the people of Mae Moh. The story of Mae Moh points out that the demand for electricity is not enough reason to take the environment and human life for granted.

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Marinduque Mining Project: The Worst Mining Disaster in the Philippines

Background

In 1969, Marcopper Mining Corporation (MMC) began the mining copper operation in Marinduque, Philippines. With a US$40-million loan from the Asian Development Bank (ADB), Placer Dome, Inc. managed and controlled MMC, promising 30,000 tons of run-of-mine output per day. Placer Dome, which is 40 percent owner of MMC, secured and guaranteed the loans from the ADB.

However, Marinduqueños experienced a series of environmental mining-related disasters in the last 30 years. From 1975 to 1991, Calancan Bay became the dumpsite for millions of tons of mine tailings by Placer Dome's operation. MMC-built Mogpog river dam burst in 1993, flooding the downstream villages in Mogpog. Two children died in the incident.

In 1996, about 4,400 people or 700 families were isolated by flash floods resulting from the cracked of 2.6-kilometer long drainage tunnel which was connected to the mine's waste disposal pit, spilling out a total of 1.6 million cubic meters of mine tailings into Makalupnit and Boac rivers. In 1998, President Fidel Ramos ordered the province of Marinduque in a "State of Calamity."

In spite of numerous moves by local communities and non-government organizations (NGOs), and surviving cease-and-desist orders by the National Pollution Control Commission during the Martial Law, MCC continued its operation. It was later found out that 50 percent of the company was owned by the late dictator Ferdinand Marcos through four front companies. (Roja Salvador, 2001)

In March 1997, the ADB and Placer Dome agreed to transfer the bank's interest to MR Holdings, Ltd., which is a company created by Placer based in the Cayman Islands. (Keith Damsell, May 1999) Around US$20 million was paid to the ADB. After the payment of the outstanding loan and return of the Covenant, the project documents at the Bank were no longer accessible. The ADB said that it was no longer involved in the project and the project is not covered by the 1994 Information Disclosure Policy. (James Esguerra, July 2003) In effect, the ADB washed off its hands from the tragedy.

Environmental and Social Impacts

The Marcopper Mining disaster directly affected the municipalities of Sta. Cruz, Mogpog and Boac. Marinduqueños rely heavily on fishing and farming. But due to the mine spill, Calancan Bay, Boac and Mogpog rivers were contaminated. Marcopper's destructive impact did not only lead to the death of Marinduque's rivers but also the contamination of the populace. Not to mention the lives that have been lost. The communities were left with a dead river system, contaminated environment and very ill population.

Calancan Bay
For 16 years, Marcopper dumped 200 million tons of mine tailings in Calancan Bay via surface disposal. This was done without the consent of the villagers who mainly rely on the bay for food and livelihood. The mine spill covered 80 square kilometers of the rich corals and sea grasses of the bay. This affected 2,000 fishing families, leaving them in the brink of starvation. (Catherine Coumans, 2005) Houses and rice fields were covered with dust storms.

At present, the tailings are exposed in the bay and are driven into villages along the bay. The villagers have not been compensated by Placer Dome until now. Metal contamination and chronic lead poisoning of victims remain untreated until today. (Rowill Aguillon, 2004)

Mogpog River
In 1991, a dam was constructed in the Maguila-Guila Creek despite the objections of the local communities in view of its potential negative impact on their source of food and water. The project aimed to hold back the contaminated silt from the San Antonio pit.

However, after two years, the dam collapsed. Downstream villages were flooded, houses were swept away, livestock and poultry were killed, and crops were destroyed. Two children were also swept by the flash flood. The collapse of the dam did not only cause contamination of the river but also eruption of skin diseases, plastic anemia and metal poisoning of the villagers. (Aguillon, 2004)

Placer Dome denied its responsibility, blaming the tragedy to a typhoon. However, the rehabilitation of the dam included an overflow, which is in a way acknowledging that faulty engineering caused the disaster. (Coumans, 2005) At present, toxic waste behind the dam continues to overflow into the river. *Bagtuk*, a specie of crab that people consume for subsistence, completely disappeared after the tragedy.

Boac River
In March 1996, massive tailings spilled into the 26-km long Boac River. The river was contaminated with three to four million tons of metal enriched and acid generating tailings immediately after a badly-sealed drainage tunnel at the base of Tapian pit burst. This translated to around 1.6 million liters of waste that spilled into the river, killing the river instantly.

This prompted a team from the United Nations to investigate the extent of the impact that the Marinduque Mine Spill, as what the tragedy has been called ever since, has caused the environment and the townsfolk. UN identified unacceptable levels of heavy metals in some parts of the river and toxic wastes leaching into the river due to faulty waste rock siltation of the dam.

In March 1997, the Department of Health and the University of the Philippines (DOH-UP) conducted health studies and concluded heavy metal contamination due to the use of the river as run-off for Marcopper's disposal site since the 1970s.(Aguillon, 2004) The DOH-UP investigative team found out unacceptable lead and mercury level in

seven of the 22 children tested; two adults tested positive for lead contamination.

In October 1997, DOH-UP also collected blood, air and soil samples in and 7 km out from the causeway. All of the 59 children tested proved to have unacceptable levels in their blood; 25 percent of them had unacceptable blood cyanide levels. Also, the soil samples have unacceptable levels of lead, cadmium and elevated levels of copper and zinc. Lead values were present in the air samples, exceeding the standards of the US Environmental Protection Agency. (Aguillon, 2004)

In March 1998, President Ramos declared Marinduque in a "state of calamity" based on the findings of DOH-UP investigative team.

Placer Dome spent almost US$80 million for compensation, medical treatment, infrastructure development, river rehabilitation, flood risk assessment and water projects. However, it still maintains its position that it is not responsibile for the tragedies in Calancan Bay and Mogpog River, claiming these events as accidents. Until now, Boac River compensation and rehabilitation are not yet completed. Compensation to communities in and rehabilitation of neighboring towns remain uncertain. (Roja Salvador, 2001)

Lessons Learned

Sound Design. Evidence that came from the numerous investigative teams, such as UN, Oxfam Australia, DENR and NPCC, among others, showed that the environmental assessment did not ensure the achievement of sustainable development. There was poor integration among the social, economic and physical aspects of the project. (James Esguerra, 2003)

Corruption and Poor Governance. Given the Marcos' large stake in Marcopper, the former dictator overruled the cease-and-desist orders from the NPCC and allowed Marcopper to continue its operation.

Accountability and Transparency. The case of the Marcopper Tragedgy clearly showed how the ADB made it difficult for CSOs monitoring the disaster to access relevant documents, such as Environment Management and Mitigation Plan, internal assessment of the Bank, and its basis to finance the project, among others. (James Esguerra, 2003) Such could be used to strengthen the case of the claimants.

The ADB withheld information from the public stating that the Bank is no longer involved in the project and that the project is not covered by the 1994 information disclosure policy. This is contrary to what the ADB claims that it is committed to improving the welfare of the people in the Asia and the Pacific.

Environmental management. The Marinduque Mine Spill clearly shows the need for a stricter enforcement of environmental policies. The government should not prioritize attracting investors to generate profits over environmental protection and sustainable development of the community. Mining investments should not be railroaded but should go through tedious processes.

Participatory planning and governance. The Marinduque Mine Spill clearly shows the importance of the participation of the local community in planning, monitoring and evaluation of projects given that they have better knowledge of the project site and socioeconomic status at the local level. Not conducting consultation and securing the consent of the local community is just the same as violating their human rights that could lead to tragedies like the Marinduque Mine Spill. In spite of public clamor against the project, Marcopper continued with it.

The ADB is also responsible to the incident. It gave Marcopper and Placer Dome a hand by providing a loan in its operation. The Bank should not say that it is no longer involved in the project just to escape/deflect the global embarassment and criticism caused by the mine spill. The Bank should have provided the information needed during CSOs' investigation to strengthen the claims of the victims instead of using its legal anecdotes to wash its hands off the environmental and social mess. The Bank should have also assisted the affected communities in pursuing the case against the Placer Dome given its strong influence with its member countries.

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The Questionable Tonle Sap Initiative

Background

The Tonle Sap River Basin is important to some two million Cambodians. Livelihoods of communities living around the Tonle Sap Lake depend on its rich natural resources. Further, the seasonal flooding provides spawning grounds for fish in the flooded forests. During rainy season, communities are able to fish and cultivate rice at the same time in the flooded areas. With its diverse natural resources, the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the government of Cambodia identified the Tonle Sap region as a biosphere region in 1997 and was subsequently designated by a Royal Decree in 2001.

The Asian Development Bank (ADB) has established itself as the leading funding agency in the Tonle Sap Basin. (Jessica Rosien, April 2006) The Bank's involvement in Tonle Sap Basin started in 1998 as part of a technical assistance (TA) for the Mekong Region amounting to US$1.65 million. It has the objective of identifying investment projects related to community-based natural resources management.

With the goal of pro-poor sustainable growth and equitable access to natural resources, the ADB launched the Tonle Sap initiative in 2002. The initiative has four major projects: Tonle Sap Environmental Management Project (TSEMP) with a total cost of US$19.4 million; Tonle Sap Sustainable Livelihoods Project (TSSLP), US$19.7 million; Lowland stabilization Project, US$1 million; and Watershed Management Project, which is still in the pipeline.

The holistic approach applied by the ADB to the Tonle Sap is commendable. It uses a basin-wide integrated approach in managing the Tonle Sap River Basin. Tonle Sap is part of the Bank's Regional Cooperation Strategy and Program (RCSP) for the Greater Mekong Subregion (GMS). The GMS-RCSP aims to facilitate growth and development in the region. However, there are projects under the GMS that hinder the attainment of the goals of the Tonle Sap Initiative. Specifically, the development of hydropower infrastructure in the upstream Mekong River will eventually have significant negative environmental and social impacts on the Tonle Sap Basin.

Environmental and Social Impacts

According to the ADB, built structures such as dams, weirs, and flood control works could alter water quantity, quality, and timing. (ADB TA Report, October 2005) Said infrastructures have negative environmental and social impacts on the downstream communities, in particular the Tonle Sap Basin.

The Tonle Sap Lake is a tributary of the Mekong River. Built infrastructures in the upstream Mekong River could modify flooding patterns. In the case of Tonle Sap, the disruption of the natural flooding could lead to the decline of fish supply due to the blocking of fish migration. The forests in the Tonle Sap, which serve as rich spawning grounds, will also be significantly affected and become inaccessible to fish.

The disruption of flooding patterns in the Tonle Sap will lead to loss of habitat and will affect the fishery resources. (ADB, October 2005) This in turn will have major impact to the lives of the communities that depend on the natural resources of the Tonle Sap for their livelihoods. With the disruption of the flooding pattern in the Tonle Sap, the villagers' practice of simultaneous fishing and rice cultivation in the flooded areas will be severely affected. This will in turn lead to possible loss of income and change in the way of life of the people living around the Tonle Sap Lake.

One example of the negative impact of large-scale infrastructure is the controversial Nam Theun 2 hydropower project. The cumulative environmental impact assessment conducted by the Nam Theun 2 Power Company (NTCP) admits that *"Water levels at Phnom Penh will be lower during floods and increased during the dry season. Annual maximum level of the lake will also be reduced. Changes in flow patterns will have a small negative impact on the floodplain and Tonle Sap lake fisheries as these are favored by high wet season water levels."* (http://www.namtheun2.com/gallery/libr_eamp/English/chapter%203_sml.pdf, p.6)

Even if the EIA for Nam Theun 2 stated that the impacts will be "small," if one considers the total number of existing and planned hydropower projects in ADB's Mekong Power grid, it is not hard to deduct that many small impacts could add up to very significant impacts.

The Tonle Sap Initiative paved the way for the establishment of community fisheries (CF) to promote participatory natural resources management. However, CF members complain about the absence of authority for CFs to enforce regulations. The bureaucracy in reporting illegal activities provides a wide space for the illegal fishers to escape captivity.

CF members also complain about the non-exclusiveness of CFs. Outsiders are allowed open access to CFs and since they have less incentive to abide by the CF regulations, they often engage in illegal, unsustainable fishing practices. This means that CF efforts on the sustainable natural resources management will be undermined lessening the incentive for CF members to adhere to the regulations.

Safeguard Policy Violations

<u>Environment Policy</u>

Based on the Report and Recommendations (RRP) of the ADB President on the Proposed Asian Development Fund Grant for the Kingdom of Cambodia on the Tonle Sap Sustainable Livelihoods Project, the cumulative impact of built structures on the Mekong is a main concern of the Bank among the external factors affecting the Tonle Sap.(RRP, November 2005) However, Rosien pointed out that ADB's view on the impacts of hydropower development on the upstream Mekong on the Tonle Sap is not consistent with the RRP statement. The Final TA Report for the Tonle Sap Sustainable Livelihoods

The Project shows that the ADB is merely operating on the assumption that there will be no significant environmental impacts, without having undertaken scientific testing to back this assumption. This violates the precautionary approach, to which ADB subscribes in its Water Policy. If the ADB were following this approach, it could not use the lack of scientific evidence to justify its decisions on infrastructure projects that affect the Mekong River and the Tonle Sap.

This also shows that the Bank has not undertaken cumulative environment environmental impact assessment to determine the effects of upstream development on the Tonle Sap Basin. The Bank failed to holistically assess the impacts of the transboundary issues of ADB's project plans. (Rosien, 2006)

Further, the implementation of the Mekong Power Grid will have substantial negative impacts on the Tonle Sap Basin and the lives of the millions of Cambodians who depend on it. According to Rosien, if the ADB is truly adopting an integrated approach to the Tonle Sap River Basin, it should not push through with hydropower developments that are not carefully planned. The project should also have meaningful participation from project affected people.

The failure of the Bank to conduct a cumulative and integrated environmental impact assessment (EIA) for the entire GMS shows the shortcoming of the Bank in factoring the environmental, social and economic impacts of large-scale infrastructures, such as dams, to the Tonle Sap River Basin and surrounding communities.

Based on the independent analysis conducted by the Mekong Watch on the EIA of the Chong Kneas Environmental Improvement Project (CKEIP), the EIA was lacking and significant environmental impacts were omitted. (Rosien, 2006)

Involuntary Resettlement Policy

The ADB came up with a Land Acquisition and Resettlement Framework (LARF) to safeguard communities against negative resettlement impacts caused by infrastructure projects. However, there are certain provisions which are ambiguous. (Rosien, 2006)

The ADB conducted consultations only on some of its projects at a very limited extent. Majority of the villagers have little knowledge about the Bank's projects. Villagers are unlikely to agree with their relocation if the compensation given them will improve their previous situation. Therefore, the Bank should consult with the communities to identify subprojects that will be implemented in a participatory manner.

Other Issues and Concerns

With the present hierarchical and political setup in the communities, there is a great risk that women will not be heard during discussions.

There is a risk of organizational congestion due to the overlaps among the different line agencies/bodies of the government. Poor communication and coordination among these line agencies could hinder the attainment of the goal of sustainable natural resource management.

There is also a lack of participation in the project design. It is not even sure if the recommendations from the different communities on some of the Bank's projects were even incorporated and adopted.

Lessons to Learn

The inconsistency of the projects, program and approach to the Tonle Sap and GMS clearly shows that the ADB should improve the coherence of its overall policy. (Rosien, 2006) If the Bank is really serious about promoting social, economic and environmental sustainability in the Tonle Sap River Basin, it should conduct an integrated EIA of the entire GMS. Without doing so, the success of the GMS will undermine the gains of the Tonle Sap initiative.

While in the past, it is clear that the ADB has not conducted comprehensive impact assessments of infrastructure projects, the Bank has now taken a step towards this direction through its recently approved TA on the Influence of Built Structures on the Tonle Sap which is supposed to provide scientific data on impacts of infrastructure projects. This is encouraging. However, whether the ADB will utilize the results from the studies and be guided in its infrastructure development projects remains to be seen.

The ADB should ensure that all stakeholders and affected people of its projects be consulted. Based on the principle of free prior informed consent of the World Commission on Dams, the ADB should conduct meaningful consultations. People should have the right to say no to projects or request for changes in the project design.

The design of the Tonle Sap Initiative requires that the Bank and the different line agencies of the government should work together. However, there has not been a very good track record of inter and intradepartmental cooperation. Without such coordination, the Tonle Sap Initiatives chances for success are not very high.

To ensure voices of women will be considered in the decisions for planning and project design, the ADB should integrate gender perspective in its planning and design for all projects in the Tonle Sap River Basin. (Rosien, 2006)

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How Corruption Ruined Thailand's Samut Prakarn Wastewater Management Project

Background

Erroneous was how a 2004 Far Eastern Economic Review article[1] described the scandal-tainted Samut Prakarn Wastewater Management Project in Thailand. Quoting from the joint report of the Bank Information Center and Terra-Thailand,[2] the article detailed how corruption problems have transformed this Asian Development Bank-financed public initiative into a major development debacle. In fact, even the Thai Prime Minister[3] publicly conceded that the project was riddled with corruption. And after years of resistance from affected communities and pressure from an international monitoring campaign, the ADB withdrew from the project in 2003.

The ADB and the Government of Thailand conceived the US$230-million wastewater management project in the early 1990s to improve the environmental quality, as well as the public health and welfare in Samut Prakarn Province through modern, reliable, cost-effective wastewater collection and treatment facilities. It was designed as the hub of all wastes (generated by about 1.2 million residents and over 4,000 factories) that flows into the Chao Phraya River. The Bank's US$230-million stake in the project was the sum of two separate loans: the initial loan of US$150 million in 1995 and the supplementary loan of US$80 million in 1998.

Initially, the ADB recommended two treatment plants to be built in both sides of the Chao Phraya River. Controversy erupted when construction of a single wastewater treatment plant instead began in the village of Klong Dan. These were clear deviations from the original project design and location. The Samut Prakarn project caught the Klong Dan locals, numbering around 60,000, by surprise. This was due to the failure of the Bank and the executing agency, Pollution Control Department (PCD), to inform and consult them about the project.

In 2000, the mayor and citizens of Klong Dan filed the first-ever complaint with the ADB over the impacts of the Samut Prakarn project. Thus, the group became the first to test the Bank's accountability to those impacted by its projects since the Inspection Function[4] was established in 1995. In their formal request, the villagers asked the Inspection Committee to launch a full-scale re-assessment of the project design and the flawed decision-making process. They contended that the project has violated the ADB's environmental, social disclosure, good governance and anti-corruption policies, as well as the project's goal of sustainable development.

The Inspection Panel reported in 2001 that the Bank, indeed, did not comply with some of its policies and procedures in the project processing and implementation. These were: (1) supplementary financing of cost overruns, (2) bank operational missions, (3) environmental considerations in Bank operations, (4) involuntary resettlement, (5) incorporation of social dimensions in Bank operations, and (6) governance. Furthermore, the Panel concluded that the Bank committed a crucial omission when it did not reappraise the 1998 supplementary loan proposal, thereby resulting to other consequences.[5] Notwithstanding these serious findings, the subsequent recommendations of the Inspection Committee to the ADB Board were perceived to be weak by the affected communities, as well as independent CSO observers. Moreover, the ADB failed to take adequate action towards implementing even these recommendations.

In 2003, the Bank and the Thai Ministry of Finance agreed to close both the original and supplementary loans for this project. The undisbursed balance remaining in the original loan for US$18.3 million has been cancelled. The Bank said the project remains incomplete and suspended, and that no progress has occurred on the remedial measures.[6]

In early 2004, the Natural Resources and Environment Ministry was given the go-signal to sue the owner of the Klong Dan Wastewater Treatment project for Bt20 billion for alleged contract fraud and duping the state to buy public land.

In 2005, the ADB reported that the civil suit filed by PCD against the turnkey contractor was rejected by the court and no progress has made on this matter. Moreover, no progress has been made on fraud charges versus individuals associated in the controversial land acquisition; implementation of the resettlement plans and monitoring systems; community involvement initiatives; and odor and effluent management. The Bank would not act on the said issues until the contractual dispute between PCD and the contractor is resolved.

Project Impacts

When Klong Dan residents finally became aware of the nature of the wastewater management project, they strenuously objected. They raised a number of concerns about the negative impacts the facility would have on their environmental quality and economic well-being. They expressed concern about the ill effects of toxic wastes and heavy metals that would be released from the treatment plant.

According to them, the project would threaten their way of life, the local economy and community strength. The daily release of 525,000 cubic meters of treated wastewater to the sea would change the ecosystem of the coast, which is one of Thailand's principal economic bases. The 2001 findings of the Bank's Inspection Panel confirmed their fears. The report revealed that the Samut Prakarn project threatens the livelihoods of people that are dependent to the coastal ecosystem due to the dilution of salinity and release of toxins or heavy metal. Further, people living in the vicinities of the treatment plant could be adversely affected by the lowering of their property value as well as the odor and potential problems

caused by the existence of toxin and heavy metal in the sludge management.

Moreover, community members became convinced that the decision to move the project was driven more by the desire to enrich a handful of politically well-connected landholders than by any considered assessment of the public interest. They pointed to a number of irregularities in the relocation of the project and acquisition of the Klong Dan site.

ADB Policy Violations

Information Disclosure

Citizens never received detailed information about the project from the ADB. Nor were they ever consulted by the PCD that manages the project. For years, the Bank and the Thai government have known about the Samut Prakarn project but they have excluded the participation of the Klong Dan people. Since the onset of the project's construction, the Environmental and Social Impact Analyses have yet to be seen by the public.

Environment Policy

In their Inspection request, the Klong Dan villagers contended that there was no environmental impact assessment conducted prior to the plant's construction. Given this, the facility could have released toxic heavy metals into, and dilute the salinity of local waterways, in the process jeopardizing the fisheries that largely support the community. Likewise, documents obtained from project co-financier, Japan Bank for International Cooperation showed the plant's inability to fully treat wastewater with metals remaining in their original state after treatment.

Social and Involuntary Resettlement

The Bank failed to undertake a social initial assessment of the project area that led to poor project planning and design. This, in effect, deprived affected villagers of their right to participate and have their concerns addressed by the project proponents.

No resettlement plan was established to compensate and support any villager that was displaced by the facility. Neither was there any socio-economic survey done among the affected families. The full cost of resettlement was not identified or included in the project cost. In fact, resettlement and compensation were only mentioned when protests against the project began mounting.

Corruption

The land purchased for the facility was acquired under highly dubious circumstances, with the price twice its official rate. This was a clear violation of the ADB's anti-corruption policy. In particular, the purchased land area was not the one specified in the project design.

Likewise, the Bank accepted changes in the bidding documents to allow alternative bids for one facility instead of two facilities as stipulated in the loan agreement. It accepted the change in location of the treatment plant to Klong Dan minus the requisite project impact assessments. It failed to adequately scrutinize project changes that led to an 87 percent increase in costs prior to loan signing. ADB also did not object when the contract was granted to the only bidder in direct violation of Thai procurement/bidding regulations.

Lessons to Learn

The botched Samut Prakarn Wastewater Management Project clearly demonstrates the devastating impacts of ADB's failure to exercise its full monitoring, oversight and investigative responsibilities relative to corrupt-ridden development projects. Its response to the allegations of corruption raised by the Klong Dan community has been grossly inadequate and unsatisfactory.

The ADB failed to consider corruption issues during the project and appraisal stages. Despite the obvious high country and project risks, the Bank neglected to mention in its Review and Reports of the President (RRP) for neither the original loan nor the December 1998 supplementary loan (which was already covered by the Anti-Corruption Policy) that the Samut Prakarn project was susceptible to procurement fraud, bribery and other types of corruption.

Similarly, its project monitoring and supervision during implementation was unsatisfactory. It failed to question a number of substantial design changes that contravened ADB policy, loan agreements or the Thai law, thereby providing significant opportunities for corruption.

From the onset, the Bank had all the opportunity to curb the corrupt practices related to the Samut Prakarn project. However, it failed to address these issues as illustrated by the following: (1) The Bank's three offices that reviewed aspects of the project did not fully investigate or report the corruption issues related to the land transaction; (2) Management review of the project failed to find any evidence of corruption, and both the Inspection Panel and the Anticorruption Unit declined to consider the issue at all; (3) The Bank never publicly commented on the fact that the Thai government has filed criminal charges against many senior officials of the projects; and (4) The Bank did not launch a wider investigation of the corruption issues in view of the said charges.

(Footnotes)

[1] Gay, Christopher. "Thai Project Yields Graft and New Policies." Far Eastern Economic Review, 2004.

[2] Herz, Steve."Zero Tolerance? Assessing the Asian Development Bank's Efforts to Limit Corruption in its Lending Operations," 2004.

[3] "Making the Case for Graft at Klong Dan," The Nation, July 2003.

[4] This policy became the Accountability Mechanism Policy in May 2003.

[5] ADB. "Final Report of Inspection Panel on Samut Prakarn Wastewater Management Project," 2001.

[6] ADB. "Samut Prakarn Waste Water Management Project Fourth Semiannual Report to the Board Directors on the Implementation of the Recommendations of the Board Inspection Committee as Adopted on 25 March 2002," 2004.

Marinduque Mining Disaster. Sonny Boy Mataya from Bocboc, Mogpog stands in front of millions of tonnes of mine waste that sit above the Maguila-Guila dam on the Mogpog River. The dam has been poorly maintained and locals live in fear of a repeat disaster.

Photograph by Ingrid Macdonald/Oxfam Australia

NGO Forum on ADB is an Asian-led network of non-government and community-based organizations that support each other in order to amplify their positions on Asian Development Bank's policies, programs and projects affecting life forms, resources and local communities.

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