

# FOCUS ON THE GLOBAL SOUTH

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Members of people's and civil society organizations demand an end to ADB's immunity in an action at the Bank's headquarters, Manila. Photo by Joseph Purugganan

## Asian Peoples Challenge ADB's Immunity

### PREAMBLE

Since 1966, the Asian Development Bank (ADB) has peddled the illusion that it is an institution committed to making the region free from poverty. According to the Bank, it has mobilized more than USD 250 billion worth of investments in infrastructure, research, and knowledge sharing in its half a century of operations in Asia and the Pacific. The ADB, however, shamelessly continues

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2017 marks the 50th anniversary of the Asian Development Bank (ADB), the second largest source of development finance in the Asia-Pacific region, next to the World Bank Group. In the last five decades, the ADB has moved more than USD 250 billion in a bid to promote economic growth, facilitate regional trade integration, and expand opportunities. However, for many civil society groups, social movements, and communities affected by ADB financing, the institution has been an agent of inequitable development, fostering inequalities and mis-governance. The ADB has enjoyed the highest degree of immunity as guaranteed by its own charter. This means that it is immune to legal liabilities and accountability to national laws for problematic investments, faulty policy advice, violation of people's rights and livelihoods, and destruction of the environment.

Focus has long been researching and sharing analyses of the negative impacts of ADB operations, calling for an end to the ADB's immunity and lack of accountability. In 2017, we join people's movements and civil society in building a region-wide challenge to the ADB's immunity

On the occasion of the 50th Annual Governors' Meeting of the ADB which is happening in Yokohama, Japan from May 4-7, 2017, Focus on the Global South is releasing this special newsletter highlighting the Asian people's resistance against the Bank. Earlier writings and materials on the ADB produced by Focus can be found here: <https://focusweb.org/page/adb50>

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to shell out illegitimate debts to its member countries even if it had disastrous project and policy outcomes. Fifty years of ADB operations has left a track record of people displaced, impoverished, malnourished, and hungry. The destructive impacts spread across all facets of the environment: forests, rivers, oceans, arable lands including endangered and close-to-extinction animal and plant species in their habitats. The ADB is also guilty of contributing to global warming through its financing of dirty energy projects.

We, the community representatives, youth associations, students, and civil society organizations gathered here on the 19th – 20th of April 2017 at the University of the Philippines SOLAIR declare that,

- ADB has an exploitative development model - ADB's business model has a narrow view of development that looks at the state as the principal driver of economic growth. It has capitalized on this notion through the setting up of Country Partnership Strategies (CPS) and policy reforms (Structural Adjustment Programs, Technical Assurances on policy, financial and governance reforms) which identified key sovereign sectors and resources to exploit for export-oriented profit through the private sector players. ADB has been forcing governments (abusing its power as a lender) to acquire customary natural resources and crafting a fictitious narrative of government dependency on ADB; all for the purpose of pushing loans and unlocking private sector opportunities.
- ADB supports tyranny - ADB speaks of good governance and democracy; yet it continues to lend autocratic and oppressive regimes in and fragile conflict areas such as Myanmar, Samoa, Papua New Guinea, North East India, Afghanistan, and Pakistan. Through these lending operations, the ADB aids and abets tyranny and the use of state instruments to grab resources, suppress human rights, and suffocate civil society and all voices of dissent.

ADB gives False Solutions - The Bank in its hubris thinks of itself as a knowledge provider in Asia and has been very active in the last decade in providing false solutions through its so-called clean energy investments and social investments portfolio (health, education, and agriculture). All

these instruments are about unlocking private capital into social development sectors that lead to rising user fees and increasing inequality and debt. In its competition with the Asian Infrastructure Investment Bank (AIIB), ADB feels threatened and is driving for more reckless loans in trans-boundary infrastructure projects and continues to invest in dirty fossil fuels in the face of a burning planet. The Bank remains stoic in its perpetual denial of Human Rights and does not use the term in any of its operational policies and guidelines. In its 50th year, ADB remains adamant in not adhering to core labor standards in any of its projects and operations across Asia. Through the years of critical engagement with ADB's internal governance mechanisms, we have seen that all its final decisions about the Bank's compliance with policies and procedures rest with the ADB's Board of Directors. The ADB then is its own investigator, judge, and jury, with no obligations to external or public accountability. ADB's Immunity allows itself this unbridled freedom as an international organization, but with 50 years of its continuing destructive operational track record, it is critical to challenge this immunity.

Exploring the destructive Impacts of ADB Immunity across thematic sectors we observe that,

#### 1) Financing Dams, Displacement, and Destruction

- ADB financing of dams has brought many disasters to affected communities. A common observation in Bangladesh, Nepal, Kyrgyz Republic, Cambodia, and Laos are the differences between the promises of the ADB and the realities experienced on the ground. In the case of Laos, Bangladesh, and Kyrgyzstan, ADB projects led to the destruction of the environment resulting in the people's livelihood being affected.
- In particular, the quality of the water downstream of the Xe Bang Fai River in Laos resulted in people in the community nearby experiencing skin diseases. Apart from environmental destruction, compensation to the communities was either undelivered, late, or does not address the plight of the communities affected. There were no consultations with the communities by the ADB. Instead of implementing policies that were for the benefit of the communities, ADB projects in these areas resulted in environmental degradation, loss of

livelihood, disease, and disenfranchisement of the community. These have further resulted in Human Rights violations.

- The affected people have had no access to accountability mechanisms because of political and social situations, as in the case of Laos. In Bangladesh as well as in Cambodia, complaints were filed but the problems have not been addressed to this day due to the slow working grievance mechanisms of the Bank. It was clear that economic growth is seen as a priority over the environment, life, and livelihood of the people.

#### 2) Inequality, Debt, and Transfer of Wealth to Private Sector

- While ADB funded projects are responsible for negative social and environmental impacts, they are also responsible for bailing out private sector debts and violation of human rights. This results in the increase in government debts, project delays that still ended up with unmet targets and non-protection of beneficiaries from unjust practices of corporations, lack of environmental and health protection. Resettlement of displaced families has never proven itself effective in livelihood restoration, and instead became the embodiment of failed promises that have caused more damage than development.
- ADB's immunity should be challenged by debt auditing. Principles on declaring an illegitimate debt are now considered international principle. Therefore, we demand suspension of debt services, and eventually cancellation of all illegitimate debt.

#### 3) The Climate Crisis and Decarbonizing of ADB at 50 years

- ADB's continued support to the coal sector makes Asian people more vulnerable to climate change, and health and environmental hazard. This has pushed people out of their homes who have become climate-induced migrants/climate refugees. This is a gross violation of human rights including the right to healthy and clean environment.
- Therefore, we demand ADB to stop funding the coal sector and begin decarbonizing Asia.

We also demand ADB to prioritize supporting community-based sustainable energy projects. We also demand ADB to take the full responsibility for its contribution to climate change and climate-induced migrants/refugees.

#### 4) Lack of Transparency, Oppression, and Shrinking CSO Space

- ADB propagates the architecture of immunity and impunity by imposing conditionalities, including the amendment of laws to enable benefit sharing with the private sector, failing to ensure compliance to even out its own policies and the national laws and policies. We want that all governments stop exercising power to change laws that favor corporate interest and the interest of the private sector.
- ADB should not support projects that violate the laws and principles of human rights. ADB should not collaborate with governments to push for projects that cause militarization and corruption. Instead of ADB condoning, supporting, and promoting such regimes, ADB should speak out on critical issues like human rights violations and enforced disappearances by oppressive regimes.
- ADB's immunity leads to impunity, which allows project developers and state actors to ignore people's rights and corporations to violate national laws and destroy the environment. ADB cannot wash its hands off of these violations and hide behind its immunity.

#### 5) ADB's Exploitation of Labor

- We have experienced that ADB and private companies do not respect labor rights as it has allowed violations of labor standards throughout its projects. This is particularly seen in the example of the Philippines wherein water districts are either privatized or closed off without due consultation with local officials, unionized workers, and local communities. Therefore, we demand ADB to bring back services to the public sector and introduce more innovative measures of public to public or public to people partnerships on the delivery of public goods and utilities.



- ADB has still failed to implement Core Labor standards, which has led to fundamental rights violations. Those violations cannot be challenged in the local court systems due to the ADB's immunity. Therefore, we demand ADB to respect the ILO core labor standards in all its operations and also to stop using the immunity to escape charges of labor rights violations.

#### 6) Social Inclusivity and ADB's Impacts on Vulnerable Groups

- There is no genuine participation for vulnerable communities in ADB operations. ADB has no genuine effort at bringing the consultations down to vulnerable groups such as women, the disabled, and indigenous peoples. Particularly in the case of People with Disabilities, ADB has very little mechanism that enforces empowerment and accessibility.
- Women are more vulnerable to poverty due to relocation projects. Indigenous people also experience violations of their rights rather than the promotion of their welfare particularly in the areas of ancestral domain. Of particular concern are consultations with communities where there have been cases of coercion (militarization). In some situations, CSOs have been labeled as communists, terrorists, and

militants illustrating the targeting of critical voices leading to the shrinking of democratic space.

- Therefore, we demand that this should be addressed by looking into the "Road to 2030 strategy" of the ADB and putting a stronger emphasis on pursuing the full range of human rights and allowing democratic space for dialogue.

#### Asian Peoples Call on Challenging ADB's Immunity

We further declare that the struggles and evidences above demonstrate that the ADB has failed miserably in its responsibilities to the people of Asia and has no ground to retain its immunity. It is time to call out ADB's false Immunity claim everywhere across Asia. It has betrayed its trust as a development partner to the borrowing governments and their people and should be held fully responsible for all its actions and impacts.

Therefore, we, the Asian Peoples, call on our governments and people's representatives to strip ADB's Immunity and hold it accountable for all its actions against our dignity, our rights, our sovereignty and our mother earth.

See more of these action banners & posters at <https://wgonifis.net/posters/>

Feel free to download, share these images and embed them in your email signature. A key strategy of the campaign against ADB is to be more creative & reach out to wider, especially younger, audiences.

We encourage everyone to visit the Working Group on IFIs website at <http://wgonifis.net> for more information on mobilizations against the ADB.



# Ending ADB Immunity & Impunity Amidst Lack of Transparency, Shrinking CSO Space & Increasing Oppression

by Joseph Purugganan

Manila—FOCUS on the Global South led a thematic discussion on lack of transparency, increasing oppression, and shrinking of CSO space as part of the conference called “Asian Peoples’ Call on Challenging the ADB’s Immunity,” held April 19-20 at the University of the Philippines in Quezon City,

The session, participated in by around 30 participants, among them veteran ADB campaigners as well as youth leaders learning about ADB for the first time, aimed to unpack the issues and challenges confronting affected communities and campaigners resisting ADB policies and projects on the ground. It also sought to examine the ways by which ADB’s immunity promotes and propagates corporate and state impunity through various processes and mechanisms, and to identify ways to move forward through continuing campaigns and actions.

A distinguished panel representing affected communities as well as campaign organizations across the Asian region addressed the key objectives of the thematic discussion.

Thilak Kariyawasam from Sri Lanka’s Nature Group began the conversation by raising a fundamental issue hounding ADB projects—the lack of transparency and public participation. Several speakers also weighed in on this problem, citing specific instances where projects were implemented without the knowledge and consent of communities. In cases where consultations had been held, many of the groups opposing the projects were not represented and only the voices of those who support the projects were heard.

Thilak also criticized the ADB for its strong efforts to influence government’s position on specific

projects, oftentimes to suit private sector demands, as well as its efforts to “mislead the public and sow divisions within the community by organizing so-called ‘allies’ within civil society supposedly supportive of its policies and projects.”

For her part, Josephine Ignacio, who represented the local campaigns organization Defenders of the Environment for Genuine Development or DEFEND-Zambales, shared similar concerns over what she called as “false promises of the ADB” that the projects would benefit farming and fishing communities with more jobs, livelihoods, and free transportation and electricity. Ms. Ignacio and DEFEND-Zambales continue to lead the fight against the 630-megawatt Masinloc coal-fired thermal power plant, one of the largest base-load ‘clean-coal’ power plants in the Philippines and still pushing for further expansion of its operations.

DEFEND-Zambales has documented health and environmental cases, loss of livelihoods as well as problems of dislocation of affected communities and second-generation issues associated with resettlement and relocation.

### ADB’s Culpability

A key point raised in the discussion is how the ADB has been able to evade all of these issues by hiding behind the wall of immunity since its inception in 1967. The ADB’s charter provides the institution a high degree of immunity from legal liabilities and accountability to national laws for problematic projects and faulty policy advice. The panelists articulated a litany of issues

against the ADB for which the Bank should be held accountable. These included its continued support for projects that violate laws and its failure to ensure compliance to even out its own policies. Here a contradiction was pointed out, namely that while the ADB on many occasions has not hesitated to exercise its power and influence to change laws that favor its own commercial interest and those of the private sector, on other occasions it has feigned a lack of power to demand from governments strong enforcement of laws that would have favored the community and the environment, thereby washing its hands of violations and abuses committed by governments in the name of these projects.

ADB’s relations with authoritarian regimes was also highlighted and that this has borne out of the ADB’s own history of continued push for loans, financing projects by dictatorial governments, often despite clear issues of misuse of funds and corruption. In the name of protecting these massive investment projects financed by the ADB, governments across Asia have often resorted to force, leading to increased militarization in the countryside.

By continuing to push projects in countries where there have been documented cases of corruption and human rights violations, and furthermore, by not speaking out against these issues, ADB has in effect been condoning, supporting, and promoting these regimes.

The discussion on the intersection of government policies, corporate agenda, and the ADB’s own operations focused on the need to view ADB’s immunity within the context of a broader architecture of impunity where governments and the corporate private sector are allowed to violate laws, ignore peoples’ rights, violate peoples’ rights, and destroy the environment.

### The Continuing Struggle

Eang Vuthy of Equitable Cambodia summed up what needed to be done moving forward. He elaborated on their own efforts to raise the peoples’ awareness on the negative impacts of ADB on development, and their commitment to continue to organize communities to resist policies and projects that undermine the peoples’ aspirations for a better life.





Exploring different ways of educating people through cultural forms, engaging in street actions and protests, lobbying with governments, and building and strengthening networks and movements would be some of the strategies that campaigners across Asia would use to challenge the ADB.

The campaigners also stressed the importance of sustaining documentation and sharing of stories and struggles of affected communities, as well as research and analysis to expose the gaps between what these projects have promised and the realities on the ground.

For many countries across Asia, the campaigns against ADB policies and projects go back decades. The campaigners, thus, highlighted the importance of re-telling stories of affected communities for the youth to understand and appreciate the long history of peoples' struggles against the Bank.

The participants also vowed to step up the efforts to link up and find convergences with other campaign and strengthen international solidarity for broader systemic changes and alternatives,

such as the overhaul of economic policies.

Another area of work that has been slowly gaining ground is the legal recourse that has already been explored by some campaigns, through the filing of legal cases in the International Court of Justice. There was a strong assertion from the group that in the wake of shrinking spaces for peoples' participation and instituting public policy across Asia, peoples and communities should continue to find ways to open up new spaces and expand previous platforms or avenues. The use of social media was also cited as a powerful tool to put messages across to a broader audience.

Overall, the session underscored the urgency to create and foster alternative models of development and development financing, which would promote people's rights, protect livelihoods and the environment, and expand spaces for democratic participation of the people, especially the marginalized and the poor so that they can exercise a greater measure of influence on governments. This means keeping in check and shrinking the power of public and multilateral institutions such as the ADB.

## Watch: Shalmali Guttal on Challenging the ADB



On the occasion of the 50th year of the Asian Development Bank (ADB), Shalmali Guttal, Executive Director of Focus on the Global South, explains why civil society organizations and movements have been organizing against destructive ADB projects for the past 20 years. This video was filmed as part of a series for the Working Group on IFIs called, ADB: Voices from the Ground.

*To watch the video and read the transcript, click on the image or go to: <http://bit.ly/Shal50ADB>*



Places of Protest Actions in India. Source: Working Groups on IFIs

# Marking ADB’s 50 years, Protest Actions in Over 100 places in India

New Delhi—People’s movements and other civil society organizations across India are holding over 100 actions of protest in 21 states of the country between May 1 and 7 to mark the 50th anniversary of the establishment of the Asian Development Bank (ADB), highlighting gross human rights violations, loss of livelihood, and environmental destructions caused by the ‘development model’ being pushed by ADB and other international financial institutions (IFIs), while using public money.

In the first week of May, the organizations launched multiple activities that exposed the ADB’s neo-liberal capitalist model of growth, where public money was used to promote private corporations, and its failed development paradigm, through raising the larger issues related to issues of accountability and transparency of ADB and other IFIs.

Shaktiman Ghosh, General Secretary of the National Hawker Federation, a trade union implementing programs in several states said, “The model of development pushed by ADB has resulted in the loss of livelihood and forced eviction, pushing people to poverty, contradicting ADB’s stated motto of ‘fighting poverty’ In urban areas,

where the hawkers are the badly hit. However, with increasing privatisation of services, even the middle class will not be spared.” (See his video message: <https://youtu.be/LguAaY4Lwvo>)

Some of the activities being organized during the occasion range from protests, to public talks, to lecture series that will highlight the serious impacts of ADB’s lending, at a time when ADB is celebrating 50 years during which its lending portfolio of just over \$3 billion during the first decade has grown to \$123 billion in the last decade.

The activities are geographically spread from Bilaspur in Himachal Pradesh to Thiruvananthapuram in Kerala, and to the Mundra in Gujarat to Dibrugarh in Assam. While the Peoples’ Forum Against IFIs, a platform of people’s movements and civil society organizations working against the ill effects of international financing, is the one coordinating these 100+ events, the actions are being organized by local organizations in a manner which is relevant to them, and that will highlight their struggles / issues and seek transparency and accountability from IFIs.

“ADB needs to seriously review its push for hydro-projects in India, particularly in the Himalayas,



in the name of clean energy program in light of the adverse environmental and social fallouts of its projects and the complete failure of its safeguard policies in this context,” Manshi Asher of Himdhara - Environment Research and Action Collective said.

“Further, the escalation of costs in these projects has put a question mark on the financial feasibility of hydro power projects,” she added. (See her video message: <https://youtu.be/iYkVNQFrDgI>)

ADB’s investments resulting in the undermining of local governance bodies and other traditional institutions have come to the fore time and again. “The arrogance with which the destruction of cultures and communities by way of bulldozing our rights and the condescending belief that we indigenous peoples of the North-East are uninformed enough to be auctioning our rights and our way of living to the highest ‘development’ bidder like the IFIs such as ADB, needs to be done away with. We are not stupid and we will do our best to protect our land and culture!”, Ratika Yumnam of Indigenous Perspectives said.

Highlighting the disproportionate influence IFIs have on the policies and other lending agencies, Leo Saldhana of Environmental Support Group Bangalore said, “ADB has always played the role of influencing a form of development that ensures revenue from loan recipient countries flows out to the coffers of countries that control the bank's stocks. For instance, ADB pushed for Metro projects in India, and after these super-expensive mega projects were well on their way but without serving the real need - of addressing public transport, the bank backed out.

“The way had already been paved of Japan Bank and JICA to step in to finance the Metro project,

as is the case in Bangalore. Interestingly, the project has 300 percent cost over-runs and is yet not functional. Meanwhile, the entire city has been reduced to a mess of what it was before: India's 'garden city', but not anymore!”

Coastal Gujarat Power Ltd (Tata Mundra) a \$4bn, 4000 MW coal based thermal power plant in Kutch Gujarat is one the projects ADB is co-financing, causing damage to people and environment. As confirmed by its own accountability mechanism, Compliance Review Panel, the project has violated ADB’s policies on consulting with communities, the sanctioning of the project was based on erroneous social impact assessment and due to the project the fish catch has reduced drastically, threatening the livelihood of thousands of fish-workers.

“Our plea to ADB to restore the livelihood of the fish-workers have fallen on deaf ears. While they are celebrating their 50 years, the fish workers in Mundra are struggling to make ends meet,” Bharat Patel, General Secretary of Machimar Adhikaar Sangharsh Sangathan said. (His video message: <https://youtu.be/3OePpbHqKIo>)

Through these 100+ actions, people’s movements and other CSOs are demanding the ADB to mend their ways of lending, be transparent and accountable to people in whose name they run their business. Failing with these, the people will be left with no option than to strengthen their struggles, despite repressive laws curbing their right to dissent, freedom of expression, and freedom of assembly.

Details of places of actions: <https://wgonifis.net/places-of-action/>  
Video messages to ADB: <https://wgonifis.net/videos/>

# RELATED VIDEOS



## The Changing Asian Development Finance Landscape: New Struggles and Challenges

Keynote speech/presentation by Shalmali Guttal, Executive Director of Focus on the Global South, during the “Asian People’s Call on Challenging the ADB’s Immunity” conference held 20 April, 2017, at the University of the Philippines - School of Labor and Industrial Relations.

Watch the video and download the presentation by clicking the link: <http://bit.ly/ChangingADB>



## Lack of Transparency, Oppression and Shrinking CSO Space

A workshop organized by Focus on the Global South as part of the conference “Asian People’s Call on Challenging the ADB’s Immunity,” held 20 April 2017 at the University of the Philippines, School of Labor and Industrial Relations.

The session aimed to unpack how the Asian Development Bank’s immunity has promoted and propagated corporate and state impunity through various processes and mechanisms such as policy conditionalities, promotion of privatization, and financing of destructive and extractivist projects that undermine people’s and local communities’ rights, livelihoods, and self-determination.

The session also highlighted the Bank’s role in human rights abuses and the restricting of political spaces and channels of information and people’s discourses on development and well-being. The speakers also shared strategies and actions to challenge and end the ADB’s immunity and state-corporate impunity.

Community leaders, veteran activists, and advocates from Sri Lanka, Cambodia, Mekong, and the Philippines were also featured.

Link: <http://bit.ly/ADBLackTransparency>



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