

[Statement] Protect communities and defenders, ensure stronger safeguards in ADB-financed projects

BANGKOK, Thailand (22 November 2024) – The Asian Forum for Human Rights and Development (FORUM-ASIA) expresses concern over the Asian Development Bank's (ADB) [revised Environmental and Social Framework](#) (ESF). While the revised draft—released in September 2024—includes [some positive amendments](#), there is still a long way to go before the ESF can truly protect and support human rights defenders (HRDs) and impacted communities.

History of violations in ADB-financed projects

Over the years, ADB-financed projects have been [marred by](#) human rights and environmental rights violations.

Across Asia and the Pacific, their investments have [displaced communities, damaged the environment](#), and [violated](#) communities' right to free, prior and informed consent (FPIC). HRDs who dare speak up are met with [retaliation and reprisals](#). All of these violations occur in the [absence of remedies](#).

Moreover, the ADB has also been [complicit](#) in investing in projects in countries with shrinking civic space.

Despite its laundry list of violations, the ADB has been slow in accepting accountability, deflecting blame to clients and leaving communities helpless without any effective mechanisms for remedies.

Provisions in the revised ESF

The ESF is meant to provide policies and standards to manage environmental and social risks in projects funded by the ADB, and ensure that these projects contribute positively to sustainable development while minimizing adverse impacts. With the revised ESF currently out for comments, FORUM-ASIA acknowledges the ADB's efforts to improve its provisions and language to make it more community-centric.

However, there is still substantive scope for improvement.

Retaliation and reprisals against HRDs

FORUM-ASIA commends the explicit mention of zero tolerance towards reprisals in ADB-financed projects as well as the removal of prior good faith efforts before approaching the ADB's accountability mechanism. However, the expectation for those facing retaliation to seek help from borrower/client-led grievance mechanisms is hugely problematic since the borrowers/clients often directly or indirectly perpetrate reprisals themselves.

The ADB is not just a financier of development projects. It must acknowledge that ownership of projects' impacts should be shared between the Bank and its borrowers/clients, including the responsibility to prevent harm and to protect communities and their environment.

The ADB must therefore adopt a more hands-on approach to address cases of reprisals at an institutional level. It should grant impacted communities direct access to the Bank—sidestepping the borrower/client—to ensure the safety and security of HRDs.

The ESF must clearly outline steps the ADB will take if cases of reprisals do occur, including specific provisions on supporting and protecting concerned individuals or communities. It must also include concrete disciplinary procedures for holding perpetrators accountable.

Meaningful and sustained engagement with communities

FORUM-ASIA recognises the ADB’s efforts to ensure meaningful consultations with impacted communities. However, this responsibility still primarily lies with borrowers/clients since the ESF provides them the discretion to decide what the consultations would look like and how they would be reported back to the ADB.

Very often, these consultations are a mere checkbox exercise where concerns and grievances do not get documented or receive any follow through.

Moreover, when FPIC is sought from communities, “good faith negotiation” is misused by the borrower/client to coerce communities—often through misinformation, threats, or false promises—to give their consent.

The ADB must create binding standards for borrowers/clients to act as a yardstick to ensure that stakeholder consultations can be defined as “meaningful.”

The ESF must also list clear expectations on the role of communities at every stage of the project, from design to evaluation and exit.

The ADB must explicitly acknowledge that FPIC is fluid and can be withdrawn anytime even after initial consent is given, following which it has an institutional responsibility to respect the community’s decisions.

Civic space

FORUM-ASIA commends the ADB for mentioning “civic space and freedoms of expression, association and assembly” in the Environmental and Social Risk Classification as a criterion for evaluating risk in the context in which the project is developed or implemented. However, there is no mention of how and by whom civic space will be evaluated.

The ADB must develop a clear set of guidelines highlighting how benchmarks related to civic space and fundamental freedoms will be measured as well as how it will impact the Bank’s investment decisions. This should recognize how restricted civic space increases risks of reprisals, decreases chances of meaningful engagement, and increases risks of corruption by undermining the role of HRDs as watchdogs.

To counter this, the ADB must adopt measures to ensure that communities and HRDs operating in such settings are given additional considerations, so that they can freely express themselves without fear of retaliation.

Digital risks

FORUM-ASIA supports the inclusion of language around the use and assessment of digital technologies in ADB-financed projects. However, as defined in the ESF, digital risk has a narrow scope, extending only to issues around cybersecurity, data privacy, and data management.

In reality, digital risks extend far beyond the protection of ADB and its borrowers/clients from digital threats.

Increasingly, HRDs and communities are subjected to intimidation, harassment, and abuse in digital spaces.

The ESF should extend the definition of digital risks to include risks and threats towards communities and HRDs in online spaces, especially in contexts of shrinking civic space. This should include clear guidelines on how the ADB will respond in cases of online retaliation and reprisals.

Adherence to international standards and norms

FORUM-ASIA welcomes language around obligations towards international instruments and internationally recognised standards, including the explicit mention of the United Nations Declaration on the Rights of Indigenous Peoples, the Paris Agreement, the Sustainable Development Goals, the Sendai Framework for Disaster Risk Reduction, and the Kunming-Montreal Global Biodiversity Framework.

However, the ESF fails to also mention key human rights instruments, including Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Declaration on Human Rights Defenders, the UN Guiding Principles on Business and Human Rights, and the UN Resolution on the Human Right to a Clean, Healthy and Sustainable Environment.

These international instruments are key principles that serve as a foundation for the ADB to be able to fulfil its commitments in the ESF.

The ESF needs to clearly recognise these international human rights standards as a benchmark for compliance, if national legislation is weaker or absent. This also needs to be complemented with capacity development for ADB staff and its borrowers/clients, so that they understand and adhere to these principles in their respective policies and operations.

Going forward

“With this revised ESF, the ADB’s Board of Directors has an opportunity to set industry-wide best practices on human rights considerations in the Bank’s operations in the region,” said Mary Aileen Diez Bacalso, Executive Director of FORUM-ASIA.

FORUM-ASIA urges the ADB to strengthen the language in the ESF to include stronger protection for communities and HRDs against retaliation and reprisals, including threats experienced online.

The ADB must adopt a more proactive approach in preventing and addressing cases of reprisals.

We call on the ADB to ensure that “meaningful consultations” with communities truly respect the community’s right to say no and are undertaken in a binding, inclusive, and accountable manner going beyond the broad definition set in the ESF.

Lastly, we encourage the ADB to adopt stronger language around adherence to international human rights standards and norms, overruling national legislation in cases where the latter is weaker.

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About FORUM-ASIA:

The Asian Forum for Human Rights and Development (FORUM-ASIA) is a network of 85 member organisations across 23 countries, mainly in Asia. Founded in 1991, FORUM-ASIA works to strengthen movements for human rights and sustainable development through research, advocacy, capacity development and solidarity actions in Asia and beyond. It has consultative status with the United Nations Economic and Social Council, and consultative relationship with the ASEAN Intergovernmental Commission on Human Rights. The FORUM-ASIA Secretariat is based in Bangkok, with offices in Jakarta, Geneva and Kathmandu. www.forum-asia.org

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