

# BANKwatch

CRITICAL PERSPECTIVES FROM THE NGO FORUM ON ADB

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Image (person on bicycle) courtesy of Pieter Jansen.

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## EDITOR'S NOTE

### MIND THE GAP: BY WHOSE STANDARDS DO WE MEASURE?

Amid continuing global economic crisis, the Asian Development Bank remains unperturbed and relentless in pursuing its vision of regional economic integration – a vision whose central tenet rests on creating and expanding economic corridors in all directions possible. The Bank strongly believes that regional cooperation can directly contribute to pro-poor growth and inclusive social development. And to realize this unswerving and optimistic ambition necessitates, according to the Bank, private sector development and private sector operations. The article *"The ADB's Regional Integration and Cooperation Strategy: Opportunities for the CSOs"* by Dr. Avilash Roul provides a walk-through of how such an ambition of regional cooperation evolved, and points out the seemingly unmaximized opportunity of CSOs to engage the ADB on the full implications of regional integration programs.

Of late, the Bank shows redoubled efforts in pushing for its regional integrative initiatives, and among these, the Greater Mekong Subregion (GMS) program, the "flower of the flock," is touted as a most likely model for regional integration. The piece *"The ADB's Greater Mekong Subregion: Cabal, Construction and Coercion"* by Dr. Carl Middleton delves on how the ADB has fearlessly championed large infrastructure projects, including and especially hydropower in the GMS. Anchored on the tenuous logic that large hydro is "renewable, clean, reliable and flexible," it has aggressively pursued this energy path as evidenced by its regional energy trading schemes in the Mekong region. The Bank has also released a glut of information about the developmental benefits and gains of large hydro, be it real or rhetoric – all in the pretext of, yet again, economic growth, poverty reduction and sustainable development. Without equivocation, the heart of the matter (and what matters most) is the reality on the ground – the displacement of people as compulsory casualties, cultural alienation of indigenous people, irreversible impact on biological diversity and irreparable destruction of the environment. The worsening social and environmental problems spawned by the ADB's unrestrained large infrastructure (roads, hydro) projects give away the short-term gains and self-serving agenda of a few movers, takers and gainers.

In the same vein and in another region, the ADB's single-minded pursuit of regional integration/cross-border trade is very much evident. The article *"Project Central Asia-South Asia Regional Electricity Market Central Asia-South Asia Regional Electricity Market (CASAREM) CASA 1000 and Its Impact on Central Asian Countries"* by Nikolai Kravtsov looks into the involvement and interests of international financial institutions (the ADB funding the US\$3 million feasibility assessment of project CASA 1000) and bilateral donors in the electricity trading market between Central Asia (Kyrgyzstan and Tajikistan) and South Asia (Afghanistan and Pakistan). Still in its nascent stage, the project has been getting a lot of flack from CSOs in Kyrgyzstan and Tajikistan because of the feasibility of the project, and the potential danger of undermining diplomatic relations between the two Central Asian countries.

It is therefore unacceptable for the Bank to take pride in its "success" in regional cooperation and integration, and claim that these countries have benefited from working together toward common development goals. The on-the-ground realities prove drawbacks and shortcomings in the achievement of pro-poor growth and inclusive development. How do you measure success such as in the case of GSM and CASAREM development approach? And by whose standards do we measure? Do we focus on the economic gains of the integration that privilege a few movers, takers and gainers at the expense of social and environmental breakdown?

A Nobel prize-winning professor at Columbia University, Dr. Joseph E. Stiglitz, says "What we measure affects what we do. If we have the wrong metrics, we will strive for the wrong things. In the quest to increase G[ross] D[omestic] P[roduct], we may end up with a society in which most citizens have become worse off." His statement could not be more apt.



COVER STORY

# The ADB's Regional Integration and Cooperation Strategy: Opportunities for the Civil Society Organizations (CSOs)

By Dr. Avilash Roul

**V**asudhaiva Kutumbakam, a Sanskrit phrase that originated from ancient Indian texts, means the 'whole world is one single family.' In reality, while the Earth is one, there are many worlds. In the face of chronic poverty and development paradox, it is often suggested that the regional integration and cooperation of many worlds leads to the eradication of poverty. While political and economic-driven integration was the norm of international politics after the Second World War, its success was limited. Notwithstanding the causes of the low success rate of those integrations, the multilateral development banks (MDBs), especially the Asian Development Bank (ADB), have charted various strategies to link the regions in Asia-Pacific in order to eradicate poverty and to boost the regional financial markets. Regional cooperation is a mechanism that aims to promote the efficient use of resources in the subregions of a growth area. In general, as the MDBs' share in investment has declined to 8 percent of net Official Development Assistance (ODA), their support is mostly aimed at the free flow of goods, services and human movement among the countries and through the region.

Among the MDBs, the Asian Development Bank has been considered the frontrunner in regional integration and cooperation in the Asia-Pacific. ADB strongly believes that "the regional cooperation can directly contribute to pro-poor growth and inclusive social development." To achieve this major goal enshrined in its Charter, the ADB established the Office of Regional Economic Integration (OREI) in its headquarters in Manila to monitor and assist the member countries as they merge into the global financial structure. Also under Strategy 2020, a long-term strategic framework adopted in 2008, ADB put regional integration as one of the major strategic agenda.

**ADB strongly believes that  
"the regional cooperation  
can directly contribute  
to pro-poor growth  
and inclusive social  
development."**

"This new office will play an active role as catalyst, coordinator, and knowledge leader in the area of regional economic integration."

ADB President Haruhiko Kuroda

## Office of Regional Economic Integration (OREI)

### Role

Assist the developing member countries of ADB--both individually and collectively--to harness the full benefits of global financial integration and international capital flows while at the same time minimizing any disruptive effects.

### Responsibilities

- Monitor economic policies and financial architecture issues from a regional and subregional perspective and disseminate the results to promote prudential economic management.
- Strengthen the capacity for economic monitoring at the regional and subregional levels through provision of technical assistance and advisory services.
- Strengthen ADB's relations with other international financial institutions, as well as regional and subregional bodies, by providing monitoring inputs to various meetings and discussions.

### Sources:

<http://www.adb.org/orei/default.asp>

<http://www.adb.org/Documents/News/2005/nr200541.asp>

ADB's SUBREGIONAL PROGRAMS	YEAR LAUNCHED	PROGRAM OVERVIEW	PRIORITY AREAS
Greater Mekong Subregion (GMS) Program	1992	Facilitate sustainable economic growth and reduce poverty in the subregion by strengthening economic linkages among the member countries.	<ul style="list-style-type: none"> <li>• Transport</li> <li>• Energy</li> <li>• Private sector investment</li> <li>• Telecommunications</li> <li>• Environment</li> <li>• Human resource development</li> <li>• Tourism</li> <li>• Trade</li> <li>• Agriculture</li> </ul>
Indonesia, Malaysia, Thailand Growth Triangle (IMT-GT)	1993	Accelerate private sector-led economic growth and help facilitate the development of the subregion as a whole.	<ul style="list-style-type: none"> <li>• Infrastructure and Transport</li> <li>• Agriculture, Agro-based and Environment</li> <li>• Trade and investment</li> <li>• Tourism</li> <li>• Human resource development</li> </ul>
Brunei, Indonesia, Malaysia, Philippines East ASEAN Growth Area (BIMP-EAGA)	1994	Hasten, through regional cooperation, economic growth, increase connectivity and reduce poverty in the region.	<ul style="list-style-type: none"> <li>• Transport</li> <li>• Energy and power</li> <li>• Trade and investment</li> <li>• Tourism</li> <li>• Agriculture, aquaculture and fisheries</li> </ul>
Central Asian Regional Economic Cooperation Unit (CAREC)	1997	Promote development through cooperation, leading to accelerated economic growth and poverty reduction.	<ul style="list-style-type: none"> <li>• Transport</li> <li>• Energy</li> <li>• Trade facilitation</li> <li>• Trade policy</li> </ul>
South Asia Subregional Economic Cooperation initiative (SASEC)  <i>ADB's efforts to support subregional cooperation in South Asia proceeded from the constitution of the South Asian Growth Quadrangle (SAGQ) initiated by Bangladesh, Bhutan, India and Nepal (BBIN) in 1997</i>	2001	Promote cooperation leading to economic growth and poverty alleviation.	<ul style="list-style-type: none"> <li>• Transport</li> <li>• Energy and Power</li> <li>• Trade, investment, and private sector cooperation</li> <li>• Environment</li> <li>• Information and communications technology</li> <li>• Tourism</li> </ul>

The ADB has been formulating country-specific strategies, also known as the Country Partnership Strategy (CPS), with government agencies, which would indicate where the ADB is supposed to lend various assistances. With these strategies, the ADB then formulates the regional cooperation strategy where the possibilities of cooperation can be established. So far, there have been four regional cooperation strategies and its updates that have been developed by the ADB in Central Asia, Greater Mekong Subregion (GMS), South Asia and the Pacific.

In 1994, ADB adopted a regional cooperation policy (RCP) that articulated ADB's approach to promoting regional cooperation. Two years later, ADB endorsed a strategy of Regional Cooperation and Integration (RCI). This strategy focuses on regional and subregional programs on cross-border infrastructure and related software, regional trade and investment, money and finance and regional

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**'We at ADB have learned over the years that, throughout Asia and the Pacific, it is the subregions that will form the backbone of eventual regional integration' - Rajat Nag, ADB Managing Director General**  
 .....

public goods such as communicable disease control (e.g., SARS, H1N1) and natural disaster response, and clean energy and environmental protection such as the degradation of subregional waters and of land and global warming. Regional Cooperation Strategies

(RCS) are being prepared by ADB for five subregions - East Asia, Central and West Asia, The Pacific, South Asia and Southeast Asia -- in such a way that systematic coherence and strategic prioritization are intact for greater regional integration. The country-specific strategy and the regional cooperation strategy are both complementary as well as supplementary to each other. In implementing one of the three priority areas in its Strategy 2020, ADB acts as a catalyst for regional cooperation and integration, linking national and regional priorities.

In early 2007, to facilitate regional cooperation programs, the ADB established a new facility—the Regional Cooperation and Integration Financing Partnership Facility—which will be specifically for RCI activities. The facility comprises the Regional Cooperation and Integration Fund (RCIF), which is a special fund financed by ADB to support technical assistance activities, and the Regional Cooperation and Integration Trust Funds—agreed upon by financing partners and ADB—that will support technical assistance, grant components of investment projects, and other RCI activities.

**In recent years, the ADB's focus has shifted more to regional projects and programs. In Strategy 2020 ADB intends to increase by 30 percent its existing investment portfolio for regional operations.**

“We at ADB have learned over the years that, throughout Asia and the Pacific, it is the subregions that will form the backbone of eventual regional integration,” said Rajat Nag, Managing Director General of ADB in Sydney in 2007. To achieve the goal of regional integration and cooperation, ADB formulates subregional cooperation programs such as the Greater Mekong Subregion (GMS) Program; the Central Asian Regional Economic Cooperation Unit (CAREC); the South Asia Subregional Economic Cooperation (SASEC) initiative; the Indonesia, Malaysia, Thailand Growth Triangle (IMT-GT); and the Brunei, Indonesia, Malaysia, Philippines East ASEAN Growth Area (BIMP-EAGA). The tacit formulations of all these programs are complementary to the political and economic integration of the respective regions.

ADB has promoted many regional programs since 1992, starting with the GMS program. Since early 1997, ADB has encouraged regional economic cooperation among its developing member countries in Central Asia. In recent years, the ADB's focus has shifted more to regional projects and programs. An evidence of this shift is being incorporated in Strategy 2020 where ADB intends to increase by 30 percent its existing investment portfolio for regional

operations. Interestingly, while the World Bank has a clear policy on disputed area between or among countries, the ADB does not have such clear policy guidelines for its operations. This has been a major constraint on the ADB operations which seemingly has been lying low for a while until a row between the People's Republic of China and the Government of India cropped up on the issue of ADB's investment in Arunachal Pradesh. After these skirmishes in the ADB headquarters on the India-China row, it is believed that some instructions have been issued to the staff on steps to take if they believe an ADB operation may take place in a disputed area.

## **Opportunities for CSOs**

Interestingly, while there have been monitoring, campaigning, lobbying on the ill effects of ADB-funded projects, programs and policies since the 1990s, there is minimal engagement by the CSOs in regional or transnational projects so far. For example, in South Asia, the first private regional project funded by the ADB was the Lafarge Surma Cement project involving Meghalaya (India) and Bangladesh. The Indian civil society groups did not strongly protest the drawbacks of the project; the same has been missing among the Bangladeshi CSOs. These South Asian groups missed the opportunity to strike a strong argument against the ill effects of the project by making these a regional concern. Although there are many projects which could potentially affect the region, the consolidation of concerns has not been done in this regard, or at least to some degree.

Even policy campaigns have not been consolidated through the regional challenges which differ from one region to another. While CSOs are criticizing ADB's adoption of one formula for all regions, the former has been doing the same unknowingly. It is now agreed that any big projects which alter the natural resources or environment will either have a low or high impact on the neighboring or regional environment.

**Against the background of growing regional economic integration as prescribed by the ADB, the opportunities for the CSOs are high to engage on this issue.**

Members of the NGO Forum on ADB (hereafter referred to as Forum) in Central Asia and Caucasus have already begun a regional campaign on the highly controversial CASAREM project. The members from Kyrgyz Republic, with the collaboration of other CSOs especially from the Republic of Tajikistan, successfully lobbied with the ADB senior officials to reconsider the project. The latest update is that the ADB will no longer continue the CASA-



1000 project. There are many such regional projects in Central Asia and Caucasus and in the Greater Mekong Subregion which require a formidable consolidated monitoring and advocacy from the partners and members of the respective countries.

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Against the background of growing regional economic integration as prescribed by the ADB, the opportunities for the CSOs are high to engage on this issue. NGO Forum on ADB -- an Asian-led network of different groups from the different regions -- has focused squarely on the ADB's three (3) P's (policy, program and projects). The Forum has the

best possible means to monitor the ADB's regional integration programs and projects, but which so far have not been explored. The members and partners of the Forum are spread out across the Asia-Pacific region, mostly in South Asia, Central Asia and Caucasus and the Mekong region. While most of the project monitoring is carried out by groups in specific countries, the only requirement is a possible dialogue among the members and partners in order to find the common ground among ADB-funded projects or programs.

To this end, the Forum concluded a regional dialogue in Cambodia where the members of South Asia, Central Asia and Caucasus, and the Mekong region deliberated on the ill effects of ADB-funded projects and the strategies to address those effects. This is the beginning of a regional dialogue among the concerned CSOs which will continue to strengthen the concerns against the ill effects of ADB-funded projects.

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Illustration by Christopher Dailsay



## PERSPECTIVE FROM THE REGION (MEKONG)

# The ADB'S Greater Mekong Subregion: "Cabal, Construction and Coercion"

By Dr. Carl Middleton

Ask someone from Ban Thonglom village along the Hinboun River in central Laos about their opinion on the ADB's Greater Mekong Subregion (GMS) program, and it is doubtful anyone will be familiar with it. Ask them, however, about the Theun Hinboun hydropower dam upstream and they will tell you their personal stories of destroyed fisheries, flooded rice fields and lost livelihoods. Ask them further about Oji's eucalyptus plantation nearby and they will explain how their forest land previously used for non-timber forest product collection and upland rice cultivation has been taken from them.

Since the early 1990s, the ADB has promoted regional economic integration among Burma, Cambodia, Laos, Thailand, Vietnam, and the Yunnan and Guangxi provinces of China through its GMS program with a vision to create a single, borderless economy. In other words, a regional free market. And here in Ban Thonglom and many other villages like it, economic theory has brutally collided with reality. These villagers were never asked whether they wanted the ADB's GMS program, yet they have experienced first-hand its destructive consequences.

### The 3Cs of the GMS

The ADB's principal goal – and measurement of success – for the GMS program is regional macroeconomic growth. Following its 3C mantra, "Competitiveness, Connectivity and Community," the ADB has focused primarily on building large-scale infrastructures to physically interconnect

the region, such as roads, railways, high-voltage transmission lines and hydropower dams.

These large infrastructures, however, if not planned wisely lay the foundation for an exploitative extraction-oriented economy where resources flow from rural peripheries to urban economic centers, impoverishing the former and enriching the latter.

Economic regional integration has undoubtedly brought benefits to some. By ADB's measurement, the proportion of people living on less than \$1 a day has dropped significantly.<sup>1</sup>

Statistics such as these, however, say little about whether quality of life is actually improving or inequalities are narrowing. Within the Mekong Region, a large portion of the goods and services that enrich people's quality of life is found outside of the formal monetary economy and, unfortunately, there is a growing body of evidence indicating that life is getting harder in particular for those at the margins of the region's new market-based economy.



The Theun Hinboun dam has caused erosion on the Hinboun River downstream because of fluctuating water levels.

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**OVERVIEW OF ADB ACTIVITIES IN GREATER MEKONG SUBREGION**

Loan Projects for 2007-2009	US\$ 1.57 billion
TA Programs for 2007-2009	US\$ 15.5 million
Loan Projects Approved for 1999-2006	US\$ 1.17 billion
TA Programs Approved for 2001-2006	US\$ 37.72 million

*Source: Market Brief: Greater Mekong Subregion (Based on ADB's Regional Cooperation Strategy and Program Update for 2007-2009), U.S. Commercial Service Liaison Office to the ADB, January 2007.*

**Ruined Rivers, Damaged Lives**

The Theun Hinboun dam exemplifies the reality of large-scale infrastructure investments that secure economic growth but at a heavy local cost. Completed in 1998 and partially financed by the ADB, more than 29,000 people in 71 villages – mostly subsistence farmers – have lost fisheries, rice fields, vegetables gardens and fresh drinking water supplies as a result of the dam.<sup>2</sup> The dam exports ninety-five percent of its power to Thailand. Although the project has left the villagers worse off than before, it has generated windfall profits for its shareholders that include the government of Laos, the Thai energy company GMS Power, and the Norwegian state-owned enterprise Statkraft. Consumers in Thailand's urban centers have also benefited from the seemingly cheap electricity that hides the project's social and environmental liabilities.

The region's rising GDP, which has increased significantly since the early 1990s, is cited by GMS

supporters as the key measure of the GMS's success. From this follows the economist's logic that benefits will trickle down to the poor. Yet, experience both globally and in the Mekong region has increasingly demonstrated this assumption to be invalid for those most marginalized who instead are threatened with displacement, loss of livelihood, and increased vulnerability to exploitation.<sup>3</sup> Economic growth is undoubtedly important, yet judging development by this criterion alone fails to ensure that development is also equitable and sustainable and that quality of life is improving.

The GMS framework promotes private sector investment as the principal engine of development, including the privatization of public services such as water, gas and electricity. The ADB views itself as a catalyst for this private sector-led regional integration. It attempts to oil the cogs of integration by providing technical assistance grants for the preparation of master plans and project feasibility studies, by hosting regular high-level policy meetings, and by financing or providing risk guarantees for projects that are otherwise insufficiently attractive to the private sector. To create a pro-private sector regional institutional framework and policy environment, the ADB has brokered various regional agreements, e.g., on electricity, trade, environment and tourism.



## The Mekong Power Grid

The master plans developed by the ADB for regional electricity integration serve as a good case study to illustrate this skewed planning process.

The ADB's first regional electricity study in 1994 was carried out by Norconsult International, one of Norway's largest hydropower consulting companies. Reflecting both the study's terms of reference and the consultants' own bias, it recommended building a series of hydropower schemes in Laos, Burma and Yunnan Province, China to export electricity to Thailand and Vietnam via a regional transmission grid. In 2002, a second study funded by the ADB filled out the details of this master plan and in 2009, the plan's logic was extended to the wider energy sector.

While also reflecting the GMS governments' own preconceived ideas for electricity generation (and limited consultation with the public), it is a missed opportunity that these studies failed to assess all potential options to meet the region's energy needs. Instead, these plans will lock the region into an outdated centralized electricity supply model that promotes large-scale fossil fuel-fired power stations and hydropower dams.

**The ADB's principal goal – and measurement of success – for the GMS program is regional macroeconomic growth. Following its 3C mantra of “Competitiveness, Connectivity and Community,” the ADB has focused primarily on building large-scale infrastructures to physically interconnect the region, such as roads, railways, high-voltage transmission lines and hydropower dams.**

SUMMARY OF APPROVED PROJECTS 1992 - OCTOBER 2009 (IN MILLION US DOLLARS)								
Country/Sector	CAMBODIA		LAO PDR		VIETNAM		THAILAND	
	Amount	%	Amount	%	Amount	%	Amount	%
Energy	123,065,000	10.29	338,097,000	28.25	2,137,596,000	32.64	901,950,000	29.35
Transport and ICT	157,657,400	13.18	202,145,000	16.89	1,159,110,000	17.70	602,820,000	19.62
Water and Other Municipal Infrastructure and Services	70,610,000	5.9	136,410,000	11.40	546,792,000	8.35	324,392,000	10.56
Agriculture and Natural Resources	233,526,000	19.52	198,370,800	16.58	1,109,937,363	16.95	53,800,000	1.75
Education	166,050,000	13.88	113,890,000	9.52	343,705,000	5.25	62,271,000	2.03
Public Sector Management	114,041,000	9.53	18,837,500	1.57	209,376,000	3.20	12,228,000	0.40
Finance	79,219,000	6.62	65,365,000	5.46	475,089,000	7.25	562,600,000	18.31
Health and Social Protection	55,586,000	4.65	35,970,000	3.01	311,068,900	4.75	502,150,000	16.34
Industry and Trade	33,800,000	2.83	18,220,000	1.52	101,100,000	1.54	50,150,000	1.63
Multisector	162,785,000	13.61	69,480,000	5.81	154,908,000	2.37	581,000	0.02
<b>TOTAL</b>	<b>1,196,349,400</b>	<b>100</b>	<b>1,196,785,300</b>	<b>100</b>	<b>6,548,682,263</b>	<b>100</b>	<b>3,072,942,000</b>	<b>100</b>
<b>Sources:</b> <a href="http://www.adb.org?Projects/approvals.asp?query=&amp;browse=1&amp;p=ctrycam&amp;ctry=CAM">http://www.adb.org?Projects/approvals.asp?query=&amp;browse=1&amp;p=ctrycam&amp;ctry=CAM</a> <a href="http://www.adb.org?Projects/approvals.asp?query=&amp;browse=1&amp;p=ctrycam&amp;ctry=LAO">http://www.adb.org?Projects/approvals.asp?query=&amp;browse=1&amp;p=ctrycam&amp;ctry=LAO</a> <a href="http://www.adb.org?Projects/approvals.asp?query=&amp;browse=1&amp;p=ctrycam&amp;ctry=VIE">http://www.adb.org?Projects/approvals.asp?query=&amp;browse=1&amp;p=ctrycam&amp;ctry=VIE</a> <a href="http://www.adb.org?Projects/approvals.asp?query=&amp;browse=1&amp;p=ctrycam&amp;ctry=THA">http://www.adb.org?Projects/approvals.asp?query=&amp;browse=1&amp;p=ctrycam&amp;ctry=THA</a>								



Photo courtesy of International Rivers.

Children playing with an abandoned irrigation pump in Kongphat village.

This is a shame because it reflects a lack of vision for better ways to meet the region's electricity needs that could incorporate the rapid technological development in decentralized systems and renewable technologies, thus fulfilling the great potential for energy efficiency and demand side management, especially in the more industrialized cities of the region. Worse, it is an injustice for those tens of thousands of people who have already been affected by regional hydropower development, such as Theun Hinboun and Nam Theun 2 in Laos, as well as the many more who will be harmed by future projects.

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**The GMS's vision of  
regionalization actually  
means integration into  
the global economy.  
Reframed and viewed  
from this perspective, it is  
clear to see that the GMS  
program seeks to establish  
a regional resource  
extraction economy that  
facilitates regional and  
multinational investors to  
gain access to new markets  
and natural resources.**

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### **Frontier Capitalism**

There has been growing private sector-led investment throughout the Mekong Region. Investors from the region's wealthier countries of Thailand,

China and Vietnam have increasingly sought to invest in extraction-oriented megaprojects in their resource-rich, but less wealthy, neighbors of Laos, Cambodia and Burma, facilitated by these countries' politically connected elites. Yet, all too often, a form of frontier capitalism has emerged where rogue investors developing hydropower dams, mines, plantations and agricultural concessions undermine rural livelihoods and cause more harm than good.

The ADB has played a key role in opening the door to the private sector, in the case of hydropower in Laos for example, by encouraging Laos to pursue public-private partnerships in hydropower development (with Theun Hinboun being the first example), by hosting regional meetings between policymakers, and by developing the legal agreements and regulations for electricity trading between countries that have encouraged dam construction by private sector project developers from Thailand, Vietnam and China.

Projects such as the 615-megawatt Nam Ngum 2, which has been under construction since 2006 and is developed by Thai construction and energy companies with financing from Thai commercial banks, epitomize the poor practices associated with these investments. In this case, the project's Environmental Impact Assessment report has not been publicly disclosed (in violation of Laos's National Hydropower Policy) and its transmission line has cut through Phou Khao Khouay National Protected Area. Moreover, the dam has blocked key fish migration routes and an estimated 6,100 mainly ethnic minorities have been resettled with insufficient land to support their livelihoods and without consultation on the resettlement process.

According to International Rivers's 2008 publication *Power Surge*, the Nam Ngum 2 project is not unique.<sup>4</sup> Many of the private sector-led hydropower projects in Laos now planned or under construction are high-risk projects that fail to comply with Lao law, are poorly planned or implemented, and threaten Lao villagers' fertile farmland and river fisheries, leaving them without critical sources of food and income.

Can investments such as these, despite contributing to GDP, really be considered as a successful or desirable model of regional development?

### **Unbalanced Lending**

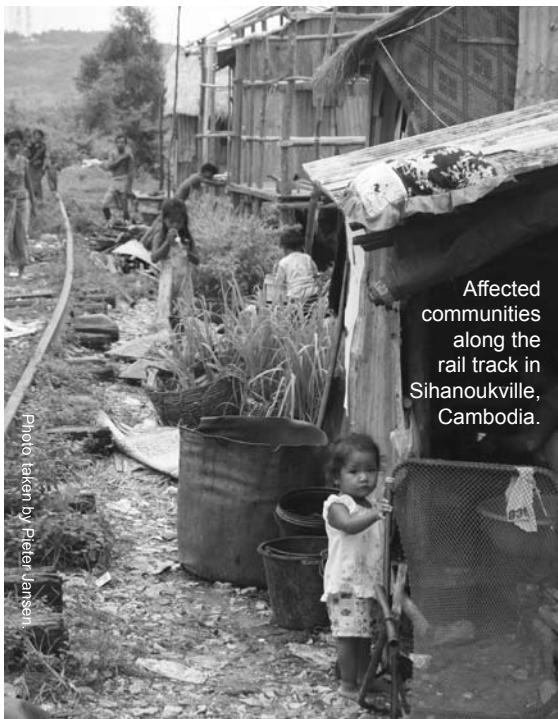
Even the ADB's own financing of the GMS program is not balanced. The GMS's overarching framework is ten (10) flagship sector-based programs and three (3) "economic corridors" that transect the region and serve as geographical focuses for investment. The vast majority of the ADB's regional loans have been directed to the transport and energy sectors, while other "soft sectors" such as human resources development and environment have received little to no financing.<sup>5</sup>

Hence, despite the ADB's overarching mandate for poverty alleviation and for bringing benefits to the poorest and most marginalized populations in the GMS region, it has further impoverished those displaced by its projects, with ethnic minority groups being especially vulnerable. Oxfam Australia, in a recent report, observes that "Most GMS projects focus on promoting economic growth or regional integration, with little explicit focus on targeted poverty interventions" and suggests that growing inequality in the region and accelerating environmental degradation are symptomatic of the regional integration and economic modernization model.<sup>6</sup>

Recently, the ADB has sought to rebalance the GMS program through, for example, the establishment of a Core Environment Center and Mekong Tourism Office in 2006. Yet, these efforts do not integrate environmental and social issues associated with the GMS program's infrastructure projects, but rather act as band-aid patches.

### Controversial Partnership

The GMS has already evoked some controversy through its dealings with the Burmese government which has been a member of the ADB since 1973. The ADB ceased its lending to Burma in 1986, a consequence of international aid embargoes invoked in response to the Burmese military junta's ongoing human rights violations.



SHAREHOLDING AND VOTING POWER (as of December 31, 2008)						
		Subscribed Capital		Voting Power		
	Year of Membership	Number of Shares	Percent of Total Shares	Number of Votes	Percent of Total Membership	Percent of Regional Membership
Cambodia	1966	1,750	0.049	14,982	0.338	0.520
Lao PDR	1966	492	0.011	13,724	0.310	0.476
Myanmar	1973	19,270	0.543	32,502	0.733	1.127
Thailand	1966	48,174	1.358	61,406	1.385	2.130
Vietnam	1966	12,076	0.341	25,308	0.571	0.878
PRC	1986	228,000	6.429	241,232	5.442	8.367
<i>Sources:</i> <a href="http://ss.adb.org/?q=Cambodia%20paidin%20capital%20subscription">http://ss.adb.org/?q=Cambodia%20paidin%20capital%20subscription</a> <a href="http://www.adb.org/Documents/Fact_Sheets/LAO.pdf">http://www.adb.org/Documents/Fact_Sheets/LAO.pdf</a> <a href="http://www.adb.org/Documents/Fact_Sheets/MYA.pdf">http://www.adb.org/Documents/Fact_Sheets/MYA.pdf</a> <a href="http://www.adb.org/Documents/Fact_Sheets/THA.pdf">http://www.adb.org/Documents/Fact_Sheets/THA.pdf</a> <a href="http://www.adb.org/Documents/Fact_Sheets/VIE.pdf">http://www.adb.org/Documents/Fact_Sheets/VIE.pdf</a> <a href="http://www.adb.org/Documents/Fact_Sheets/PRC.pdf">http://www.adb.org/Documents/Fact_Sheets/PRC.pdf</a>						

Despite this, the Burmese government has remained an equal and active participant within the GMS program, with government representatives joining the plethora of regional meetings hosted and paid for by ADB. This in turn facilitates private-sector investment in Burma through the promotion of investment projects under the GMS framework, for example through the GMS's East-West and North-South Economic Corridors and inclusion of specific project's within the "GMS Plan of Action" document.

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**Recently, the ADB has sought to rebalance the GMS program, for example through establishing a Core Environment Center and Mekong Tourism Office in 2006. Yet, these efforts do not integrate environmental and social issues associated with the GMS program's infrastructure projects, but rather act as band-aid patches.**

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Infrastructure projects in Burma have also been included directly within ADB-funded master plan studies. For example, the proposed massive 7,110 megawatt Tasang Dam on the Salween River in Shan State, Burma was included in the 2002 Mekong Power Grid masterplan, despite the fact that it is located in a war zone that has already seen tens of thousands of people displaced from the project area,





Buffalo in Ban Thonglom village, Laos.

forced out by the Burmese military, and widespread human rights abuses.<sup>7</sup>

### Regionalization = Globalization

The GMS's vision of regionalization actually means integration into the global economy. Reframed and viewed from this perspective, it is clear to see that the GMS program seeks to establish a regional resource extraction economy that facilitates regional and multinational investors to gain access to new markets and natural resources.

Since establishing its GMS program in 1992, the ADB has launched regional integration programs in Central Asia (CAREC) and South Asia (SASEC) in 1997 and 2000, respectively. As the ADB's pilot regional integration program, the ADB holds a significant interest in proving the GMS's success. Within the melee of Mekong regional politics and the rise of China as a regional economic power, however, it is increasingly unclear to what extent nowadays the ADB is leading or even shaping regional integration.

Even measured narrowly in terms of economic growth, while Laos has gained from intra-regional trade, it appears that these wider trends in globalization and the growth of exports from Cambodia, Thailand and Vietnam have been the key factors in increasing regional GDP rather than regional integration and the GMS program per se.

Instead of fostering a people-centered and participatory regional integration, the ADB GMS's 3C mantra of "Competitiveness, Connectivity and Community" is more accurately phrased as "Cabal, Construction and Coercion." While conventional economic indicators such as GDP may show growth, the extractive megaprojects encouraged by the GMS program are undermining the natural resource base

upon which the region's majority rural populations depend, decimating their local economies, and failing to ensure that development is balanced, sustainable and fair.

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#### Endnotes

- <sup>1</sup> According to ADB, between 1990 and 2003, the proportion of people living on less than \$1 a day fell from 46% to 34% in Cambodia, 33% to 13% in the People's Republic of China, 53% to 29% in the Lao People's Democratic Republic, 10% to less than 1% in Thailand, and 51% to 10% in Viet Nam. Source: ADB (2007). Mid-term review of the Greater Mekong Subregion Strategic Framework 2002-2012. *Published by Asian Development Bank*.
- <sup>2</sup> For more information on the Theun Hinboun Dam, visit [www.internationalrivers.org/en/node/964](http://www.internationalrivers.org/en/node/964)
- <sup>3</sup> See Cornford, J. and Matthews, N. (2007). Hidden Costs: The underside of economic transformation in the Greater Mekong Subregion. *Published by Oxfam Australia*.
- <sup>4</sup> See International Rivers (2008). "Power Surge: The Impacts of Rapid Dam Development in Laos" *Published by International Rivers*
- <sup>5</sup> See Ransley, C., Cornford, J., and Rosien, J. (2008). "A Citizen's Guide to the Greater Mekong Subregion: Understanding the GMS Program and the Role of the Asian Development Bank" *Published by Oxfam Australia*.
- <sup>6</sup> *ibid*
- <sup>7</sup> Sapawa (2006) "Warning Signs: An update on plans to dam the Salween in Burma's Shan State" *Published by Shan Sapawa Environmental Organization*.

PERSPECTIVE FROM THE REGION  
(CENTRAL ASIA AND THE CAUCASUS)

# Project CASAREM (CASA 1000) and Its Impact on Central Asian Countries

By Nikolai Kravtsov

Upon the initiative of international financial institutions such as the Asian Development Bank (ADB), the European Bank of Reconstruction and Development (EBRD), the International Financial Corporation (IFC), the Islamic Development Bank (IsDB) and the World Bank (WB), the Central Asian countries of Kyrgyzstan and Tajikistan, and the South Asian countries of Afghanistan and Pakistan joined forces in a project known as the Central Asia-South Asia Regional Electricity Market (CASAREM). Since 2005, these four countries strengthened cooperation among themselves, as well as with the aforementioned international financial institutions and with the other bilateral donors such as the USA which are actively involved in the provision of the technical assistance.

Project CASAREM (CASA 1000) entails the development of a market for electricity among the countries in the two regions. Kyrgyzstan and Tajikistan in Central Asia represent the exporters of electricity; Afghanistan and Pakistan in South Asia, the importers.

During the first phase of Project CASAREM, the transmission of 1300 MW of electricity from Kyrgyzstan and Tajikistan to Afghanistan (300 MW) and Pakistan (1000 MW) will be carried out. It was agreed that Project CASA 1000 will be basically financed using public sector funds, with the possibility of a sponsorship by a consortium composed of international financial institutions such as the World Bank, the ADB and IsDB.

Under the memorandum signed at the city of Kabul (Afghanistan) in November 2007 by the governments of Afghanistan, Kyrgyzstan, Pakistan and Tajikistan, the project scope of the transfer of electricity from Central Asia to South Asia was determined and the Intergovernmental Council Secretariat was established.

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During the technical meeting held at the 4th CASAREM Conference which took place in August 2008 at Islamabad (Pakistan), the following have been discussed and affirmed:

*The Nurek hydro electric station situated in  
the Vaksh river.*





Photo taken by Avilash Rouil.

- Joint commitment of Kyrgyzstan and Tajikistan concerning the export of 5 TWh of electric power on average per year in summer during the 25-30-year concession period.
- Readiness of member-countries to commit by the end of December 2008 to the further realization of the project, taking into account whether the received bids are in accordance with the agreed estimates and the availability of financing.

**In this case, the conflict that occurs between the countries involves the insufficient volume of water received for irrigation and also the price of electricity as experienced by the exporting downstream countries that is not an absolute obstacle for achievement of consensus between four Central Asian countries.**

In the meantime, the preparation of the feasibility report for Project CASA 1000 has been completed, financed by the Asian Development Bank for \$3 million (ADB project № 40537).

One of the main issues of Project CASAREM is that in the electricity transmission from Kyrgyzstan and Tajikistan to Afghanistan and Pakistan, the hydropower stations of the exporter-countries could work in ways that could imperil the irrigational requirements of downstream countries like Kazakhstan, Turkmenistan and Uzbekistan. This situation is a possibility given that the rivers of

Project Number 40537: Central South Asia Regional Electricity Market Project	
Country	Regional
Type/Modality of Assistance	Regional Technical Assistance: 40537-01 [Approved]  TA-6383 REG: Central Asia South Asia Regional Electricity Market Project  Technical Assistance Special Fund US\$3 million
Sector/Subsector	Energy/Energy Sector Development
Responsible ADB Department/s	Central and West Asia Department
Responsible ADB Division/s	Energy and Natural Resources Division, CWRD
Government/EA site	Techno-Economic Study CASAREM
PID creation date	January 11, 2007
Last PID update by project officer	January 7, 2010
Source: <a href="http://www.adb.org/Projects/project.asp?id=40537">http://www.adb.org/Projects/project.asp?id=40537</a>	

The purpose of the project preparatory TA is to enhance the electricity trade and optimize the region's power resources. It will prepare the Project, which in its initial stage will export 1,000 MW of electricity from Tajikistan and the Kyrgyz Republic to Pakistan and Afghanistan. The resulting Project will support the Government of Pakistan's strategy of increasing power supply to meet its economic growth targets, enable the Kyrgyz Republic and Tajikistan to earn revenues through the use of their hydroelectric resources, and enable Afghanistan to earn wheeling charges for the transit of electricity and have access to an additional source of electricity.

Preparing the Central Asia–South Asia Regional Electricity Market Project  
Technical Assistance Report, December 2006  
Asian Development Bank

Vakhshs and Naryn are transboundary and are used for irrigation in these downstream countries.

The combination of power and irrigation operating modes of the hydropower stations in Kyrgyzstan and Tajikistan is expedient for Kazakhstan and Uzbekistan, because they receive



both water and electricity and therefore has no conflict of interest. This means that the recipients of irrigation water and electricity tend to be the same countries. In this case, the conflict that occurs between the countries involves the insufficient volume of water received for irrigation and also the price of electricity as experienced by the exporting downstream countries.

When the recipients of electricity and water (for irrigation needs) are countries with different levels of economic development, the possibility of conflict as a result of divergent interests sharply increases. On the one hand, water that will be used to generate power will be defined by the amount of electricity needed by the importing countries (Afghanistan and Pakistan). On the other hand, these modes should satisfy the need for irrigation water of countries like Kazakhstan, Turkmenistan and Uzbekistan. In turn, the exporters of electricity (Kyrgyzstan and Tajikistan) are tied up by their international contracts with the importers, defaulting from which will turn into considerable financial losses for them, not to mention the loss of their business reputation. Such kinds of conflict can become unsolvable especially since consensus among the concerned parties can be difficult to achieve.

Since the system of hydropower engineering-irrigation has an interstate character, attempts at conflict resolution are being undertaken in the region for more than 17 years already. However, a definitive decision has not been found up to now. The Intergovernmental Agreement signed between Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan in the city of Bishkek (Kyrgyzstan) in March 1998 on the use of the hydropower resources of the river basin Syr-Darya can serve as one of the successful examples though. But the desire of the countries in the region to progressively deal with this question has not led to positive results. Thus, for example, the quadrilateral agreement on the use of hydropower resources of Naryn-Syr-Darya basin brought for discussion to the heads of water, fuel and energy units of Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan in June

## Energy Sector Progress Report

### Central Asia Regional Economic Cooperation Program

#### Electricity Transmission Links

- Afghanistan–Uzbekistan transmission line is operational
- Afghanistan-Tajikistan 220kV transmission project advances
- Preparation of CASA 1000 transmission project continues
- Construction of a 500kV North-South line from Khodjant to Regar in Tajikistan continues
- Feasibility study of 500kV Datka-Kemin transmission line in Kyrgyzstan is underway
- Construction of Ekibastuz-Yukgres 500kV line in Kazakhstan is in progress

#### Power Generation Projects

- A consultant was selected to carry out a USTDA-funded feasibility study on a power plant based on coal from the Fon Yagnob mine in Tajikistan
- The third and fourth units at Sangtuda I HPP in Tajikistan were commissioned to enable full 670MW capacity
- ADB and Tajikistan signed an agreement for rehabilitation of the 500kV switchyard of Nurek HPP (3,000MW) in Tajikistan
- The Kambarata-2 HPP (240MW) in Kyrgyzstan is expected to be completed in 2010
- Russia and Kyrgyzstan formed a joint company for the construction of Kambarata-1 HPP (1900MW). Pre-feasibility study is to be completed in June 2009
- EBRD invests Euro 46 million in the largest power company in Kazakhstan – Central Asian Electric Power Corporation

#### Gas Transmission and Distribution Projects

- Preparation of a feasibility study (EU funded) on a \$120 million rehabilitation of the Kyrgyz section of the Tashkent-Bishkek-Almaty (TBA) gas pipeline
- Identification of emergency rehabilitation projects for the Fergana valley gas transmission and distribution networks with components in Kyrgyzstan, Tajikistan and Uzbekistan (EU funded)

Source: Central Asia Regional Economic Cooperation Program Senior Officials Meeting (SOM) Energy Sector Progress Report  
May 28-29, 2009 Ulaanbaatar, Mongolia

2008 (city of Bishkek), was not supported. One of the reasons for such a situation is that the 1998 agreement, as well as the 1995 agreement, has no mechanism for defining economic market indicators.



Photo taken by Avilash Roui.

The Vakhsh river.

EVOLVING ENERGY INTER-RELATIONSHIPS AMONG CAREC COUNTRIES									
	Azerbaijan	Kazakhstan	Kyrgyzstan	Tajikistan	Uzbekistan	Afghanistan	China	Mongolia	Other Countries
Azerbaijan		Flow of Kazakh oil and gas through BTC and BTE pipelines							Flow of Turkmen oil and gas through BTC and BTE pipelines. Electricity trade with Russia, Georgia and Iran.
Kazakhstan			Import of Kyrgyz hydropower. Investment in Kambarata hydropower. Export of coal and gas to Kyrgyzstan.		Import of Uzbek gas for Southern Kazakhstan provinces		Export of Kazakh oil, gas and possibly thermal power to China		Kazakh oil, gas and power exports to Russia. Power exports through CASAREM. Join TAPI project.
Kyrgyzstan		Transit for power flow between Kazakh and Tajik systems		Power exports to CASAREM through Tajik system	Import of Uzbek gas	Power export to CASAREM via Tajikistan	Possible export of power to China		Power exports through CASAREM. Frequency support to CAPS.
Tajikistan		Transit for Kazakh power for CASAREM	Transit for Kyrgyz power for CASAREM		Import of Uzbek gas	Increased export of power to Afghanistan. Import of gas from Afghanistan.	Possible export of hydropower		Export to CASAREM
Uzbekistan		Export gas to South Kazakhstan	Export gas to Kyrgyzstan	Export of gas to Tajikistan. Power transit.		Increased export of power to Afghanistan.	Gas transit to China		Join TAPI project. Russian imports of Uzbek gas.
Afghanistan		Potential for power imports through CASAREM	Potential for power imports through CASAREM	Direct power imports and imports via CASAREM. Possible gas exports to Tajikistan.	Power imports from Uzbekistan				Transit for TAPI pipeline and CASAREM powerline
China	Energy investments	Energy exploration, production and pipeline investments and oil and gas imports	Potential power investment and imports	Investments in coal, hydropower and North-South power transmission. Possible power imports.	Gas transit to China			Potential power imports from Mongolia	Oil (partly transiting through Mongolia), gas and power imports from Russia.
Mongolia		Possible import of oil, petroleum products and LPG					Coal and potential power exports to China		Become a transit country for energy flows between Russia and China
Other Countries	Power exchange with Georgia, Iran and Russia. Oil and gas exports to Turkey and further to the West Europe	Energy exports to and via Russia. Possible access to a Persian Gulf port and a Mediterranean port	Power imports via CASAREM	Power imports via CASAREM	Gas imports by TAPI project. Russian imports of Uzbek gas.		Russian export of gas and power to China		

BTC - Baku-Tbilisi-Ceyhan Oil Pipeline BTE - Baku-Tbilisi-Erzurum Gas Pipeline TAPI - Turkmenistan-Afghanistan-Pakistan-India gas pipeline

Source: Central Asian Regional Economic Cooperation Strategy for Regional Cooperation in the Energy Sector of CAREC Countries, Asian Development Bank, 19 November 2008  
<http://www.adb.org/documents/events/2008/7th-CAREC-Ministerial-Conference/CAREC-energy-regl-strategy-en.pdf>

As a result of such situation, instead of conducting calculations among the countries on the use of water and energy resources, officials of different levels, and even society at large, continuously discuss the economic cost of water. Thus the points of view of the parties develop in reverse – from recognition of water as an economic good to recognition of it as a public good for everyone's benefit.

The absence of a national act based on the norms of international law on water use in transboundary rivers could complicate a conflict situation in the Central Asian region. It is assumed that as a result of the uncertainty on the use of the hydropower resources of Syr-Darya Basin, different groups from different countries would be driven by personal interests in staking their own claims on it instead of upholding the public interest. This holds true for the water coming from the aforementioned rivers that are used for irrigation and for the electricity generated by the hydropower stations.

Moreover, discussions related to the preparation of interstate projects involving the sharing of hydropower resources of Central Asian countries, in particular the Syr-Darya Basin, occurs without the participation of representatives from civil society. This effectively excludes the position of alternative representatives from the different countries on the issue. In such a situation, the civil societies in Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan are held hostage to the decisions forged by a group of people outside of the core beneficiaries.

The regional integration of Kyrgyzstan and Tajikistan within the CASAREM project remains uncertain as this issue is not being discussed widely. However, in this project, a viewpoint develops about the general interest in the use of hydropower resources. But this is not absolute because each country has its own national interest to protect. These interests can be the same but not necessarily





Photo taken by Avilash Roul.

The Vakhsh river.

common. In project CASAREM, Kyrgyzstan and Tajikistan serve as the sellers of electricity to Afghanistan and Pakistan; hence, it is expected that there will be competition between them. Dealing with the issues of coordination and optimization of mutual relations is therefore inevitable. This theme has been the subject of careful discussion by the Secretariat of the Intergovernmental Council.

However, responsible representatives from the state energy bodies in Kyrgyzstan and Tajikistan expressed their skepticism and concerns about the attainment of mutually acceptable arrangements necessary for the successful realization of this project. Besides, the research conducted by a group of non-government organizations, with engagement of government officials, under the EGI project in Tajikistan (February-August 2009) has shown that civil society and government officials have different representations about the mission of the CASAREM project. It is possible to explain it as a lack of information, on one hand, and the possibility of competition among the partners, on the other hand.

Besides, Project CASAREM raises doubts as to its successful realization. The delivery of electricity from Kyrgyzstan to Afghanistan and Pakistan (transit through Tajikistan), a method of replacement for the resources of a power supply system in Tajikistan which was used in the feasibility study of the project, is problematic for technical and economic reasons, one of which is the absence of guarantees from transit countries. At the same time, the question of maintenance of guarantees on electricity transmission, especially in light of the military and political instability in Afghanistan and northwest Pakistan, is extremely difficult to resolve.

Kyrgyzstan does not have the necessary financial means to independently carry out the establishment of infrastructures related to the export of energy to the countries of South Asia. To attract extra financing from the international banks, including ADB, a borrower may be tempted to disregard means not related to the special purpose designated or to the

realization of the project, and to execute the accepted obligations at the expense of restricting one's own consumers' access to electricity. For most consumers in the country, it can lead to the deprivation of access from this strategically important resource, causing economic losses to businesses and heightened societal tension.

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**The absence of a national act based on the norms of international law on water use in Transboundary Rivers could complicate a conflict situation in the Central Asian region.**

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**Conclusion**

Given the problems indicated above, Project CASAREM (CASA 1000) may fail to promote the strengthening of integration processes among the countries of Central Asia. It may even create conditions that could breed new interstate conflicts and could aggravate earlier problems. In addition, the economic efficiency of the project for the above-stated reasons is suspect.

The ADB and WB management should provide an account of its performance on its own policies on decision-making with regard to the financial support for the CASAREM (CASA 1000) project, as it is a category "A" project, and should also suspend financial support for its components unless an interstate and public consensus is achieved.

**Mr. Nikolai Kravtsov** is the leader of the Regional Water Task Force Group of the CA&C NGO Forum on ADB.



## FEATURE ARTICLE

# Defining Away a Problem: How a Few Words Narrowed the Scope of the ADB's Involuntary Resettlement Policy

By Michael D. Burstein and Jennifer Kalafut

### Introduction

In 2005, the ADB announced that it would review and update its policies on environmental and social protection. Over the past four years, civil society organizations, people's movements and development professionals coalesced around two broad goals: to use the safeguard policy update process to improve and modernize the old policies, and to ensure that the existing safeguards were not weakened. While many achievements were made, the greatest strength of the 1995 policy on Involuntary Resettlement (IR) did not survive the update process. The 2009 Policy digresses from its 1995 predecessor by only recognizing persons displaced *through land acquisition* as legitimately displaced persons. This particular dilution is of concern because this linguistically-minor change will exclude countless number of communities from the specific compensation, redress and rehabilitation requirements mandated by the IR Policy.

### Displacement: An Overview

Although myriad in forms, two distinct categories of displacement have been recognized for decades: physical displacement and economic displacement. Physical displacement refers to the actual relocation of individuals, families or communities from one place to another. Economic displacement, on the other hand, occurs when development-related activities result in the loss of people's income sources, asset bases, economic opportunities and livelihoods. It does not necessarily mean that affected people are forced to leave their homes or land. However, oftentimes, mass migration is the result of economic displacement because affected families are forced to leave their homes in search of livelihoods and a means for survival.

The common linkage between these impacts is the risks imposed on people. Theories such as Michael M. Cernea's "Impoverishment Risks and Reconstruction" (IRR) model intentionally ignore any distinction between how people are displaced by a development project in favor of focusing upon the impacts of displacement in human and economic terms.<sup>1</sup> According to the IRR model, persons who are either physically or economically displaced are decapitalized through the loss of human, social, natural or artificial resources.<sup>2</sup> This, in turn, increases the risk of impoverishment and of violations of a diverse array of human rights concerns (e.g., right to self-determination, right to participation, rights of vulnerable groups, and right

to remedy).<sup>3</sup> Because the risk of displacement is similar and because the two types of displacement often work interchangeably, distinguishing between economic and physical displacement serves little value other than identifying the most appropriate mitigation measures in a project-specific context. In terms of preventing impoverishment, or in simple terms of justice, the distinction is meaningless.<sup>4</sup>

### The Scope of the ADB's 1995 Involuntary Resettlement Policy

The Asian Development Bank (ADB) established its first Involuntary Resettlement Policy in 1995 to mitigate the human costs of their development projects. While flawed, it outlined a series of principles that treated physical and economic displacement as interlinked concerns to be addressed jointly by the policy. One of these principles specifically made a point of including persons and communities that suffer loss of "their land, means of livelihood, social support systems, or way of life in order that a project might proceed..." within the scope of the policy.<sup>5</sup> This comprehensive approach was also reflected in the ADB's Operations Manual (OM), which includes all of the ADB's binding bank policies.<sup>6</sup> Although the OM has never explicitly referenced Cernea's IRR model, it integrated the dual concepts at the heart of the IRR model: "displacement-as-decapitalization" and "harm-mitigation through risk-identification."<sup>7</sup>

Of particular importance in recognizing all forms of displacement is the 1995 policy's

definition of the terms “involuntary resettlement” and “affected person” because these terms identified who was entitled to the protections within the policy. Involuntary resettlement was defined as the “social and economic impacts that are permanent or temporary and are (i) caused by acquisition of land and other fixed assets, (ii) by change in the use of land, or (iii) restrictions imposed on land as a result of an ADB operation.”<sup>8</sup> This definition focuses on how a project could disrupt individual lives. This broad understanding of disruptions is also reflected in the definition of “affected person,” which is any person that is adversely affected “on account of changes that result from the project.”<sup>9</sup> The footnote to this definition provides a litany of possible adverse affects due to “changes in use of land” that clearly includes economic disruptions (*e.g.*, disruptions to place of occupation). Therefore, the joint reading of “involuntary resettlement” and “affected person” shows that the 1995 Involuntary Resettlement Policy treated all displaced persons equally.

.....

**The Asian Development Bank (ADB) established its first Involuntary Resettlement Policy in 1995 to mitigate the human costs of their development projects. While flawed, it outlined a series of principles that treated physical and economic displacement as interlinked concerns to be addressed jointly by the policy.**

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### **Limits on the Scope of the 2009 Involuntary Resettlement Policy**

The 2005-2009 revision process resulted in a dramatic reduction in the scope of the new policy. Unlike its preceding policy, the 2009 version limits the entirety of those covered under the involuntary displacement portions of the IR policy to people that have been displaced *through land acquisition*.

Three significant changes from the 1995 Policy cause this drastic reduction in scope. First, the new policy states that the involuntary resettlement requirements apply to instances of physical and economic displacement caused by “(i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas.”<sup>10</sup> Notably absent in this list of policy triggers is the clause “changes in land use,” which, as illustrated above, covered those people whose land was affected (*e.g.*, polluted, desalinized

or otherwise destroyed) by project activities. Second, the 2009 Policy eliminates any definition of “affected persons.” Instead, the 2009 Policy relies upon the term “displaced persons” to identify who is covered by the policy. The term is defined as any “persons who lost the land they occupy in its entirety or in part.”<sup>11</sup> In other words, it covers only those that physically have the land they occupy taken away. Third, the 2009 Policy changes the definition of “economic displacement” to “loss of land, assets, access to assets, income sources, or means of livelihoods as a result of (i) involuntary acquisition of land, or (ii) involuntary restrictions on land use or on access to legally designated parks and protected areas.”<sup>12</sup> Under the previous policy, the conception of economic displacement was much broader and those who suffered loss of access to their livelihoods for any reason were considered displaced.<sup>13</sup> This is dramatically different from the new policy’s limitation to only economic displacement caused by land acquisition. Taken together, these three policy changes have the result of making expropriation of land the almost-exclusive activity that will trigger the requirements for mitigation, compensation and rehabilitation for affected peoples.

While there are examples of physical displacement caused by project activities other than land acquisition, it is in the realm of economic displacement where this reduction in scope is most sweeping. People affected by project-induced adverse economic impacts are now not even considered to be displaced at all, so long as the project impact was not caused by land acquisition.<sup>14</sup> Not only is this change contrary to the past few decades of consensus by resettlement specialists and the dominant models of displacement management and prevention, but it also results in direct negative consequences for those no longer recognized as displacees because they will have significantly weaker protections.

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**Of particular importance in recognizing all forms of displacement is the 1995 policy’s definition of the terms “involuntary resettlement” and “affected person” because these terms identified who was entitled to the protections within the policy.**

.....

Instead of recognizing persons displaced by project impacts other than land acquisition as *bona fide* displaced persons, the 2009 Policy shifts responsibility for such adversely affected individuals to the Environmental Protection Policy. Paragraph six of the new IR Policy specifically states, “If potential adverse economic, social, or environmental impacts

from project activities other than land acquisition are identified, such as loss of access to assets or resources or restrictions on land use, they will be avoided, or at least minimized, mitigated, or compensated for, through environmental assessment process.” Thus, any ADB-financed, project-induced adverse effect that is not caused by land acquisition, including all forms of displacement, will be addressed in the environmental portions of the policy.

.....

**The 2005-2009 revision process resulted in a dramatic reduction in the scope of the new policy. Unlike its preceding policy, the 2009 version limits the entirety of those covered under the involuntary displacement portions of the IR policy to people that have been displaced through land acquisition.**

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Unfortunately, the environmental safeguard requirements are entirely ill-equipped to mitigate the risk of impoverishment and human rights violations associated with displacement. This is because the environmental safeguard policies are (rightly) oriented towards protecting the environment from ADB-financed development projects. The consequence is inadequate protections for many legitimately economically displaced persons.<sup>15</sup> Notably absent from the environmental safeguard policy are key components necessary to prevent the impoverishment of displaced persons such as details on how compensation will be determined, requirements that educational opportunities like job re-trainings be provided, the right to security of tenure for displaced persons be respected, or even the social impact assessment or census to be conducted to determine who will be displaced.<sup>16</sup> Moreover, the environmental section fails to recognize the unequal impacts displacement has upon women and other marginalized groups.

### **Why Were These Changes Made?**

The *raison d'être* of social and environmental safeguard policies is the aim of preventing harm to the people and environment affected by Bank-supported activities.<sup>17</sup> With this understanding of the function of the safeguard policies, any significant change to these policies should be borne from the belief that the change at issue would advance this goal better than the existing policies. Thus, it is not unreasonable for civil society to demand clear and reasoned accounting for any significant change to

the safeguard policies, especially in instances in which the change appears to amount to a reduction of protections. Moreover, the ADB should not be hard-pressed to provide this information.

Unfortunately, the ADB has been incapable to provide any justification for its imposition of land acquisition as the *de facto* exclusive trigger for inclusion under the IR Policy. The ADB has not only refused to provide their reasoning for enacting this dramatic shift in scope, but has even gone so far to *say that no scope shift has, in fact, occurred*. When asked for the theoretical basis for reducing the scope of the (then) proposed involuntary resettlement policy and for “the expected outputs and impacts on the ADB and affected people from this decision,” an ADB official responded: “There has been no shift in scope in involuntary resettlement... The key policy trigger remains land acquisition, and the scope remains both economic and physical displacement.”<sup>18</sup>

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

To use a cliché, the silence of the ADB has been truly deafening in terms of providing an affirmative defense of its changes on this topic. The nearest insight into the rationale behind the changes was provided in the 2006 ADB-commissioned study on its involuntary resettlement safeguard. Within this document, the only critiques offered of the broad, and academically accepted, understanding of displacement that was the basis for the 1995 Policy were as follows:

- some local partners and project sponsors did not fully understand that the concept of displacement extended to persons who were not physically resettled;<sup>19</sup>
- increased workload for some project officers in managing resettlement;<sup>20</sup>
- a perception among some ADB staff that a “disproportionate” amount of the limited resources available for project preparation goes to safeguard issues;<sup>21</sup> and
- increased incremental and transactional costs for both the ADB and borrower/clients.<sup>22</sup>



.....

**While there are examples of physical displacement caused by project activities other than land acquisition, it is in the realm of economic displacement where this reduction in scope is most sweeping. People affected by project-induced adverse economic impacts are now not even considered to be displaced at all, so long as the project impact was not caused by land acquisition.**

.....

Despite these concerns, the OED study recognized the importance of ensuring that economically displaced individuals are protected from impoverishment.<sup>23</sup> According to the study, the increased emphasis on resettlement and livelihood restoration over the past fifteen years “may have been linked to [the ADB’s] focus on poverty reduction, as most [Affected Persons] are poor. Although ADB’s infrastructure projects have many positive impacts, *the mitigation of adverse impact on [Affected Persons] can be taken as a key marker to assess ADB’s seriousness in fighting poverty*” (emphasis added).<sup>24</sup> For this reason, the study did not recommend that individuals displaced by activities other than land acquisition be excluded from coverage or protection, but rather that “it may be more appropriate for [such individuals] to be addressed through a social development action plan or ad hoc project-specific plan.”<sup>25</sup>

If such a “social development action plan” was to be required by the safeguard policy, the key components of the involuntary resettlement policy, including the resettlement plan prescribed by the policy and other components with high incremental and transactional costs, would have to remain in order for the social development action plan to actually prevent the impoverishment of displaced persons. This fact, however, went unaddressed by the study. Thus, even if the ADB agreed with the idea that a “social development plan” should supplant the current means of protecting persons displaced by means other than land acquisition, the OED rationale tacitly concedes that the protections and entitlements granted to the persons displaced by non- land acquisition activities must remain the same if the ADB were to continue its objective of fighting poverty.<sup>26</sup> In this regard, the OED study that was cited as providing the basis for revising the

1995 Policy and operations manual does not, in fact, justify the most significant change to the involuntary resettlement policy.

## Looking Forward

While the ADB has made some positive changes to its IR Policy, the dramatic reduction in the scope of people protected means that the 2009 Policy will be a significant regression in protections for hundreds of thousands of affected people. The change in policy scope will eliminate access to critically needed mitigation measures for a broad range of people who lose access to their lands, homes and economic livelihoods because of ADB-supported project activities. These people will face the full gamut of potential human rights violations and risks associated with unmitigated displacement. It is thus distressingly likely that displaced people excluded from coverage under the IR Policy will be left worse off than they were before ADB-supported project activities. This creates the following unacceptable irony: an institution with a public mandate to fight poverty will end up creating new poverty for thousands of already marginalized communities.

.....

**Instead of recognizing persons displaced by project impacts other than land acquisition as *bona fide* displaced persons, the 2009 Policy shifts responsibility for such adversely affected individuals to the Environmental Protection Policy.**

.....

There are strategies that civil society and affected communities can make use of to temper the effects of the reduction in scope. The ADB’s Compliance Review Panel was established to receive complaints directly from individuals and communities in ADB project areas and can be used to challenge the ADB’s limited protection for those displaced through non-land acquisition activities.<sup>27</sup> Civil society may want to consider a series of “impact complaints” in which the Compliance Review Panel is placed in the position of either explicitly recognizing the failure of the ADB to protect persons who would have otherwise been protected under the 1995 policy, or interpreting the 2009 Policy in an expansive manner.<sup>28</sup>

Another approach would be for civil society to mobilize and advocate for the ADB to provide further detail on some of its protections through future revisions to the OM. Because the OM is binding upon the ADB, as opposed to the safeguard policy

.....

**Unfortunately, the environmental safeguard requirements are entirely ill-equipped to mitigate the risk of impoverishment and human rights violations associated with displacement. This is because the environmental safeguard policies are (rightly) oriented towards protecting the environment from ADB-financed development projects. The consequence is inadequate protections for many legitimately economically displaced persons.**

.....

which is binding on the borrower/clients, positive changes to the OM could mean that the ADB project officers could increase their roles as protectors of the displaced and as guarantors of equitable development. This approach appears to have been applied in regards to the 1995 Policy, in which the brief and somewhat vague Policy was supplemented by a robust and evolving OM.

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

#### Endnotes

- <sup>1</sup> Although other models exist besides Michael Cernea's IRR model, this article will rely on the IRR model because of its wide acceptance by both resettlement specialists and international financial institutions like the ADB. Michael M. Cernea (2007). IRR: An Operational Risks Reduction Model for Popular Resettlement. *Hydro Nepal: Journal of Water, Energy and Environment*, Vol. 1, Issue No. 1.
- <sup>2</sup> Cernea. IRR *supra* note 1.
- <sup>3</sup> See Balakrishnan Rajagopal (2000). *Human Rights and Development: Legal and Policy Issues with Special Reference to Dams*. Contributing Paper to World Commission on Dams Thematic Review. Cernea's IRR model identifies seven discrete risks of displacement: landlessness, joblessness, homelessness, marginalization, increased morbidity and mortality, food insecurity, loss of access to common property and social disarticulation. Cernea. IRR *supra* note 1.
- <sup>4</sup> See Jay Drydyk (1999). *Development-Induced Displacement and John Rawls's "General Conception" of Justice*. CIDA-SICI.
- <sup>5</sup> ADB (1995). Involuntary Resettlement Policy, ¶ 34 (iii).
- <sup>6</sup> ADB (25 September 2005). Operations Manual, OM Section F2/BP, Introduction [hereinafter: ADB OM].
- <sup>7</sup> Cernea IRR *supra* note 1.; OED Study *supra* note 8 at ¶ 18 ("A practical aspect of the Policy for ADB operations has been that it deals with land acquisition and resettlement in a systematic way and tries to handle the associated

planning as much as possible prior to the start of the project, which facilitates project implementation.").

- <sup>8</sup> ADB OM *supra* note 6 at BP ¶ 2.
- <sup>9</sup> *Id.* at footnote 1 ("The term 'affected person' includes any people, households, firms, or private institutions who, on account of changes that result from the project will have their (i) standard of living adversely affected; (ii) right, title, or interest in any house, land (including residential, commercial, agricultural, forest, and/or grazing land), water resources, or any other moveable or fixed assets acquired, possessed, restricted, or otherwise adversely affected, in full or in part, permanently (*sic*) or temporarily; and/or (iii) business, occupation, place of work or residence, or habitat adversely affected, with or without displacement. See para. 4 (viii) on the meaning of 'eligibility cut-off date.'").
- <sup>10</sup> ADB (June 2009). Safeguard Policy Statement, Appendix 2: ¶ 5.
- <sup>11</sup> *Id.* at Appendix 2: ¶ 7. However, in the glossary of the ADB policy, the term "displaced persons" also includes persons displaced as a result of "involuntary restrictions on land use or on access to legally designated parks and protected areas." This is a rather ambiguous term that could be interpreted in a fashion analogous to how "changes in land use" was interpreted under the 1995 Policy. However, the ADB has given multiple indications throughout the Safeguard Policy Update process that this term will be understood in a narrow fashion as meaning only regulatory prohibitions that limit access and use of natural resources akin to the designation of protected

areas that can undermine the resource base of rural communities. Due to their relative rarity, this paper treats the new definition as it will be dominantly applied – as only pertaining to those displaced by land acquisition.

<sup>12</sup> *Id.* at Glossary.

<sup>13</sup> It is worth noting that paragraph 7 of the IR Safeguard Requirements states that there can only be three types of displaced persons in a project area: those with formal legal title to lost land; those legally recognizable claims to lost land; and persons who lost land they “occupy” without legal or recognizable claims. This creates an ambiguity because the term “occupy” is not defined. Under many legal systems, the term “occupied” land is a broad term that includes land that is non-residential but is used by a person (e.g., seasonally available wetlands). Because the 2009 Policy does not specifically include a definition of “occupied,” a narrow definition could be employed in which only residential land and its environs are considered occupied. In this case, productively used land that is non-contiguous with residential land could be argued to be unoccupied, and persons who are economically displaced by its expropriation might be denied protections. While this is contrary to the Policy Principles in the 2009 Policy, such instances of bad-faith reasoning are not unheard of when developing resettlement plans. *Id.* at Appendix 2 ¶ 7.

<sup>14</sup> Of course, some persons will be economically displaced by land acquisition, but this is the vast minority of economically displaced people.

<sup>15</sup> Paragraph 4 of the environmental requirements obligates the borrower/client to identify potential “induced environmental impacts and risks to physical, biological, socioeconomic, and physical cultural resources and determine their significance and scope.” This assessment will be the basis for identifying which impacts the borrower/client must mitigate, and in “exceptional circumstances” provide compensation. ADB 2009 Policy *supra* note 22 Appendix 1: ¶¶ 4 & 13 (identification and compensation in exceptional circumstances, respectively).

<sup>16</sup> The provision in paragraph six that shifts responsibility to the Environmental Safeguards is slightly tempered by the statement in the following sentence: “If these impacts are found to be significantly adverse at any stage of the project, the borrower/client will be required to develop and implement a management plan to restore the livelihoods of affected persons to at least pre-project level or better.” This provision must be recognized as holding the possibility of robust protections for adversely affected persons not covered by the 2009 IR Policy. Yet, it is significantly weaker than what is required in the Involuntary Resettlement Safeguards because there are no requirements as to what the content of this “management plan” must be, whether it is the product of consultation or whether it is made public, or even if the ADB is obligated to review it for adequacy in terms of actually restoring livelihoods. Furthermore, the wording of this statement means that affected people will first have to prove “significantly adverse impacts” before they are considered for mitigation measures beyond what is contained in the Environmental Safeguards. Given that, even with the ADB’s existing 1995 Policy, it was often difficult for affected communities to secure implementation of their entitlements clearly guaranteed in the Policy. It is not unreasonable to assume that this provision in the new policy will make it even more difficult for affected communities to receive the rehabilitation measures and support to which they are entitled.

<sup>17</sup> ADB 2009 Policy *supra* note 22 at ¶ 43.

<sup>18</sup> Email from Michael D. Burstein to Xiaoying Ma and Nessim Ahmad on 21 January 2009 (note that this letter was specifically in reference to the W-paper, and that the scope shift between the W-paper and the R-paper was identical.)

<sup>19</sup> OED Study *supra* note 8 at ¶ 22. However, within the same section, the study itself demonstrated confusion of the concept of displacement and noted that resettlement plans are “now required for projects that do not displace people” and proceeded to list instances of economic displacement, including the water seller-water pipe and the waste dump-recyclers examples illustrated above.

<sup>20</sup> *Id.* at ¶ 24.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at ¶¶ 128-36.

<sup>23</sup> Also, note that most of the concerns are easily remediable and do not warrant the inclusion of land acquisition as a trigger for coverage under the IR policy.

<sup>24</sup> *Id.* at ¶ 151.

<sup>25</sup> *Id.* at ¶ 152 & ¶ 166 (“It may be unrealistic to expect that the IR policy be brought back to a significantly more limited scope than currently applied in practice so the scope of the original Policy could be somewhat extended. The new policy could then be renamed as the Land Acquisition and Involuntary Resettlement Policy, also covering, for instance, impacts of partial loss of access to land. More secondary adverse impacts of projects could then be addressed through a more specific social development strategy or social protection strategy. If a significantly more inclusive concept is endorsed, the new policy could perhaps be labeled the Social Safeguard Policy.”)

<sup>26</sup> That said, creating an entirely independent policy for managing economic displacement seems to be entirely unnecessary. While doing so would eliminate confusion, the more effective strategy would be to educate the executing agencies of the borrower/clients on the latest understanding of displacement theory and poverty reduction strategies. This would have a series of positive results beyond eliminating confusion of terms, most obviously by empowering the executing agency to apply better poverty reduction strategies across its body of work. Why this obvious solution was not recommended is not quite clear.

<sup>27</sup> The problems with such a strategy are legion. Beyond the inefficiencies of execution and the limited scope of the remedy, even if it were victorious, the Compliance Review Panel’s decisions are non-binding to other ongoing projects. Nevertheless, it would place the ADB in a position of having inconsistent application of its policies and might encourage institutional norm-adopting behavior.

<sup>28</sup> For example, displaced-but-uncovered persons are entitled to a “management plan to restore the livelihood of affected persons to at least pre-project level or better,” under paragraph six of the IR safeguard requirements. The techniques for ensuring income restoration, if not improvement, are fairly well developed and are commonly utilized as key components for resettlement plans. Thus, failure for such a “management plan” to integrate specific measures to ensure that the affected person’s livelihoods are restored could easily be the basis for a complaint to the Compliance Review Panel. However, it is important to note that it is unclear if failure to comply with the “management plan” could, in itself, be the basis for such a claim.



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