International Finance Institutions:
A focus on the private sector in North East India's development challenges

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Introduction: DFIs and development financing in India's North East:

The increased role of Development Financial Institutions (DFIs) and other International Financial Institutions (IFIs) in shaping the development discourse in Manipur and across India's North East states has become a dominant factor. It is consistent with India's adoption of a neoliberal model of development and the aggressive push for the "Act East Policy," geared to the consolidation of India's trade and commerce with South East Asian countries. Privatization is a major thrust for all these financing programs.

Bilateral DFIs such as Agence Francais De Development (AFD) of France, German Development Bank (DEG) / KFW of Germany, and the Japan International Cooperation Agency (JICA) are extensively involved in India's North East (NE) supporting the private sector mainly through equity investments, long-term loans and guarantees. The Asian Development Bank (ADB), European Investment Bank (EIB), International Finance Corporation (IFC) and the Islamic Development Bank (IDB)[1] are some of the multilateral DFIs financing across India's NE.

Globally, IFI investments with the private sector exceeded US$40 billion in 2010 and were expected to surpass US$100 billion in 2015. In Belgium, donor investment in private sector development grew from US$44.6 million in 2008 to US$123.6 million in 2011, almost exclusively through BIO-Invest, the Belgian DFI.[2] Since 2001, USAID has supported over 1,000 private sector partnerships with more than 3,000 partners. IFIs are directly promoting private sector led growth in their policy prescriptions and specific sectoral lending in sub regional economic groups and at country levels.

The framework for financing by DFIs and IFIs has focused on development processes oriented toward a completely liberalized environment and trade rules imposed by the World Trade Organization (WTO). This includes the removal of all barriers to trade and business and an emphasis on private sector oriented development, reasoning that the private sector has superior efficiency and experience.

Privatization in India: The context

In India, privatization received a tremendous boost with the introduction of a new economic policy (NEP) in 1991 that allowed relicensing, relaxing entry restrictions and equity funding. In June 1991, India launched a comprehensive economic policy reform program, with World Bank support of US$500 million under its structural adjustment operations. After becoming a member of the WTO in 1995, India initiated rapid privatization of almost all sectors. Privatization and private sector participation was vigorously pursued through structural adjustment programs of the World Bank and other IFIs. Deregulation in India has also been facilitated by previous laws, such as the Industries (Development & Regulation) Act, 1951 (IDRA), Monopolies & Restrictive Trade Practices Act, 1969, (MRTPA) and the Foreign Exchange Regulation Act, 1973 (FERA).

Over the years NEP has morphed into a compendium of economic liberalization strategies, privatization and the opening up of international trade. The National Water Policy of 2002 proclaims, "private sector participation should be encouraged in planning, development and management of water resources projects."[3]

NEP has come to be viewed as strategy to combine India's entry into a globalizing world with its adoption of a neoliberal model of economic development—a brainchild of the International Monetary Fund (IMF) and the World Bank.[4]

India is the largest recipient of loans from the World Bank, amounting to $102.1 billion, between 1945 and 2015 (as on 21 July 2015). The International Bank for Reconstruction and Development (IBRD), a part of the World Bank group, has lent $52.7 billion and the International Development Association (IDA), a multilateral concessional lender of World Bank, has loaned $49.4 billion to India over the last 70 years. As of 31 December 2015, India's loans from the World Bank stood at $104 billion (IBRD—$54 billion and IDA—$50 billion).[5]

The ADB's Country Partnership Strategy (CPS), 2018–2022 for India aims to support the government's goal of faster, inclusive and sustainable growth accompanied by rapid economic transformation and job creation. The new CPS articulates ADB assistance through boosting economic competitiveness to create more and better jobs, providing inclusive access to infrastructure networks and services and addressing climate change and resilience. ADB's annual lending to India is projected to be raised to a maximum of $4 billion. ADB's country operations business plan (COBP), 2018–2020 for India also aims to support the government's endeavor to achieve faster, inclusive and sustainable growth with the private sector role.[6]

Both bilateral and multilateral DFIs have increasingly entered into collaborations to promote private sector roles and financing in development processes in developing countries. JICA entered into an agreement with ADB on partnership for quality infrastructure on 15 December 2017 to establish a trust fund for supporting public-private and other private sector infrastructure projects as well as a co-financing framework for supporting the governments of developing countries to promote public infrastructure[7]. The ADB entered into an agreement with JICA on 30 March 2016 to establish a new fund, the Leading Asia's Private Infrastructure, to support private infrastructure investments across Asia and the Pacific with JICA capitalizing 1.5 billion in equity, but to be managed by ADB's Private Sector Operations Department.[8] On 8 May, 2017, JICA also signed an agreement with the IFC for promoting co-financing by both agencies to the private sector in developing countries.[9] These agreements will intensify the DFIs' roles in leveraging the private sector financing and financing development projects in India and across its NE region, especially in infrastructure, energy and climate change related projects.

Across India's North East, the Asian Development Bank and the World Bank have assumed a leadership role in the privatization of development. Privatization can be defined as the transfer of ownership and control of public sector units to private individuals or companies. With the structural adjustment programs imposed by IMF, it becomes almost inevitable. India's North East region has already recorded the establishment of several private sector led development processes, albeit with much controversy. These processes have included a range of service provisions, direct consultancy services, direct supply and procurement works, the privatization of essential services and the direct role of the private sector in pursuing extractive industries.

Role of IFIs in pursuing the privatization agenda in India's NE

Multilateral and bilateral IFIs are aggressively promoting a privatization agenda in India. The Asia Development Bank's private sector development strategy in India's North East promotes the private sector and mitigates risks for this sector. The ADB rationalizes its aggressive private sector promotion by maintaining that private sector involvement will reduce financial pressure and demands on a poorly resourced and inefficient public sector. The government's spending on social sectors has declined, at both the national level and in Manipur. India's 2015 budget reduced the Ministry of Agriculture's allocation from Indian Rupees (Rs) 19,852 crore in the year 2014 to just Rs 17,004 crore. Similarly, funds for the Women and Child Development Ministry have been slashed to Rs 10,382.40 crore from Rs 18,588.39 crore.[10] The ADB insists that its trade and investment initiatives in the North East are necessary to improve the region's market environment. The implementation of these measures, the ADB claims, will result in a favorable setting for private sector investment and thus an increased participation in global and regional markets.[11] Unfortunately, this has not proven to be the case.

The ADB's technical assistance (TA) for the northeast power development project, prepared in 2004, outlined the development of locally available resources, including hydropower, natural gas and renewable energy sources.[12] The aim was to provide critical transmission and distribution facilities and to assist in institutional strengthening in the power sector by prioritizing private sector participation. It argued for a favorable environment for private sector investments[13] and for the need to increase the capacity and productivity of NE India's private sector in order to meet the ADB-defined challenges and issues facing the sub region in international markets.[14]

The ADB maintained that North East Region had unexploited natural resources and stressed that the creation of its action plan would enhance the conditions for private sector led growth. The plan also envisaged the need for a policy framework that enabled competition, an institutional setup with an open, competitive level playing field among sectors and the establishment of a support mechanism for private sector development. The implementation of this TA advice in the trade sector has resulted in the integration of private sector-led growth in all policy priorities and initiatives for development.

The technical assistance programs of IFIs uniformly uphold the approach promoted by the WTO and other global financial institutions. This framework includes privatization and free trade as the essential parameters for development in the NE region.

On June 24, 2016 the World Bank Board approved a US$ 470 million loan to support six states in the North Eastern region of India to augment their transmission and distribution (T&D) networks. The loan, from the International Bank for Reconstruction and Development (IBRD), has a 5-year grace period and a final maturity of 24.5 years. The project's objective is to improve the power supply in the North Eastern region and to reverse commercial losses by corporate bodies[15].

Manipur is one of the states targeted for a US$300 million loan agreement that was signed between the Government of India and the ADB on March 2015. The two new roads in Manipur planned for construction under the project are Imphal-Kanchup-Tamenglong Road and Imphal Ring Road. The loan is the first under a US$425-million multi-tranche SASEC Road Connectivity Investment Programme approved by the ADB in 2014, due to be completed by December 2021[16].

Bilateral donors are also strongly pushing for the privatization of water, electricity, education, health and all essential social services through their development aid agencies. France, Britain, Australia, Japan and United States are aggressively involved in fostering the privatization of water and sanitation across Manipur and India's North East states.

Japan is a leading country that is providing extensive financial support in NE, which is supported by a close relationship between India and Japan. Setting up the India-Japan Act East Forum was one of the major agreements signed during Japanese Prime Minister Shinzo Abe's visit to India for the 12th Indo-Japan annual summit on 3rd August 2017. The India-Japan Coordination Forum for Development of North East was also established in 2017 to execute infrastructure building projects such as connectivity and road network development as well as electricity generation. An agreement was also signed at the bilateral summit to combine the aims of Japan's Free and Open Asia-Pacific strategy and India's Act East Policy.[17]

From 2007 till 2017, JICA has provided India with soft loans worth US$23.36 billion for infrastructure projects such as transport (55 percent or US$11.37 billion), water (16 percent or US$4.67 billion), energy (13 percent or US$12.07 billion) and agriculture and forestry (seven percent or US$3.63 billion).

In April 2017 the JICA signed an agreement with the Union government in New Delhi to provide over 67 billion yen (US$610 million) for Phase I of the North East Road Network Connectivity Improvement Project. Phase 1 will see the enhancement of National Highways 54 and 51 in Mizoram and Meghalaya. The improvement of NH-54 will enhance connectivity of the Kaladan Multi-Modal transport corridor, which seeks to link India's northeastern states with the rest of India via Myanmar by roads, inland water transport and marine transport.[18]

JICA has funded the Imphal Water Supply Augmentation Project (IWSP) in support of the Mapithel dam. This initiative will not only lead to privatization of its water supply, it will also legitimize the violation of community rights and the deprivation of people's livelihood, due to flooding of their agriculture lands, forests and settlement areas by the dam.

Other bilateral DFIs, such as the DEG of Germany, have co-financed the mining operations in Meghalaya by French mining company, Lafarge. KFW financed the Pare Hydroelectric project in Arunachal Pradesh and is also involved in financing climate change mitigation and adaptation projects across the North East States. KFW signed a €15 million loan agreement with the Government of India on 4 December 2017 for the project 'Community based sustainable Forest Management — Component I in Manipur' to restore degraded forests in upper watersheds, reclamation of abandoned shifting cultivation areas and biodiversity conservation.[19] Lack of community consultation and the absence of impact assessment has marred the financing of these initiatives by JICA & KfW.

An enabling environment for the private sector

The creation of an enabling environment for Manipur's private sector is much in evidence with the increased financing by DFIs. One of their key objectives has been the establishment of the unhindered and full-fledged functioning of the private sector. Central to these efforts has been the creation of legal, policy and institutional mechanisms to leverage private sector roles and responsibilities in defining, consulting and managing development financing and the implementation of projects. Policies on mining and oil exploration have been diluted to make way for greater rights and roles of corporate bodies. Environmental policies are being weakened to remove all safeguard provisions to allow for the unhindered operation of the private sector. The formulation of the North East Hydrocarbon Vision 2030 in January 2016, for instance, will lead to the expropriation of land and natural resources through the drilling of oil and gas in Manipur and all over the North East. Both the Water Resource Development Policy, 2000 and the Industrial Policy, 2004-09 have promoted water privatization in the region.

Policies on the privatization of services and the changing of existing laws to foster greater privatization of services, such as the enactment of India's 2011 Public Private Partnership (PPP) Policy, have been pursued. The PPP is a key modality for promoting private sector participation. Most PPP projects followed the BOO model (Build-Own-Operate), with the private sector managing the infrastructure. Section 4 of the PPP Policy deals with the facilitation of quick mobilization of financial resources and the development of new innovative financial instruments for the PPP projects. In this regard the government also intends to interface with banks, financial institutions and the private sector.[20]

The Mining and Minerals (Development and Regulation) Amendment Bill was passed by both India's houses of parliament on 29 November 2015. This amendment is deeply flawed. It does not recognize the community's rights over their land and minerals or the need for the community's consent on any mining operations. It does not contain a clause requiring "forest" or "environment clearances" in mining operations. The amendment advances the interests of mining companies through measures such as an automatic extension of mining leases to 50 years from the previous 30 as well as the extension of the limit of a mine from 10 square kilometers to an undefined amount without community consent.[21]

Recently, several additional measures were implemented to support the private sector in India. For instance, the Indian Government introduced a new Draft Energy Policy in July 2017. It supports the establishment of energy projects throughout India, with an enabling environment for the private sector to further their commercial interests. A key intention of the Finance Act, 2017 is to curb the powers of the National Green Tribunal, established to monitor the violation of "forest clearance" and "environment clearances" in development projects that have potential environmental consequences such as big dams or oil exploration.[22] India's Ministry of Environment, Forests and Climate Change introduced the Draft Wetlands Rules in 2016, which is a watered down version of the Wetland (Conservation and Management) Rules of 2010.[23] There is an on-going process to weaken the Forest Rights Act of 2006 and the Land Acquisition Act of 2013.[24] The Government of India is currently drafting the Draft National Forest Policy 2018 that will further weaken community rights over forests.

Examples of specific cases

Infrastructure Road Projects: Primary infrastructure projects supported by DFIs are road projects which are part of the South Asia Sub Economic Cooperation's objective to link countries in South and South East Asia. The World Bank, ADB and JICA have complemented each other's initiatives in financing these road projects, which are implemented by multinational road building companies. They have often involved privatization of access to the roads, such as along the Gauhati to Shillong Road. The World Bank is directly involved in financing road projects in Mizoram while ADB and JICA have financed road projects all across NE states.

In June 2014 the World Bank approved a US$107 million credit to the Mizoram State Roads II – Regional Transport Connectivity Project. The objective of this project is to improve transport connectivity for the landlocked state of Mizoram and to enhance Mizoram and other Northeastern states' road links with Bangladesh, Nepal, Bhutan and Myanmar. The Mizoram State Road project, financed by the World Bank from 2002 till 2009 and implemented by RBM Tantia (part of RBM Road Builders of Malaysia), Baghareetha Private Limited, CCAP Limited and Termat Engineering/Infrastructure Private Limited, has also met with controversy. Issues have included project delays, problems with compensation and the rehabilitation of affected communities.[25] The implementation of the road project has also been marred by substantial delays, poor contract management and a failure to pay compensation to families of two employees who died in an accident in April 2016.[26]

Loan agreements between the Government of India and ADB were signed for the Northeastern States Road Investment Program in July 2012 (Tranche I) and for the tranche II in February 2014 at a total cost of US$200 million.[27] The implementation of the Tranche II is in progress in NE states, while the roads projects from Tupul to Bishnupur and from Thoubal to Kasom Khullen in Manipur have also been taken up.[28] On 31 March 2017, JICA signed an agreement with the Government of India to provide 67,170 million Japanese Yen (approximately INR 4,000 crores) in ODA for the North East Road Network Connectivity Improvement Project (Phase I)."[29] JICA later signed an agreement with the Government of India in April 2018 to provide an ODA loan of 38,666 million Japanese Yen (approximately Rs 2,500 crore) for the North East Road Connectivity Project (Phase 2).[30]

Several communities affected by the ADB financed Imphal Ring Road project in Manipur have expressed objections to the road widening plan because of its multi-faceted impact and the lack of a holistic assessment consultation and consent of affected communities. In a meeting on the proposed eviction plan held on 21 September 2014 residents of Kongba Makha Nandeibam Leikai in Manipur resolved to oppose the project as its implementation and land acquisition processes had failed to obtain their consent.[31] Villagers affected by the ADB financed Imphal Moreh road pressed for adequate rehabilitation and resettlement measures and protested both the lack of information and transparency on the actual project works and impacts.

DFIs co-financing Lafarge mining in Meghalaya: The ADB, EIB, IFC, several other bilateral DFIs and the German Development Bank (DEG) have co-financed the limestone mining operations in the state of Meghalaya with the *Lafarge* Group of France and Cementos Molins of Spain. The Lafarge Surma Cement (LSC) Project, run by the French multinational Lafarge, received a loan of US$45 million from the IFC in 2003. The violation of India's forest laws, the Forest Conservation Act, 1980 and the Forest Rights Act, 2006 is evident in this project. In 2008, a confidential report by an ADB mission highlighted shortcomings, particularly the lack of transparency in the purchase or lease of land belonging to indigenous peoples.[32] In January 2014, the Khasi people affected by the IFC and the ADB funded limestone mining filed a complaint with the Compliance Advisor Ombudsman (CAO), the IFC's accountability mechanism. The Khasi people complained that Lafarge has infringed on their land without consent, while also causing environmental destruction. Their claim states that that they had been denied justice and have invited the CAO to investigate and take appropriate and suitable actions relating to those most affected by this project. The CAO found the complaint eligible for assessment and has initiated the investigation process.[33]

Water and sanitation and privatization: Water supply and sewerage projects, which are primarily financed by DFI's. JICA, AFD and ADB in India's North East, have all insisted on the privatization of services and an increase in tied aid.

JICA funded the Imphal Water Supply Augmentation Project (IWSP) in support of the Mapithel dam. JICA's pre-feasibility study for IWSP recommended a policy change in the Manipur Water Supply Act, 1992 (Manipur Act No. 1 of 1993) that would privatize water supply services. This Act requires that the state government of Manipur adopt a flat rate for their water supply services. The project financing will not only lead to the privatization of the water supply, it will also legitimize the violation of community rights and the deprivation of people's livelihood, through the flooding of their agriculture lands, forests and settlement areas by the Mapithel dam.

In the case of the water supply project for Guwahati city in Assam, funded by JICA, Louis Burger International Inc, a US based consultancy firm, has been found to have bribed officials of the Assam Government in order to win contracts. Directed by the Gauhati High Court, the Central Bureau of Investigation (CBI) of the Government of India has taken up the Louis Berger corruption case and is filing an FIR against unknown officials of the company for allegedly bribing the former Assam government. The investigation is ongoing.

Technical support for the French funded Imphal Sewerage Project in Manipur (under construction) has been undertaken by the French company, Degremont, a subsidiary of Suez.[34] This is consistent with the requirements of French aid, which tie the provision of ODA to the procurement of services of French technical and consultancy firms. The project also foresees the privatization of its services.

Energy projects: The financing of energy projects and related infrastructure is a major focus of the DFIs. The World Bank is currently financing the High Voltage Transmission and Distribution Lines across NE states. The JICA and KFW are funding the Tuirial Hydroelectric Project in Mizoram and the Pare Hydroelectric Project in Arunachal Pradesh respectively. The JICA has also financed the renovation of Umiam Stage IV in Meghalaya. The ADB is extensively engaged in power sector reform towards privatization of energy provisions.

The 60 MW Tuirial Hydroelectric Project, financed by JICA in Mizoram, landed in extensive controversy due to its inadequate rehabilitation and resettlement processes. Project work stopped in 2004 because of these issues. The Tuirial Crop Compensation Claimant Association claimed that the project failed to provide compensation for crop losses from the land that was forcibly acquired. The project was also marred by inordinate delays and cost overruns, leading to high costs for power that had to be purchased by the Mizoram Government from project developers.

The financing of the 400 KV high voltage transmission and distribution lines by the World Bank across the North East states and the continued approval of the WB to finance the transmission and distribution networks will further facilitate the construction of more than 200 mega dams by corporate bodies across the region with wide social and environmental implications. The Government of India sought financial assistance from the JICA in early 2018 to fund the 66 MW Loktak Downstream Hydroelectric Project that will be utilizing waters discharged from the controversial hydropower project, the 105 MW Loktak Multipurpose Hydroelectric project in Manipur. Communities affected by the Loktak project fear that the Loktak Downstream project will undermine their livelihood. They also cite the lack of accountability by the project proponents.[35]

Issues with the privatization agenda in Manipur and across NE India

a) Non-recognition of indigenous peoples' rights

A significant challenge in road projects financed by the Asian Development Bank and JICA has been a lack of recognition of indigenous peoples' pattern of land ownership. There has been a failure to conduct detailed impact assessments with the rightful participation of these communities. These assessments are extremely important as they help determine the best possible measures for affected indigenous peoples' rehabilitation and resettlement.

The biggest challenge is to find ways to reduce the impact of infrastructure projects on indigenous communities. A clear illustration of these issues in seen in the Heirok to Khudengthabi road project, which is to be financed by the Asian Development Bank, and the Imphal Moreh Road project, to be financed by ADB.[36] In both cases, non-adherence or absence of strong safeguard measures for respecting environmental integrity are significant problems. In the Imphal Moreh project there is the added ethical challenge of recognizing indigenous peoples' development rights. The impact on the livelihood of indigenous communities due to road cutting, failure to rightfully involve affected communities in conducting impact assessments or the adoption of rehabilitation and resettlement measures that are acceptable to them, are significant problems.

Where bilateral financial institutions, such as the JICA, are involved, they often do not have policies to promote indigenous peoples' rights or to integrate the UN Declaration on Indigenous Peoples, 2007.

b) Failure to implement free, prior and informed consent

This relates to the pursuance of infrastructure and energy projects or extractive industries financed by the DFIs, such as the Lafarge Limestone mining in Meghalaya, the Pare Hydroelectric Project in Arunachal Pradesh, the Imphal Ring Road the, Imphal Water Supply Project to be financed by the ADB, IFC, KFW or JICA.

The ongoing oil and gas exploration and drilling by Jubilant Energy Private Limited and Oil India Limited in the Manipur area provides a clear example of a company that has failed to obtain the consent of local communities.

On 17th May 2017, villagers of Khaidem stopped the company, Asian Oilfield, from conducting surveys in their village. A day later, the community met and passed a resolution refusing all oil exploration in the Khaidem area. Residents of Kambiron, Sibilong and Oinamlong villages as well as others from Tamenglong District rejected the efforts of Asian Oilfield to seek 'No Objection' Certificates (NOC) for surveys. The latter did not provide sufficient information. These community actions were partly in response to previous experiences of malpractices by Alphageo and Jubilant Energy in 2012.

c) Roads and natural resources extraction by corporate bodies:

The extensive financing of roads by bilateral and multilateral DFIs are clearly organized to pursue corporate interests towards expropriating the land and natural resources of indigenous peoples.

There have been questions whether the main reason for the financing of roads by ADB and JICA in Manipur and India's NE region is primarily to facilitate extraction of minerals and building of dams. JICA has diverted from directly funding mega dams and is now focusing on infrastructures to aid such large scale, unsustainable and exploitative development projects across India's North East. Both the Pare hydroelectric project with KFW financing in Arunachal Pradesh and the proposed 66 MW Loktak downstream envisaged for JICA financing in Manpur have met with wide opposition. ADB makes an explicit reference in its TAs to the promotion of infrastructure projects towards enhancing private sector roles in tapping the unexplored natural resources in India's NE. Oil companies such as Jubilant Energy, Canoro, Oil India Limited and Asian Oilfields have been involved in both exploration and drilling.

d) Emphasis on profit oriented sectors

IFIs have been forcibly endorsing the privatization of services. Corporations focus on profit and commercial interests that often link with the economic interests of developed or other developing countries. This private sector motive raises many questions, particularly on the implications for addressing and advancing the real needs, wishes and aspirations of communities. Because the priorities for the private sector are commercial, they are more likely to focus on infrastructure that will advance their business prospects and returns in the nearest foreseeable future. Thus the pursuance of large infrastructure projects relating to oil exploration, hydropower, mining roads or railways by the private sector often fail to take into account communities' social issues and non profit-related concerns in their development.

e) Environment impacts

Environmental impacts are a significant and growing concern. For example, private companies, involved in the railway works in Tamenglong District have blatantly disregarded the devastating impact this project has had on the environment. These impacts have included the destruction of forest areas and the discharging of contaminated and chemical laden liquid waste in Ejei, Barak and Irang rivers. As well, direct dumping of earth excavated from hills from tunneling and road cutting are major concerns in the Tamenglong district of Manipur for which neither the companies or the Government of Manipur have assumed responsibility. The railway works are being carried out in clear conflict with the Forest Rights Act, 2006, something the Ministry of Environment and Forest and Climate Change of the Government of India acknowledges, but for which it has taken no action.

The limestone mining by Lafarge in Meghalaya, supported by financing from ADB and IFC, is afflicted with severe forest rights violations to the point that complaints have even reached the Supreme Court of India. One of the main complaints is the use of heavy explosive materials in blasting hills for limestone. Due to blasting, cracks have appeared on the earth causing drinking water sources from spring water to stop and dry up in the Shella region of Meghalaya.[37]

f) Increased presence of private companies in contract works

One clear concern regarding the implementation of ADB's road projects is its overwhelming focus on the privatization of development. Multinational private companies have carried out the entire consultancy and civil works. The Management Services Value (MSV), AECOM Asia Company Limited, (USA), Egis International, (France)**,** Roughton International Ltd, (UK), Rodic Consultants Pvt. Ltd, Aarvee Associates Architects Engineers & Consultants Pvt. Ltd, (India) are some of the construction supervision consultants for the ADB road projects in the North East Region. Accountability for damage resulting from the work conducted by these private companies remains an unaddressed issue.

The extensive sand and stone mining of the Ejei River by ABCI company, as part of the construction of the ADB financed road project from Bishenpur to Tupul and the Bishenpur to Tupul road has led to massive soil erosion, receding of water levels and loss of fish habitat. The companies have failed to take responsibility for the destruction of the environment and the social impact inflicted by these projects on indigenous peoples. Indeed, communities have been compelled to resort to the courts and to approach the ADB directly to address these violations. Communities affected by the ADB-financed road project in Kasom Khullen, Ukhrul District, have challenged the ADB's violations and impacts through the Manipur High Court, seeking redress and justice for violations, but to no avail.[38]

g) Corruption

Corruption is another major concern, primarily because of some of the controversial processes found in development projects implemented by the private sector. Several examples, such as the Louis Burger International case, have been provided earlier in this chapter.

The JICA financed Guwahati City water supply project is marred by allegations that Louis Burger International, based in the United States, has been bribing Assam Government officials to win contract. An investigation is underway by the Central Bureau of Investigation, Government of India.[39] The World Bank funded road project in Mizoram faced accusations of corruption and favoritism to politicians of Mizoram when the contract for road building was awarded to Sunshine Overseas.[40]

h**) The impact of privatization on water supplies and agriculture**

Privatization in the North East has had a profound impact on both citizens' water supplies and the development of agriculture in the region. The privatization of India's power sector has resulted in steep tariff increases. There was a 328% increase for domestic consumers after privatization – Rs 1.37 per unit in 2002 to Rs 5.87 per unit in 2013. Privatization has also caused the devaluation of public assets. A report by Comptroller and Auditor General of India stated that the assets of the Delhi Vidyut board were undervalued by a whopping Rs 3,107 crores. In addition, the Delhi government paid the private companies 10 times more in the form of a subsidy – 3,500 crores – than what they brought in as equity.

The privatization of drinking water services in Nagpur in a PPP project financed by the World Bank presents a model of complete failure. The tariff for water has increased fourfold. Earlier, Nagpur Municipal Council (NMC) signed a concession agreement with the Orange City Water Private Ltd (OCWL), a joint venture of Vishwaraj Environment Pvt Ltd and Veolia Water (India) Pvt Ltd. However, the privatisation process did not bring down the water leakages nor did the private company ensure sufficient water supplies to the residents.[41]

Agriculture in India landed in a deep crisis following broad reforms resulting from the implementation of the country's neo-liberal policies of 1991. These reforms were marked by the gradual withdrawal of the state from its responsibilities in agriculture, such as the regulating of markets. The World Bank, which has promoted the privatization of agriculture, has recommended the stopping of all forms of agriculture subsidies. The Agricultural Produce Marketing Committee Act, 2003 has made way for the setting up of private markets, allowing contract farming and legalizing direct purchase from farmers. Corporate and multinational agencies have gained spaces in procurement, wholesale trade and retailing, much to the detriment of small-scale farmers. Rationalization of input subsidies, downsizing of incentive pricing, a decline in public investments, shrinking public extension services and the contraction of institutional credit availability in rural areas after with the 1991 policy reforms have all contributed to a widespread agrarian crisis, and indebtedness among the rural communities.[42]

Since 1995, when India joined the WTO, there has been a surge in imports of agricultural commodities, which have been dumped by developed countries in the international market below their cost of production. This has led to a deep decline in domestic agriculture prices and has compounded the agrarian crisis. One tragic result has been suicides by desperate people living in rural India.[43]

i) Problems with implementation

The JICA financed Tuirial hydroelectric project in Mizoram is afflicted with undue delays leading to cost overruns and high costs for power units. Similarly the World Bank financed road project in Mizoram is afflicted with significant delays. The French support Imphal sewerage project continues to be delayed even after fifteen years. The Government of Manipur has set December 2018 for its completion.. French companies such as Degremont have received contracts to supply essential parts for this project even though it remains a non-starter. The project is almost considered a failed project.

j) Undermining DFI's safeguards: DFIs' non-application or violation of safeguards are major issues. Lafarge has failed to adhere to ADB's policies on indigenous peoples or rehabilitation and resettlement in limestone mining in Meghalaya. Similarly, there are concerns with the non-application of safeguard policies, relating to indigenous peoples and involuntary resettlement in the Imphal to Moreh or the Wangjing to Khudengthabi road projects financed by ADB in Manipur. There are also questions of whether many DFIs such as JICA actually have safeguard provisions or policies to promote indigenous peoples rights affected by JICA funded projects. Policies to promote human rights in development are missing in most DFIS in their development project financings.

k) Militarization and HR violations: Militarization and the reliance on security forces by railway works, oil exploration, dam building and other infrastructure projects are major human rights issues for indigenous peoples. Security forces have targeted human rights defenders for seeking adequate rehabilitation and resettlement and to end contamination of their lands, rivers and forests. This was seen in the case of Marangjing village where human rights defenders resisted the violations of the railway works.

j) Undermining development effectiveness principles

The majority of donors have separate policies on aid effectiveness. A few, such as Spain and New Zealand, make specific reference to the Paris or Busan commitments in their policies on the private sector. Private sector projects should be required to adhere to the development principles agreed to at High Level Forums --- such as the Paris Declaration (2005) and the Busan outcome (2011) as they provide guidelines on effective CSO engagement as development actors. The decision making processes and priority setting to involve the private sector need to involve civil societies and communities to ensure sensitivity to the way of life and intrinsic survival dependence of communities over their land and resources. It is critical that any development be appropriate for them. However, the IFIs' funding strategies are oriented to creating enabling environment for the private sector, not for CSOs and communities.

k) Lack of accountability standards for the private sector

Private companies involved in railway works and oil exploration have failed to assume any responsibility for the violations of community rights, for not taking into account the free, prior and informed consent of affected communities, and for the violations of existing social, environmental and human rights legislation. Mechanisms and policies to ensure accountability of corporate bodies, particularly those in the private sector, is still a distant dream. While the government targets civil society leaders and their organizations, ready to brand them as "terrorists", it provides a clear hand to those who would suppress communities in their weakest moments. Corporate bodies must uphold development effectiveness values as well as human rights principles and practices. As long as the entire state machinery is reduced to just facilitating business operations and is silencing voices detrimental to business interests, to the extent of employing emergency and security laws/ forces, accountability from the private sector or corporate bodies will remain a major concern.

Indeed, communities are compelled to resort to courts of law and to approach the ADB to address these violations. For example, communities affected by the ADB-financed road project in Kasom Khullen in Ukhrul District, Manipur challenged ADB's violations and impact in the Manipur High Court seeking redress and justice for violations but to no avail.[44]

Conclusion:

DFIs insisted on massive privatization across India's NE. Private sector development is central to the poverty reduction strategy of ADB. The ADB claims that given the limited capacity and mixed track record of the public sector, the private sector must become the "engine of growth." The ADB advocates expanding the role of the private sector from its present involvement in physical infrastructure projects like energy, water and transport into the domain of public goods and services, economic and social infrastructure, and basic services such as education, health, nutrition, water and sanitation.

The government simply does not have clear and strong accountability mechanisms so that communities challenged by large-scale development processes can seek redress. The question is: How can the basic values of development be advanced, whereby the needs and aspirations of communities are given due consideration? The determination of alternatives and development strategies should be based on people's intrinsic relationship with land and survival as well as the promotion of ecological integrity.

ADB has also stated that it will use its public sector assistance window to enforce a macroeconomic, policy, legal and regulatory environment for the "flourishing" of the private sector. This may include measures such as more open trade and investment policies, deregulation of pricing, and other market favoring interventions.[45]

The overwhelming emphasis on privatization and the role of corporate entities in India's Act E*ast Policy*, complemented by IFI's stand on project financings and objectives, has ushered in an economy defined and controlled by corporate interests. Such a focus leads to uncontrolled plunder of natural resources in the region, adversely affecting the physical and spiritual survival of indigenous peoples. Rather than freeing up resources for social sector spending, governments entering into ADB designed public-private partnerships have confronted increased debt and liabilities and measures that reduce social spending.

If development projects are to include the involvement of the private sector, there are certain measures that must be put into place.

Corporations investing in developing countries should promote human rights under existing international agreements and conventions. They should not collude with a partner country government in human rights violations, such as forced evictions or forced labour. Governments should issue enforceable human rights and environmental guidelines for corporations. International financial institutions and bilateral donors should ensure the formulation and compliance of social, environmental and human rights safeguards for their investments with the private sector and in project implementation, with appropriate and accessible complaints mechanisms, and in accordance with prevailing development best practice standards.

There are clear challenges in seeking justice for DFI financed projects affecting indigenous communities. In several instances the IFC has failed to take appropriate steps to ensure compliance of human rights standards by corporate bodies. Several bilateral DFIs do not have policies to promote indigenous peoples' rights as per the UN Declaration on Indigenous Peoples, 2007. The adoption of a human rights based approach to development is a challenge with private sector focused development processes.

Transparency and accountability should be at the heart of all private sector engagement and development with full public access to all project documentation. Affected populations need to have a voice and the power to hold private sector actors accountable for development results. Companies should report on their financial affairs, including tax and procurement procedures, on a country basis. The formal and informal tying of aid and aid-supported investments must end. Corporations involved in developing countries, should define a code of conduct for their role in development projects and follow these standards irrespective of the laws of the country concerned. All corporations involved in developing countries, should carry out a fair, inclusive and transparent environmental and social impact assessment before a development project is launched.

And finally, it is critically important to formulate a "policy framework for managing business and human rights based on three pillars: the state duty to protect against human rights abuses by third parties, including business;

the corporate responsibility to respect human rights; and greater access by victims to effective justice remedy."[46]

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