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Critical Approaches to Risk under Authoritarian Regimes: the
Asian Development Bank and the Greater Mekong Subregion

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Critical Approaches to Risk Under Authoritarian Regimes: The Asian Development Bank and the Greater Mekong Subregion

Dr Adam Simpson¹

ABSTRACT: *Multilateral development banks and the Asian Development Bank (ADB) in particular, have not provided direct assistance to Myanmar (Burma) since the mid-1980s, largely as a concession to global disapprobation of its ruling military regime. Through its Greater Mekong Subregion (GMS) project, however, the ADB still provides indirect assistance to Myanmar and direct assistance to the authoritarian single party states of Laos and Vietnam. The aim of the GMS East-West Economic Corridor (EWEC) is to facilitate trade and investment across the GMS but the Myanmar leg of the road corridor, from Mawlamyine (Moulmein) to the Thai border at Myawaddy, traverses Karen State, which has been fraught with civil conflict since 1948. The ruling military regime along with its allies, the Democratic Karen Buddhist Army (DKBA), nominally controls this route but in mid-2010 there were serious defections from the DKBA to the opposition Karen National Liberation Army (KNLA) over the military regime's Border Guard Force (BGF) leading to increased tension in the area. The regime then closed the border at Myawaddy, ostensibly over a dispute with Thailand but more likely due to domestic political concerns, resulting in a large build-up of goods on both sides of the border. The risks of greater civil conflict in this region are exacerbated by the revenue raising opportunities that various competing groups can derive from increased border trade while the risks of forced labour are ubiquitous for major development projects in Myanmar. The ADB acknowledges that the early stages of the EWEC will be funded by public sources but it clearly sees its role as guarantor of long-term stability for the project to minimise the risks faced by private investment. The very nature of the project itself, however, which ignores domestic political issues, is likely to result in heightened risks of insecurity for the oppressed ethnic minorities who inhabit the region.*

Introduction

The World Bank and the Asian Development Bank (ADB) have not provided significant direct assistance to Myanmar (Burma) since the mid-1980s, largely as a result of Western disapprobation over its ruling military regime. The processes adopted by the ADB through its funding of programs and projects across the Asia-Pacific as a whole can be considered part of an emerging 'regulatory regionalism' (Hameiri and Jayasuriya 2011; Jayasuriya 2009), but its role in Myanmar has been far more circumspect. Through its

¹ The analysis in this paper will be supplemented by further fieldwork in Yangon, Bangkok, London, Washington and New York by May 2011. Adam Simpson is a Lecturer at the School of Communication, International Studies & Languages, University of South Australia

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Greater Mekong Subregion (GMS)² project the ADB still provides small amounts of indirect assistance to Myanmar but it is relatively insignificant, due to the broader Western policies of isolating Myanmar, compared to the direct assistance proffered to other authoritarian GMS states such as Laos and Vietnam. Much of this indirect assistance relates to proposed 'economic corridors' including the East-West Economic Corridor (EWEC), a GMS Flagship Initiative that aims to facilitate trade and investment and reduce poverty across Myanmar, Thailand, Laos and Vietnam (Asian Development Bank 2010c; 2010d).

Managing the risks associated with any kind of investment in Myanmar is fraught due to the difficult international and domestic political environments that face both private and public actors (Cheesman et al. 2010; Roberts 2010). There are increasing global risks, of litigation and to reputation, for corporations who deal with authoritarian regimes who abuse human rights (Kytle and Ruggie 2005), but the sort of risks faced by multilateral development banks (MDBs), such as the World Bank and ADB, are less clear. The long term effectiveness of these institutions can be dependent on the perceived integrity of their reputations as good institutional citizens but reputational risk can be difficult to quantify and manage even for private corporations (Eccles et al. 2007); for MDBs, as public organisations, there is a far greater array of competing interests and elements that require consideration. In particular the ADB will be judged on its ability to achieve its stated aim of sustainably raising local communities out of poverty.

This paper therefore adopts a critical approach in developing a framework that analyses the risks associated with ADB investment in Myanmar, and particularly in relation to GMS programs such as the EWEC. Despite the extensive literature that critiques the role of the ADB as promoting inequitable development (including from this author) (see, for example, Oehlers 2006; Raman 2009; Rosser 2009; Simpson 2007), the risks of unjust outcomes when considering ADB funding in Myanmar must be balanced against an existing unchecked investment climate in which the ADB's transparency and accountability are virtuous in comparison. While there are undoubted difficulties with both these issues in the operations of MDBs, particularly in authoritarian states, the increasing business investment of TNCs from China, Thailand, Singapore and many other Asian states in Myanmar renders the Western sanctions regime, and its associated effective boycott by MDBs, ineffectual. The ADB faces a plethora of risks by fully re-engaging with Myanmar but its policies and processes have improved considerably since its much maligned engagement with Vietnam in 1993 (Raman 2009, 286), largely as a result of civil society and academic critique. While the possibilities for promoting equitable development and genuine transparency and democracy are limited, in the context of present day Myanmar the risks faced by increasing engagement outweigh those of continued neglect.

² The Greater Mekong Subregion (GMS) is made up of Cambodia, the China (specifically Yunnan Province and Guangxi Zhuang Autonomous Region), Lao PDR, Myanmar, Thailand, and Vietnam (Asian Development Bank 2010c).

Perspectives on the Asian Development Bank

As distributors of state funds MDBs are essentially inter-governmental organisations and therefore their approach to development can be seen as an extension of government policies. The ADB's shares are dominated by the US and Japan, each of whom has almost 13 percent of the voting rights while other regional economic powers Australia, China, India and Indonesia have approximately 5 percent each (Asian Development Bank 2009). With its strong presence both in the bank and the region the US plays a central role in determining ADB directions and its policy of isolating Myanmar over much of the last two decades has ensured that little overt ADB funding has entered Myanmar over this time. Despite a demonstrable need for development funding most Western dominated funding agencies have largely stayed away.

The role of the ADB in 'fragile states' or 'weakly performing countries' is contentious, however, with Rosser (2009, 377) arguing that it has adopted a coercive neo-liberal approach 'driven primarily by a concern to manage the risks to developed countries posed by instability, conflict, crime and disease in fragile states, rather than developmental considerations'. If this is the overriding concern of the ADB then developed countries see little risk of contagion from the maladies facing Myanmar as it has received no funding under this program despite satisfying many of the requirements: having weak governance; weak rule of law; and civil unrest, particularly in ethnic areas. Likewise there is a continued absence of Myanmar, a UN-designated Least Developed Country (LDC) since 1987, from participation in the Asian Development Fund (ADF), which was set up specifically by the ADB to fund both fragile states and other developing member countries to 'promote poverty reduction and improvements in the quality of life in the poorer countries of the Asia and Pacific region' (Asian Development Bank 2010b). With Myanmar ranked 132 out of 169 countries on the Human Development Index (UNDP 2010), it has nevertheless become something of a pariah state with regards official ADB funding policy to the extent that Myanmar's GNI is no longer recorded, although this is largely a consequence of Myanmar's fictional reporting (Turnell 2010). There is little doubt that there are numerous political, economic and environmental constraints on the ADB's stated aim of poverty reduction throughout the GMS (Oehlers 2006, 466-67), but most of this activity has bypassed Myanmar leaving it largely void of funding from public organisations.

One of the most significant GMS infrastructure projects that the ADB has supported is the Nam Theun 2 (NT2) Hydropower Project in Laos for which it provided technical assistance and US\$120 million in loans and guarantees (Asian Development Bank 2010a). Despite the technical assistance delivered the most significant contribution by the ADB was the risk mitigation role it played, which reduced the risks and costs associated with private investment in the project (see del Rosario's contribution to this workshop and (Simpson 2007)). This role was complemented in the NT2 project by the World Bank, which by virtue of its global role attracted greater scrutiny. Although there are valid criticisms of the depoliticised participatory processes followed by the World Bank in the NT2 and other

projects (Carroll 2010; Goldman 2005), some anti-NT2 activists accepted that the involvement of MDBs allowed NGOs to access information and exert pressure that would have been impossible without that involvement. In that respect villagers relocated by the project were 'better off' than elsewhere in Laos, 'where there are no legally binding obligations to attend to villagers' or NGO concerns' (Singh 2009, 496) and where rural people 'frequently do not even have access to the electricity produced by dams that have displaced them' (Baird et al. 2009, 606).

The focus on neoliberal approaches in the World Bank and ADB has also been criticised both by activists and academics with one report arguing that the ADB's involvement in tree plantations in Laos has actually increased poverty by replacing villagers' land with monocultures and destroying livelihoods (Lang and Shoemaker 2006). Past analysis also suggests that any future involvement by the ADB in Myanmar is at significant risk of causing 'reverse aid' with the cost of ADB-tied procurements to be borne by Myanmar and most of the contracts going to transnational corporations (TNCs) based in donor countries (Raman 2009, 299). There is some evidence, however, that the ADB, like the World Bank (Park 2010), has attempted to address this sort of criticism, in part by creating accountability mechanisms for people potentially adversely affected by ADB funded development projects, although these are encountering objections from some governments in the South and are yet to be implemented (see Park's contribution to this workshop).

Despite any procedural improvements, however, any major developments that the ADB or the World Bank invest in within authoritarian countries such as Laos and Myanmar are still likely to significantly increase risks for the human and environmental security of local communities who often face relocation from what are usually ancestral lands; an important consideration for the largely animist Karen of eastern Myanmar through which the EWEC travels (Simpson 2004, 31). Nevertheless these risks must be balanced against the risks associated with major projects proceeding without MDB oversight, which is increasingly likely with growing business interest in Myanmar from the region.

Isolation versus Engagement: West versus East

There is a line-up of Chinese, Thai, Indian and Singaporean TNCs, as well as many others, waiting to invest in Myanmar. Chinese investments in oil, gas and hydropower are all significant (Simpson 2008; Turnell 2007) and while domestic activism convinced the Chinese government to at least temporarily suspend hydropower projects on the Nu River in China (Mertha 2009, 1002-06; Watts 2011), there is little evidence that this pressure has had any influence on its development agenda downstream in Myanmar. Another major development proposal, the Dawei Development Project, is proposed for eastern Myanmar near the EWEC and is being driven largely by the Thai-based Italian-Thai Development Company. This enormous \$8 billion industrial project envisions a deep sea port, petrochemical complex, fertilizer factory, coal power station and further industrialisation along the pristine coast near Dawei (formerly Tavoy) as well as a rail link and eight lane

freeway to Thailand (Italian-Thai Development PCL 2010). This project is approximately 250 km south of the proposed terminal of the ADB's EWEC at Mawlamyine (formerly Moulmein) but the size of this project has the capacity to significantly impact not only Myanmar's industrial development but also the environmental balance of that entire region with Myanmar's most prominent environmentalist, Win Myo Thu, describing it in 2011 as his 'big headache at the moment'.³ The attraction of Myanmar for TNCs, in addition to its geographic location, is largely its lack of environmental, labour and private property rights which allows this sort of environmentally destructive development to be undertaken in populated areas with little environmental oversight. Villagers in the area receive little if any compensation after their forced relocation. As an Italian-Thai representative argued in promoting the project: "Thais would argue about compensation and go to court. That's not the case with this project" (*The International Herald Tribune* 2010). Despite Myanmar's attraction for international capital the weakness of its rather arbitrary justice system also increases both the personal and financial risks associated with investing in Myanmar with Australian businessman Ross Dunkley, the founder and long time editor of the *Myanmar Times*, arrested and left languishing in Insein Prison after engaging in conflictual negotiations with his local business partner, who has well established links to the ruling military (*Bangkok Post* 2011).

There is little doubt that the locus of this sort of economic activity in the recent past and also for the foreseeable future lies predominantly in Asia rather than in the Western world and also that China has been the dominant force in this transformation. What hasn't been adequately addressed by many organisations and institutions of civil society and government in the West is the impact that this shift has had on the ability of the West to impose its will on 'rogue' or non-compliant states such as Myanmar. While the US still remains, for now, the global leader in economic and military power and reach its supremacy in Asia has been whittled away due to China's increasing role in the region (Kang 2010; Miller 2010).

Under Obama the US has tried to separate its relations with ASEAN in general with its specific policies on Myanmar (Clapp 2010, 413), but this, too, is a recognition of retreating influence. With regards human rights in ASEAN Katsumata (2009) argues that the ability of the West to apply greater material pressure is diminishing with the rise of an East Asian community centered on the ASEAN-China concord. He also argues, however, that pressure within the normative environment focused on human rights as a pre-requisite for international legitimacy is likely to have greater success. Despite the military having successfully consolidated its power in Myanmar (Harn Yawngnwe 2010, 432; McCarthy 2008a; Selth 2008), there is some evidence that this strategy has the potential to initiate incremental change. For example, despite being prepared 'to go to the brink' in its relationship with the International Labour Organisation (ILO) (Wilson 2006, 83), the SPDC

³ Win Myo Thu (2011, 5 January). Interview with author. MD and Founder, ECODEV. Yangon, Myanmar.

relented under threat of action in the International Court of Justice and signed a Supplementary Understanding in February 2007 that gave ILO representatives and domestic workers protections hitherto denied.⁴

Nevertheless, both within ASEAN and even within the Burmese military itself there are concerns over the increasingly dominant influence of China in the region and this concern may be the main leverage Western countries can apply (Katsumata 2009, 630; Roberts 2010; Wilson 2006). The worst outcome for ASEAN would be that Myanmar becomes China's proxy and in this respect ASEAN needs Myanmar at least as much, if not more that Myanmar needs ASEAN. Investments by ASEAN in Myanmar have therefore also increased dramatically with the result that economic sanctions that have been applied by the US and Europe to disrupt the economic fortunes of Myanmar's elites, and to either force regime change or encourage substantial improvements within the current regime, are proving ineffectual. Despite continuing arguments in favour of isolationism by Western governments and their MDBs by activists based largely in the West (Task Force on US Policy toward Burma/Myanmar 2010), this approach now has no chance of achieving its goal. If it ever did those days came to an end when the revenues from the Yadana pipeline started flowing in earnest in 2000, ushering in an era of resource-based foreign exchange income that has proved a lifeline for the regime. Although the National League for Democracy (NLD) and other domestic opposition groups continue to support sanctions there are signs that some movement may be forthcoming. Aye Tha Aung, the Secretary of the Committee Representing the People's Parliament (CRPP) and deputy to Aung San Suu Kyi in the opposition movement acknowledges that sanctions are 'not as effective as they should be due to China, India and Thailand' and that if MDBs manage to bring more transparency, engagement with the ADB 'could be worth it'.⁵ Regardless of how the opposition moves the regime does not need ADB or World Bank funding to maintain its dominant role in the country so there is little economic leverage to be gained by continued isolation. This situation changes the balance of risks that are associated with ADB decisions to support projects such as the EWEC; what follows is a discussion of this project and an analysis of those risks.

The East-West Economic Corridor (EWEC)

The East-West Economic Corridor (EWEC) was launched in 1998 as one of the Flagship Initiatives of the Greater Mekong Subregion (GMS) and according to the ADB [i]t has adopted a holistic approach to developing a cost-effective way of instituting an efficient transport system for moving goods and people in the subregion, while simultaneously developing telecommunications and energy infrastructure, tourism, and a

⁴ Steve Marshall (7 January 2011). *Interview with Author*. Liaison Officer, International Labour Organisation (ILO). Yangon, Myanmar.

⁵ Aye Tha Aung (2010, 27 December). *Interview with author*. Translated by Zaw Myat Lin. General Secretary, Arakan League for Democracy (ALD), Secretary of CRPP. Yangon, Myanmar.

policy and regulatory environment that facilitates and encourages private sector development (Asian Development Bank 2010d, 6).

The EWEC is centered on the East–West Transport Corridor that runs from Da Nang in Vietnam, through Laos and Thailand, to Myawaddy in Karen State on the Myanmar side of the Thai border then through Thingannyinaung and Kawkareik to Mawlamyine on the Myanmar coast (see Figure 1). Progress on Myanmar projects linked to the EWEC has been limited partially due to a lack of expertise in the Myanmar government but also its ad hoc and arbitrary policy making. Significant port expansion at the ‘gateway node’ of Mawlamyine was envisaged but was listed under ‘little or no implementation’ in the most recent report (Asian Development Bank 2001; 2010d, 10-11). Similarly, industrial zones were announced in Mawlamyine and Myawaddy (Lubeigt 2006) but Mawlamyine is not even mentioned in the latest report while Myawaddy has been constrained, according to the ADB, by the government’s ‘restrictive policies on businesses, especially foreign-owned ones’ (Asian Development Bank 2010d, 72).



Figure 1: GMS East West Economic Corridor
Source: (Asian Development Bank 2010d, 5)

It is not only government incompetence that has restricted activity but the practicalities of construction in Karen State itself. In the updated *Vientiane Plan of Action for GMS Development* the 21st transport project listed is the Thingannyinaung-Kawkareik leg of the EWEC in Myanmar which is to be undertaken with Thai funding (Greater Mekong Subregion 2010, 6). Thai assistance had already ensured that the relatively flat 18km west from Myawaddy to Thingannyinaung was completed in 2006 and that a 40km stretch of road through the Dawna mountain range to Kawkareik had been surveyed and designed by mid-2007 (Greater Mekong Subregion 2010, 92). Until this road is built traffic on the existing road can only travel in only one direction, with the direction changing each day, but the insurgent Karen National Union (KNU) and its armed wing, the Karen National Liberation Army (KNLA), is active in these mountains and according to exiled Karen activists any further construction awaits KNU approval.⁶

This stretch of the road, and much of the Myanmar leg of the road corridor, has been fraught with civil conflict since the KNU's demand for independence was refused in late 1948 (Charney 2009, 74; South 2009, 37), with foreign tourists still unable to travel in this region. The ruling military regime along with its allies since 1994, the Democratic Karen Buddhist Army (DKBA), nominally controls this route. In July 2010, however, there were serious defections from the DKBA to the opposition KNLA over the military regime's Border Guard Force (BGF) leading to increased tension in the area with the military's Tactical Operation Command in Thingannyinaung ordering the remaining members of the DKBA not to carry weapons when travelling (Weng 2010a; 2010b). The regime then closed the border at Myawaddy, ostensibly over a dispute with Thailand but more likely to pressure the DKBA, resulting in a large build-up of goods on both sides of the border (see Figure 2) (Yeni 2010). The ADB's dream of free flowing trade and economic activity in this region is far from a reality with this normally busy border having been closed almost continuously for the next eight months (at the time of writing) by arbitrary decision making by the government and a civil conflict going back over six decades. The risks of greater civil conflict in this region are exacerbated by the revenue raising opportunities that various competing groups can derive from taxing increased cross-border trade.

⁶ Naing Htoo (2010, 10 December). *Interview with author*. Program Coordinator, EarthRights International (ERI). Chiang Mai, Thailand.



Figure 2: The EWEC in action: The border post at Mae Sot and the closed 'Friendship Bridge' to Myawaddy in Myanmar

Source: The author, 2 December 2010

The risks of forced labour are ubiquitous for major development projects in Myanmar and particularly in ethnic Karen areas (Giannini and Friedman 2005; ILO 1998; KWO 2007; Layton 2000), but Steve Marshall, the ILO Liaison Officer stationed in Yangon since 2007, noted that he had received 430 complaints of forced labour throughout the country but that none had been received in relation to the EWEC project (Macan-Markar 2010). Despite arguing that sanctions shouldn't all be removed – 'otherwise the [generals] will think their actions have been vindicated' – he nonetheless sees many potential benefits of engagement by the international community.⁷ Although there are no guarantees of probity in a country like Myanmar, having a fully engaged ADB focus attention on the EWEC has the potential to raise labour standards not only on the project but also for other projects throughout the country.

While the ADB has provided much of the technical assistance for the EWEC transport corridor it's more important role for transnational capital, as with the NT2, is to mitigate international risk. Rather it has been the Japan Bank for International Cooperation (JBIC), as well as the Thai contribution in Myanmar, that has been the main funding source across the EWEC accounting for about eighty percent of the \$900 million allocated for

⁷ Steve Marshall (2011, 7 January). *Interview with author*. Liaison Officer, International Labour Organisation (ILO). Yangon, Myanmar.

transport infrastructure. The ADB sees the role of EWEC as providing an environment that stimulates sustained private sector-led growth but it argues that its development financing for the corridor is focused on the reduction of poverty, development of rural and border areas, improvements in the earnings of low income and vulnerable groups, including the provision of jobs for women, and the promotion of tourism along the corridor (Asian Development Bank 2010d, 23-24).

These are principled aims but a 2009 report indirectly commissioned by the ADB throws doubts on the ability of a road corridor achieving some of these goals, particularly in relation to women where poverty is often concentrated. As a small part of the EWEC funding Win Myo Thu, founder of the Myanmar-based NGO Economically Progressive Ecosystem Development (ECODEV), studied the impact of regional cross-border road networking development in Myanmar to examine benefits to rural communities and gender differences in livelihood impacts (ECODEV 2010). He researched the impacts on accessibility and mobility and found that statistically it helped both areas for men but that it didn't help the mobility of women.⁸ The provision of cross-border roads may therefore exacerbate gender inequalities which could drive more women into poverty and be a key barrier to achieving the aims set out above. Better highway access to remote areas has also been shown to potentially increase female prostitution, trafficking and the spread of HIV with Myanmar's border regions areas being highly susceptible (Barcellos et al. 2010, 9).⁹ This report will be published for public access by the Asian Institute of Technology (AIT) in 2011 and it demonstrates that policies and programs will need to be put in place to ensure that 'the provision of jobs for women' is selective in the nature of these jobs.

While this report is critical of the project its actual existence represents a key difference between an ADB financed project and those solely financed by non-MDB sources in Myanmar. Although the report doubts the ability of cross-border roads to achieve equitable and just outcomes in relation to poverty reduction for women it is highly unlikely to prevent the project from going ahead. Nevertheless, that the ADB commissioned this report is a vast improvement over private projects in Myanmar, such as that at Dawei, for which there is no legal requirement for any sort of social or environmental impact assessment (SIA and EIA) and for which any assessment, if it exists at all, is often perfunctory. The ADB report will also be published and publicly available, which does not happen for private SIA and EIA in Myanmar. As an exiled Karen activist in the NGO EarthRights International (ERI) notes, if MDBs engage with Myanmar they bring in more governance guidelines than a Chinese or Thai TNC and these give opportunities for change with civil society able to undertake advocacy. This could lead to more people inside the country who can openly monitor projects but he acknowledged that if the engagement is

⁸ Win Myo Thu (2011, 5 January). *Interview with author*. MD and Founder, ECODEV. Yangon, Myanmar.

⁹ Lwin Lwin Nao (2010, 3 December). *Interview with author*. Coordinator of the Information and Documentation Department, Palaung Women's Organisation (PWO). Mae Sot, Thailand.

not done well ‘it can just cause problems’.¹⁰ Other activists argued that the SPDC and inside civil society were not really ready for MDB engagement,¹¹ but the feeling of most civil society activists active inside the country, even if they felt that civil society had been devastated by decades of local and international neglect, was that engagement by MDBs would offer better opportunities for the development of effective governance.¹² According to Win Myo Thu, if MDB projects can be used to increase the involvement of local people in decision making and management ‘there are still benefits for governance and participation’ even if the project isn’t as effective as it could be.¹³

Although there is a sense in activist circles that ADB engagement has the potential to initiate change the optimism of the ADB’s original pre-investment study in 2001 has certainly waned. With three of the EWEC’s four countries governed by authoritarian regimes, with the government in Myanmar being the most opaque, it is not surprising that some of the utopian assumptions from the initial study have faltered. The project continues but even the ADB acknowledges there is much to do:

With limited data and lack of overall transparency, coupled with the absence of quantitative benchmarks, there remains a clear challenge for member countries to develop ownership, oversight, and accountability on the progress in transforming the EWEC into an economic corridor (Asian Development Bank 2010d, 10).

All risks are not created equal

In a regulatory environment where industrial developments such as the Dawei Development Project and numerous large gas and hydropower projects around the country can receive government approval without any significant EIA or SIA the transparency and oversight provided by MDBs such as the ADB might alleviate some of the risks faced not only by foreign businesses but, more importantly, the existential risks faced by ethnic villagers who live in the vicinity of the projects. Much contemporary risk analysis follows the approach of Ulrich Beck in which *risks* are considered to be those generated by the actions of individuals in modern industrial societies (Beck 1992; Jarvis 2007, 30-31), while *hazards* are considered naturally occurring events that adversely affect human well being. The problem with this approach is that although the risks facing TNCs and MDBs are well entrenched within ‘the modern’ the risks faced by ethnic minority villagers and the poor in

¹⁰ Chana Maung (2010, 10 December). *Interview with author*. Southeast Asia Office Director, EarthRights International (ERI). Chiang Mai, Thailand.

¹¹ Naing Htoo (2010, 10 December). *Interview with author*. Program Coordinator, EarthRights International (ERI). Chiang Mai, Thailand; Patrick (2010, 30 November). *Interview with author*. Pseudonym for activist with Burma NGO based in Chiang Mai with Thai and foreign employees. Chiang Mai, Thailand.

¹² Bobby Maung (2011, 7 January). *Interview with author*. CEO, Network Activities Group (NAG). Yangon, Myanmar; Mael Raynaud (2010, 27 November). *Interview with author*. Myanmar Egress. Chiang Mai, Thailand; Debbie Aung Din Taylor (2011, 9 January). *Interview with author*. International Development Enterprises (IDE). Yangon, Myanmar;

¹³ Win Myo Thu (2011, 5 January). *Interview with author*. MD and Founder, ECODEV. Yangon, Myanmar.

Myanmar are more difficult to classify. From Beck's perspective the risks faced are more like the time worn afflictions, such as hunger and lack of basic medical care, that faced pre-modern societies and that he would therefore classify as hazards. The difference is this situation, however, is that while many villagers live largely traditional pre-industrial lives many of their insecurities are human generated in the form of oppression and aggression by the very industrialised military machine of the Myanmar state. These marginalised groups can therefore still be included in an overall risk analysis and by adopting a critical approach their interests are actually prioritised within that analysis. This approach can be considered part of what Eschle and Maignushca classify as 'critical scholarship', that is, research that explicitly recognises and takes responsibility for its normative orientation; that aims to empower a marginalised and oppressed constituency by making them visible and audible; and that attempts to challenge the prevailing power hierarchies, including in terms of the construction of knowledge (2006, 120).

Any large ADB project or program carries a large array of risks to both marginalised groups and also a variety of other stakeholders but these risks increase significantly when it is undertaken under an authoritarian regime. When a project is undertaken in a country and region under brutal military rule and characterised by multi-ethnic civil conflict the scope and variety of risks increases substantially once again. The risks associated with the ADB providing extensive funding and assistance for the EWEC in Myanmar creates enormous risks, but there are also risks associated with a continued boycott. The risks of engaging must take into account geopolitical developments, particularly the rise of China, and therefore be balanced against the risks of major development projects proceeding in Myanmar without any oversight by international public institutions. The risks that the ADB must balance over Myanmar are divided into six categories below that encompass: private capital; donor governments and the ADB itself; ethnic villagers who live in the vicinity of large projects; the rest of Myanmar's general population; the environment; and the ruling military regime. Within each category a qualitative assessment of the risks is undertaken followed by a final overall assessment of those risks.

The first way in which the engagement of the ADB affects risk is through its role in reducing the risk for private, and often transnational, capital by providing funds and guarantees for projects such as EWEC and the NT2. This activity supports a program to constitute neoliberal markets across the GMS and the wider region (Oehlers 2006; Raman 2009; Rosser 2009). The ADB acknowledges that the early stages of the EWEC will be funded by public sources but it clearly sees its role as guarantor of long-term stability for the project. As shown by the treatment of Ross Dunkley, however, the arbitrary nature of Myanmar's legal and economic systems create financial and personal risks for any transnational investor in Myanmar. While the presence of the ADB is no guarantee against this sort of action it is likely to improve accountability in the investment environment and significantly reduce risk for foreign capital. Despite Myanmar currently being a 'doughnut hole' of ADB investment in the region its neoliberal approach has still been noted by the

military regime, which has engaged in a program of privatisation of state assets over the last two decades that accelerated to fever pitch in the lead up to the 2010 elections (Ba Kaung 2010; Turnell 2010, 35). The risk of not engaging in Myanmar is that a neoliberal approach is encouraged by its rhetoric but that the safeguards which should accompany any privatisation process are absent. One of the risks of this strategy is therefore that what the ADB anticipates as an orderly progression from a state-run to a competitive and transparent economy instead results in what is being created in Myanmar, which is an opaque crony capitalism nirvana for the senior military and their close business associates.

Second, by not directly funding Myanmar since the 1980s the ADB has attempted to minimise reputational risk primarily for itself and donor governments. The ADB management may not want to be seen funding a road project in a country where there is little rule of law and is characterised by arbitrary and indefinite border closures. More significantly, with the US as the most powerful donor the political risk to successive US Governments is that with the pro-sanctions lobby gaining extraordinary influence in Washington any perceived engagement with the regime will lose its political support while the country's strategic importance has been given a low priority compared with those in the Middle East. The potential for engagement of the ADB is therefore inextricably linked to the Western sanctions regime but there are more options than either an all-encompassing sanctions regime or their complete removal. Almost all international governments, include those of China and the remaining ASEAN countries, prefer to see a more open and competitive political environment in Myanmar, although there are of course variations. The West may therefore have more success in influencing the direction in Myanmar by focusing on extremely targeted sanctions that focus on transparency in gas revenues and the closure of black market loop holes rather than broad based trade sanctions that currently exist but engagement by the ADB would not preclude the implementation of these sanctions. Indeed the ADB is currently seen as covertly pursuing the EWEC in Myanmar but it is unable to implement safeguards so it satisfies neither those who wish to stop the EWEC nor those who prefer engagement. With ADB engagement and targeted sanctions the reputational risk for both the ADB and Western governments could be minimised.

Third, a more important set of risks are those faced by ethnic villagers who live in the vicinity of large projects. Without engagement by the ADB they currently face risks of increased insecurities due to major projects that are undertaken with the involvement of TNCs from China and elsewhere in the East with little or no SIA or EIA. These insecurities include serious or existential risks such as forced labour systematic rape and sexual assault, land confiscation, summary execution and torture (AAPPB 2005; Doyle and Simpson 2006; KWO 2007; Lintner 1999; Simpson 2007; Smith 1999). Although forced labour is ubiquitous for most major projects as noted above there have been no reports to the ILO of forced labour in the EWEC corridor. Of course this is no guarantee that it has not happened it is indicative. A generous reading of this statistic could suggest that even with the ADB as a distant overseer, with much of the assistance coming from the Thai

government rather than the ADB, the international interest in the project has encouraged the military regime to minimise the use of forced labour in the project.

Similarly, major development projects in Myanmar, such as the Shwe Gas Project in the West, are usually accompanied by an expansion of brothels and prostitution, often for Chinese workers, and abuse of local ethnic women by the military.¹⁴ As discussed above there are many other risks for women specifically associated with road developments including the spread of HIV/AIDS and trafficking. With regards the EWEC, unlike private investments, the ADB has acknowledged that these risks exist and efforts are being undertaken to mitigate them (Asian Development Bank 2008). Women are discriminated against in Myanmar as a whole and this is exacerbated in most major development projects so involvement of the ADB together with civil society groups could encourage both greater respect and protections for women. Partially as a consequence of isolation from development agencies, many civil society organisations inside Myanmar are dominated by elites that replicate the unequal power relations that exist in broader society and these include gender imbalances in participation and decision making (South 2009, 174-99).

In the exile communities there has been a rapid transformation of the role and influence of women with strong groups such as the Palaung Women's Organisation (PWO) publishing highly visible reports and managing training for women in precarious border zones.¹⁵ ERI has stipulated that women must comprise half the students of their EarthRights Schools for activists and in 2005 the Burma Lawyers Council (BLC) based in Mae Sot set up a Law School where women must make up *over* half the students.¹⁶ When the ERI Burma School was set up in 2000 ERI found it difficult to fill the female positions because women were not used to playing such active roles but by the end of the decade the positions were always oversubscribed.¹⁷ The changes in both the status and expectations of women have changed dramatically for those outside Myanmar but change has been slower inside. With engagement and supervision by the ADB, in conjunction with civil society inside and outside Myanmar, the many risks facing women along the EWEC and elsewhere in Myanmar could be mitigated.

Land confiscation linked to major development projects is a widespread problem for ethnic minority villagers in Myanmar, even outside conflict zones (TBBC 2010, 160).¹⁸ If the military forces the confiscation there is often no compensation but when international

¹⁴ Phyo Phyo (2011, 7 January). *Interview with author*. Pseudonym for activist with Shwe Gas Movement (SGM). Yangon, Myanmar.

¹⁵ Lway Dat Plang (2010, 3 December). *Interview with author*. Treasurer, Palaung Women's Organisation (PWO). Mae Sot, Thailand.

¹⁶ Thein Oo (2010, 3 December). *Interview with author*. Chairman, Burma Lawyer's Council (BLC). Mae Sot, Thailand.

¹⁷ Khin Nanda (2009, 4 April). *Interview with author*. Training Coordinator, EarthRights School Burma. At EarthRights School Burma, Chiang Mai, Thailand.

¹⁸ Steve Marshall (2011, 7 January). *Interview with author*. Liaison Officer, International Labour Organisation (ILO). Yangon, Myanmar.

representatives, such as those from a TNC, reach a villager first compensation is more likely, even if it is inadequate.¹⁹ The presence of ADB representatives early on in the development of a project such as the EWEC could help ensure that if villagers are displaced that, as with many of the residents of the Nakai Plateau on the NT2 site in Laos, compensation is forthcoming and significant. Most projects in Myanmar for the foreseeable future are unlikely to satisfy the level of free, prior and informed consent proposed by activists and the World Commission on Dams (WCD 2000), but the level of displacement under the ADB is likely to be less with compensation higher than would otherwise be the case. Likewise risks of summary execution and torture, although ever present in Myanmar's civil conflict zones, are likely to be reduced in areas where ADB workers or contractors are visibly operating, particularly if extensive engagement with local communities is undertaken prior to construction of the project.

There is a risk that further construction along the EWEC will increase civil conflict in the region, partially as the military will have better transport corridors but also over competition for the revenue raising opportunities that various competing groups can derive from logging or taxing increased border trade. Even with no EWEC activity, however, there has been increased civil conflict in this area since the elections were held on 7 November 2010 with fighting between various combinations of DKBA, KNLA and Burmese military troops along the border initially sending 20,000 refugees into Mae Sot in Thailand. The prospect of ADB representatives in the region would be welcomed by opposition groups as a buttress against government military atrocities so an agreement between the groups and the ADB that the road is to be built is unlikely to worsen conflict.

Fourth, in addition to ethnic minorities in the vicinity of projects ADB engagement with Myanmar could have human security impacts within the rest of the population relating to existing poverty and repression. While it should be recognised that the experience of the middle classes in Yangon, even that small group not directly linked with the military, is significantly different to those of ethnic minorities in the border regions much of the rest of Myanmar's population are faced with daily challenges that undermine their security. As a result of widespread and entrenched poverty much of the population continues to have limited access to basic health, sanitation and education services. There is little chance of public health improving under the military regime (Mahn et al. 2008; Oehlers 2005) and the first indications after the elections were not promising. In the first annual budget announced after the formation of the parliament, and over which the parliament had no oversight, the healthcare sector received 9.5 billion kyat (\$US110 million), or 1.3 percent of the total budget equating to around \$US2 per person, while 1.8 trillion kyat (\$US2.04 billion), or 23 percent of annual spending, was allocated to the military (Allchin 2011).

¹⁹ Phyo Phyo (2011, 7 January). *Interview with author*. Pseudonym for activist with Shwe Gas Movement (SGM). Yangon, Myanmar.

Education receives more than health in the budget but the education system for poor people is still ineffectual and corrupt with students often able to buy questions to upcoming exams. The curriculum itself is also failing to nurture creative and analytical students with a focus on rote learning. Without significant restructuring and investment the education system is unlikely to provide opportunities for escaping poverty for much of the population (Han Tin 2008). With project such as the EWEC the ADB can instigate greater transparency in any revenues with caveats on the distribution of wealth as they did in Laos for the NT2. At present the evidence suggests that the military skims off most of the revenues from major gas projects and deposits it in two Singapore banks for its own use while recording it in government accounts at the official exchange rate, which is less than 1 percent of the market exchange rate (Htoo et al. 2009, 43; Turnell 2010, 30-31).²⁰ Although some of the wealth generated by the EWEC will tend to be more dispersed than gas projects or the NT2, and therefore more difficult to control, there would still be opportunities for the ADB to pursue greater transparency and accountability in any contracts related to the project. Although the oppressive initial sessions in parliament indicate that it will continue be extremely difficult for parliament to hold the military to account the existence of opposition MPs does provide an outlet for delivering ADB proposals or reports into a formal political setting that has not been available for over two decades. Over the long term these outlets create opportunities for developing a more equitable and transparent distribution of government revenues.

Another risk of insecurity faced by the general population is that of arbitrary repression from various levels of the military. These may be the forced low level payment of bribes or forced removal from land by regional military units as a result of the government's self sufficiency policies (McLean 2010) or state decisions to crack down on protesters as occurred in 2007 (McCarthy 2008b). In the short term this is likely to continue whether or not the ADB is active in Myanmar but the opportunities for influencing these types of activities in the long term will only come from a committed presence within the country.

Fifth, major projects in Myanmar are likely to engender high risks of environmental destruction and insecurity even relative to those in neighbouring countries due to a complete lack of environmental regulation and the location of most projects in civil conflict areas. An environmental law was drafted with the assistance of the UN in 2005-6 but is yet to be made into law and as a result there is a complete lack of environmental institutions and standards and still no requirement to undertake an EIA for major development projects.²¹ The Dawna mountain range is considered an area of high conservation value in the Western Forest Complex and environmental groups have concerns over the destruction a road will bring including increased access for logging (ERI 2005). As in other instances,

²⁰ The government lists an official exchange rate of 6 kyat to the US dollar whereas the author could change dollars for 840 kyat in Yangon in January 2011.

²¹ Win Myo Thu (2011, 5 January). *Interview with author*. MD and Founder, ECODEV. Yangon, Myanmar.

however, it is likely that a major route into Thailand will be constructed in the near future and if the Dawei project goes ahead it envisages an, admittedly optimistic, eight lanes of traffic but it would also be undertaken with little environmental evaluation on the Myanmar side of the border. Full oversight by the ADB of the EWEC road would result in a plethora of research reports documenting existing environmental conditions, potential environmental risks and possible mitigation strategies. There is always the risk that ADB engagement will stimulate further major developments and cause further environmental destruction but with the increasing economic influence of Myanmar's neighbours these sorts of projects are likely to increase significantly anyway and any improvement in environmental governance could help alleviate environmental destruction. It should also be noted that although the environmental consequences of major development projects in Myanmar have the greatest impact in the vicinity of the projects the scale of some of these projects ensures that the environmental impacts could be felt far beyond Myanmar's borders.

The sixth and final group of risks related to the ADB's engagement with Myanmar are those faced by the ruling military elites. There is little doubt that the role of China, India, Thailand and other Asian countries in competing to gain access to Myanmar's resources has enriched the military leadership and staved off financial collapse for the government in the short term, allowing the military to remain in power when the Government's coffers were virtually empty a decade ago. Together with the siphoning off of gas revenues there are also, however, internal contradictions in the country's economy that, without outside assistance, will make it difficult for resource based revenues to translate into genuine economic growth (Turnell 2010). The 1988 and 2007 protests in Myanmar, as well as most of the recent protests in the Middle East, were sparked by economic privations within the general population. Without a concerted effort to more equitably distribute economic wealth the military therefore faces the risk of further uprisings and possible removal from power as food and fuel prices surge worldwide.

Engaging with the ADB might bring somewhat unwelcome efforts at transparency and accountability in political and economic governance but could also provide both new sources of cheap capital and infrastructure development that allows small and medium enterprises to flourish without challenging the military's dominance. Encouraging collaboration with the ADB could also bring welcome diplomatic cooperation from Western countries and much sought after international legitimacy, possibly leading to the end of sanctions and the return of shopping trips on Fifth Avenue. There are few immediate risks facing the military if the ADB returns to Myanmar but while the ADB continues to boycott the country its isolation from the West will continue and the move to a more dynamic and stable economic model will remain elusive.

In each of the six categories above there are a complex multitude of conflicting interests that compete to ensure that the risks faced by the environment and the various societal groups discussed are unlikely to be easily ameliorated. These groups have different

assessments of these risks which ensures that cooperation is always likely to be difficult (Stone 2009). There are clear risks to human and environmental security in Myanmar but a critical approach argues that the risks facing marginalised ethnic minorities and the rest of the poor and deprived in Myanmar take precedence over other less existential risks. In all categories the balance tends to weigh in favour of engagement by the ADB but in the third and fourth categories the analysis suggests that the risks to these marginalised groups could be significantly reduced by a full but determinedly transparent engagement by the ADB. The risks to these groups will not dissipate completely but they currently face significant risks to their human security and under the status quo their predicament is unlikely to improve.

Managing risk

This paper has argued that the ongoing geopolitical re-alignment towards the East is rendering the potency of Western sanctions against Myanmar, and the associated boycott by MDBs, ineffectual. Although the ADB has been critiqued over its neoliberal focus and a lack of transparency and accountability the ADB's safeguards, when compared those associated with major projects in Myanmar being undertaken by Asian TNCs without significant EIA and SIA, begin to look quite effective. For ADB engagement to be successful, however, domestic civil society groups would usually be expected to play a vigorous governance and monitoring role. While civil society activism has grown significantly in the last few years and particularly since Cyclone Nargis (Sabandar 2010) there is near universal agreement by activists both inside and outside Myanmar that civil society development in Myanmar has been severely curtailed both by repression from the government but also by the absence of significant development activities by MDBs and the international community. Fortunately, however, there is also a highly active and effective exiled transnational activist community that could assist in this important role (Simpson 2011).

To successfully re-engage with Myanmar the ADB would require from the government detailed commitments on transparency and accountability similar to the safeguards recently negotiated by the Global Fund, which will return to Myanmar in 2011 after a five year absence. These sorts of agreements have been signed and broken by the military regime in the past but with the re-introduction of elections and a parliament, however flawed, there exists at least some potential to develop more consistent, predictable and accountable governance in Myanmar. The ILO's protracted negotiations with the Myanmar regime have shown not only how difficult it is to achieve concessions, but that some concessions are in fact achievable and that with these concessions come further openings. After slow beginnings in 2007 the ILO has now helped draft a Trade Union Act for the new parliament that has support from the most senior levels of the military establishment and the ILO's small team has run extensive trainings on labour laws,

rights and responsibilities in areas of eastern Myanmar only tenuously controlled by the military for local authorities and community committees.²²

Even without direct engagement in Myanmar the ADB can be seen to have significantly influenced the constitution of markets within the country. Its neoliberal rhetoric and approach across the region provided the military with the theoretical justification for the privatisation of state assets over the last two decades that accelerated to an extraordinary level in the year before the elections. Partly due to its lack of direct engagement with Myanmar, however, there was a complete absence of transparency or accountability in this process which lacked even pretence of any public tendering process resulting in a far reaching expropriation of the country's resources by the ruling military and associated elites. This is not to suggest that this kleptocratic activity can be solely attributed to the ADB but by promoting this ideology in a country without any associated safeguards it offered the military a how-to guidebook on plundering the country's wealth. Although ADB engagement with Myanmar is likely to create a plethora of new risks, this paper concludes that there is the potential for a determinedly transparent engagement to minimise those risks and alleviate some that already exist so that, on balance, there is some hope for improvement in their daily lives of the marginalised and long suffering people of Myanmar. This policy is not inconsistent with the maintenance of a sanctions regime that is sharply focused on the personal enrichment of the ruling military but should be seen as complementing those measures in the development of more equitable, transparent and accountable governance in Myanmar.

²² Steve Marshall (2011, 7 January). *Interview with author*. Liaison Officer, International Labour Organisation (ILO). Yangon, Myanmar.

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