CORPORATE SECTOR IN CHINA'S BELT & ROAD:

Impact on people's access to land and water

PCFS
PEOPLE'S COALITION ON FOOD SOVEREIGNTY

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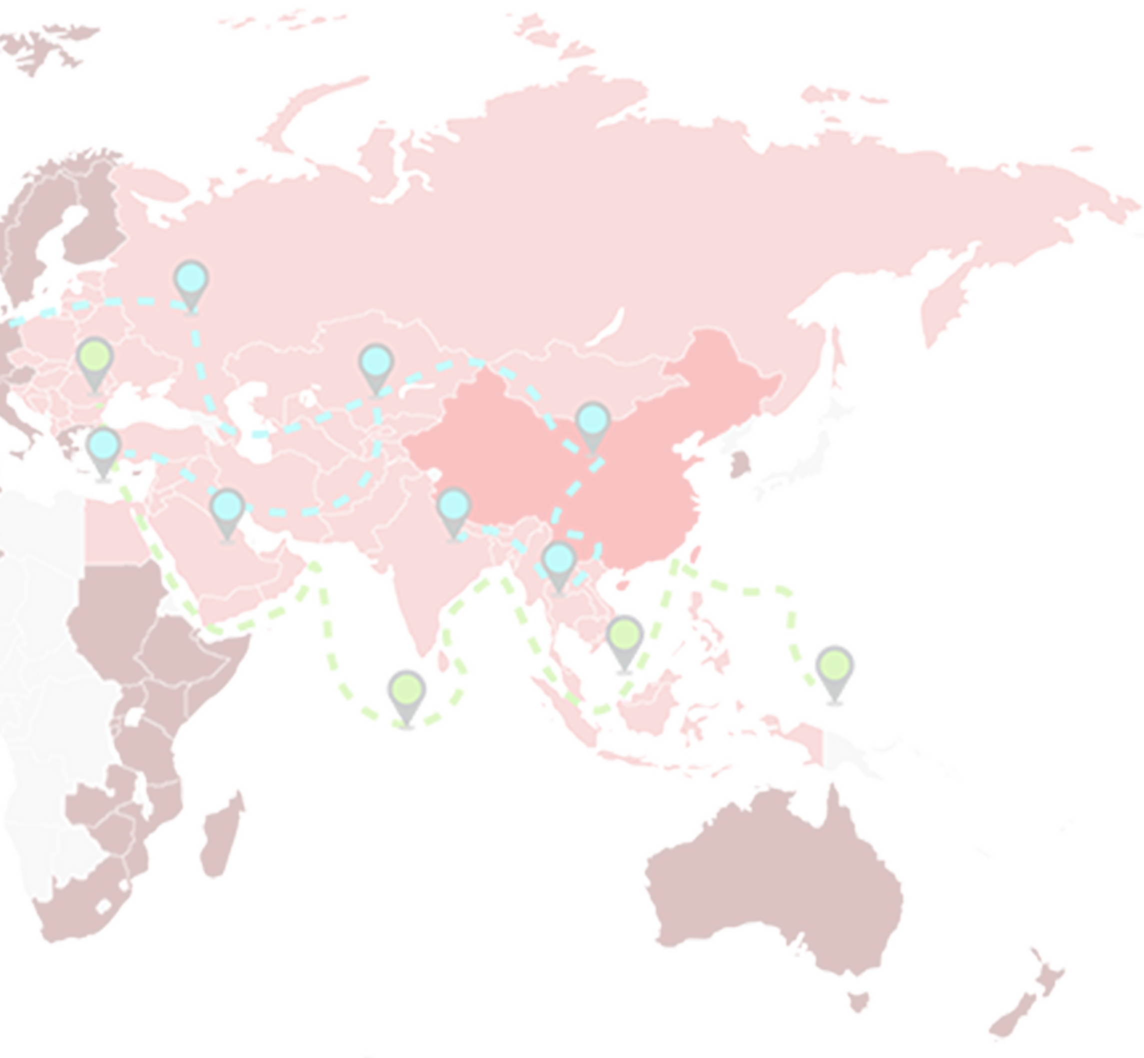

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INTRODUCTION

CORPORATE SECTOR IN CHINA'S BELT & ROAD: Impact on people's access to land and water

China is steadily changing the landscape of development cooperation on a global scale through its Belt and Road Initiative (BRI). With an estimate ranging from US$1 to 8 trillion, it's touted as the largest overseas investment project undertaken by a single country ever. It covers economies worth a total of some US$21 trillion, accounting for 62% of the world's gross domestic product (GDP) and about 65% and 30% of global land- and maritime-based economic production, respectively.[1]

The United Nations Industrial and Development Organization (UNIDO) also describes BRI as "one of the largest and most effective platforms for international cooperation of the century".[2] In fact, China signed several key agreements covering 'industrial development research, energy management systems to promote climate change mitigation, the advancement of resource-efficient and low-carbon industrial production techniques; the upgrading of businesses and industrial infrastructure, investments in technology and innovation; support for small and medium-sized industry clusters; competitive trade capacity building and corporate responsibility, as well as exchange of best practices with countries along the Belt and Road'.

Aside from integrating with the ASEAN – China Free Trade Area (ACFTA), BRI has created numerous multilateral and bilateral agreements and platforms to catalyze projects and development cooperation, and facilitation of investments all over the world. In South Asia alone, this includes two economic corridors[i] and three out of six bilateral free trade agreements enforced[ii].

Consequently, the sheer magnitude of the BRI alone is affecting the private sector's involvement in development cooperation, especially in the global south. From its inception, BRI was seen as China's way to "preserve of [State-owned enterprises], funded by Chinese banks, and staffed by Chinese workers". [3] But over the years, BRI-driven platforms like the China Federation of Industry and Commerce have established guidelines to ensure and enhance private companies' participation in the BRI. Composed of 126 member-companies, the Federation has established connections with 54 similar business federations in Belt and Road countries and regions and signed cooperation agreements with 22 of them.[4]

But recently, China has been receiving flak for its conditional investments and loans that are resulting in land and resource grabbing in Asia and Africa. In Sri Lanka, for instance, the government's failure to repay the onerous Chinese debt used to build the $1.1-billion Hambantota Port forced it to hand over the control over the strategic port to China through a 99-year lease.

This paper attempts to highlight the private sectors' involvement in development cooperation in the context of China's BRI, the implications for peoples' access to land and water resources, and a review of mechanisms, if any, to make them accountable.

BRI and the Private Sector

The sheer amount of capital required by the BRI has enticed private sector interest and participation in this ambitious initiative. As illustrated by the case studies here, while a large chunk of the BRI funding comes from state-owned enterprises (SOEs) and Chinese State banks, the private sector plays a key role in the actual implementation of the various projects through:

(1) Funding from private banks to support specific projects or investments [and financial security firms' involvement]; and

(2) Public- Private Partnerships (PPP) as a vehicle for private sector involvement in infrastructure development at the host country level.

i Bangladesh-China-India-Myanmar (BCIM) and China-Pakistan (CPEC)

ii China-Pakistan FTA, China-Maldives FTA, China-Nepal FTA, China-Sri Lanka FTA, China-Bangladesh FTA, China-India FTA

Moody's estimates that Chinese entities have provided over US$750B in Belt and Road-related financing through 2016, and the China Banking Association estimates that three state-owned banks plan to provide more than US$525B in loans and equity investments to more than 1,000 projects.[5]

According to a Delloite report, some 50 Chinese SOEs have played roles in more than 1,700 BRI projects. Although the perception is that only Chinese state-owned and private companies are the sole beneficiaries of the BRI, the reality is that some multinational companies (MNCs) from outside China have also bagged contracts, including Siemens, Honeywell, GE and ABB.[6]

It is clear from the onset that SOEs will be running the show in the BRI, but as our case studies in Cambodia (Hengfu) and Pakistan (China Overseas Ports Holding Company or COPHC-Pakistan) show, Chinese SOEs are acting more like a private firm, representing private capital, and are partnering up with the private sector, to the latter's advantage.

In addition, China's SOEs have been undertaking major reforms towards market-based operations since the 1980s and the BRI appears to be accelerating this process. According to the State-Owned Assets Supervision and Administration Commission (SASAC), SOEs are being reformed in two main ways – both are partial privatization schemes – (1) by reclassifying SOEs as either commercial or in public service and (2) mixed-ownership reforms which includes the state selling the majority of SOEs' shares in the stock market.[7]

Consequently, commercial SOEs and mixed ownership SOEs are considered and treated as private entities and are operating as such. Chinese SOEs act as private companies through privately owned stocks and are restructured into private corporations to remove the need for government approval in their operations. They also get loans from private banks including foreign financial institutions such as the BNP Paribas from France and the Korea Development Bank from South Korea.

One example is the COPHC Pakistan which is building the Gwadar Port and a local subsidiary of a Chinese SOE that is in turn owned in part by commercial SOE COPHC-Hong Kong. Despite years of non-performance in developing the port, COPHC Pakistan was awarded the port concessions.[8]

The prominent role that SOEs and Chinese State banks performs in the BRI obscures the involvement of private capital, including private western banks and private commercial banks in China, in its multi-trillion projects across the globe.

Citigroup, for instance, has led large bond issues for Bank of China and Beijing Gas to finance their BRI plans. It has also won cash management and foreign exchange hedging contracts for several Fortune 500 companies operating on BRI projects. Standard Chartered has listed 20 financing deals it has won in the past four years that are linked to BRI. These include a US$515-million project financing for a power plant in Zambia that was guaranteed by China; a US$200-million loan for an electricity plant Bangladesh being built by a Chinese consortium; and a US$42-million export credit facility for a Sri Lankan gas terminal that was guaranteed by China.[9]

In the case studies from Pakistan, BRI projects were preferentially funded by private banks and syndicates. In the US$820-million financing agreement for Block II of Sindh's Thar Coaa, a syndicate of Pakistani banks has been formed led by Habib Bank Limited (HBL), United Bank Limited (UBL), Bank Alfalah Limited (BAFL) and Faysal Bank Limited (FBL). Meanwhile, the foreign counterpart syndicate consists of Chinese commercial state banks China Development Bank (CDB), Construction Bank of China (CBC) and Industrial and Commercial Bank of China (ICBC). On the other hand, the Gwadar Port's COPHC Pakistan recently listed equity and debt securities at the Pakistan Stock Exchange (PSX), further opening it up for private capital to pour in and fund the project.[10]

Indeed, the massive investment needed to implement the BRI is by itself an opening for private sector involvement. As pointed out by one of the major investors in the Philippines case study -- Jaime Augusto Zobel de Ayala of the Ayala Corporation – there is "a huge financing gap for infrastructure projects in Belt and Road countries; governments could only provide 40 percent to 50 percent of the funding."

Aside from funding projects, another way that private investors get involved are through PPP schemes wherein the state guarantees private profits and shields investors from risks involved in the investments.

In the Sindh Engro Coal Mining Company (SECMC) case study, for instance, the Pakistani government has provided a sovereign guarantee of US$700 million for the mining firm, shielding it from investment risks. In the

Philippines, the government's National Irrigation Administration (NIA) has signed a contract with the private consortium ITP Construction Inc. and the Chinese commercial SOE Guangxi consortium to construct the dam and other structures associated with the 43.5-megawatt (MW) Balog-Balog hydropower plant. The cost of the contract amounts to US$116.6 million. Meanwhile, NIA is being accused of conducting hasty bidding procedures and revising the bidding requirements that rigged it so that only the favored firm would qualify.

A New Wave of Land and Resource Grabbing

Aside from trying to understand and explain the role of the private sector, this research seeks as well to identify the potential geopolitical conflicts arising from some controversial BRI projects. The Sri Lanka case, for instance, illustrates not only how China used conditional aid and investments but also its deployment of troops to secure Chinese economic interests and to pursue a larger strategic agenda in the region.

The case studies in the research clearly depict how specific BRI projects are undermining development and harming the people's lives and livelihood. Specific impacts include land and resource grabbing, displacement of communities, environmental destruction, and cultural desecration. There had been little to no public consultations done and there is a lack of general transparency in implementing the projects as government to government transactions and established trade agreements were used in lieu of informed consent of rural communities.

It is important to note, however, that some of the projects cited in this study are either already ongoing or only rebooted by the BRI investments. But despite the ongoing peoples' resistance towards these projects, BRI repackaged and renegotiated the terms without addressing the people's legitimate concerns and demands.

Another major impact raised by the case studies was the violation of the communities' culture, as the case of the Cambodian temples run over by a BRI project and the disregard for the root causes that drive the separatist movement in Pakistan. In all cases, the right of indigenous peoples to self-determination was trampled on.

Lack of mechanisms for transparency and stakeholders' participation do not just reinforce the corruption schemes already at play in the host countries' governments, but worsen the predicament of affected communities given the track record on human rights of the governments of Pakistan, Cambodia, and the Philippines. In fact, in the Philippines and Cambodian case studies, the governments used its resources to forcefully evict the residents and rural communities to pave the way for the BRI projects. The communities' and the peoples' resistance to the projects have been met with harassment and violent dispersals.

While the BRI is marveled by some as the new path and model for 21st century development cooperation, on the ground scrutiny reveals that it is nothing but the same old plunder and exploitation of the poor countries' land and other resources at the expense of their own people.

Endnotes

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BELT AND ROAD INITIATIVE in Pakistan

Roots for Equity

President Xi Jinping's Silk Road Economic Belt and the 21st Century Maritime Silk Road policy Initiative introduced in 2013 can be considered to have multitude strategic goals, ranging from internal domestic growth for China, to increasing its economic ambit across Asia, Africa and Europe, as well as to strengthen its military presence in the region. Belt and Road Initiative (BRI) is worth more than $900B; the vision of BRI is "is to realize the "Five Links", which refer to linkages in policies, infrastructure, trade, finance and people. (Chin and Vinnei He, 2018, p.9). Some basic details of BRI are provided in Box 1.

However, the geopolitical nature of BRI is also up for discussion: it has been noted that Australia, along with Japan and US are not part of BRI. This certainly points to a political divide among the powerful economic *blocs* globally. In addition, the BRI is also considered to have a geo-political context. According to Cai, it is a response to former Obama administration's 'pivot to Asia', and an alternative to the now scraped Trans- Pacific Partnership (TPP) (Cai, 2017). Further, BRI is "driven by broad geostrategic aims. Certainly some elements of BRI are consistent with such a characterization. The China–Pakistan Economic Corridor is a prime example. Given the port's proximity to the Persian Gulf, it could be used as a transshipment point for China's energy supplies obviating the need to go through the Strait of Malacca in Southeast Asia."

A key component of the BRI is the China-Pakistan Economic Corridor (CPE). China and Pakistan have a long history of economic cooperation. This friendship emerged in the year of 1950 (Shah, 2018). Pakistan was the first Muslim and the 3rd non-communist country to recognize People's Republic of China's (PRC) sovereignty (Chin and Vinnei He, 2018, p.1). However, with both countries signing a free trade agreement – China Pakistan Free Trade Agreement (CPFTA) in November 2006, this was the beginning of a relationship inflected with the neoliberal framework (Kamal, 2017). CAFTA was based on trade in goods and in 2009, a free trade agreement on services was also made. The importance of Chinese involvement in Pakistani economy can

BOX 1

One Belt One Road (BRI)

BRI is based on the following six economic corridors:

- China–Mongolia–Russia Corridor;
- the New Eurasian Land Bridge Corridor;
- the China–Central Asia–West Asia Corridor;
- the China–Pakistan Economic Corridor (CPEC);
- Bangladesh–China–Myanmar–India Corridor; and
- the China–Indo China Peninsula Corridor.

The 'Belt' component will have three and the 'Road' will have two trade routes

The Silk Road Economic Belt:

1. China—Central Asia—Russia—Europe (the Baltic)
2. China—Central Asia—West Asia—Persian Gulf—Mediterranean Sea
3. China—Southeast Asia—South Asia— Indian Ocean The 21st Century

Maritime Silk Road:

1. Coastal China—South China Sea—Indian Ocean—Europe
2. Coastal China—South China Sea—South Pacific

The project is envisaged to connect Asia, Europe and Africa through network of multiple corridors and seaports. These six routes will connect 65 countries, covering one-third of global output, 40 per cent of global trade and 62 per cent of the world population. The flagship projects include the $46B China-Pakistan corridor, a 3,000km high-speed railway connecting China and Singapore, and gas pipelines across central Asia. The Belt and Road initiative has also entered regions as far as New Zealand, Britain and even the Arctic. (Shaw, 2017).

These projects are to be financed through different Chinese financial institutions that include the Asian Infrastructure Investment Bank (AIIB) with registered capital of $100B, to be spent chiefly in BRI countries, and the Silk Road Fund with $40B of initial capital. In addition, another sum of $113B has been pledged by the Chinese government.

be evaluated by the fact that currently China is by far its largest trading partner. According to 2016 figures, China is Pakistan's second largest export destination with total exports to China being 7.7%. With respect to imports, China is Pakistan's biggest import partner, with 29.11% of all imports coming from China. (WITS, 2017)

Advancing this trading partnership, the CPEC project was signed by the head of both states in April, 2015. CPEC, at the time the project was signed was worth $46 B, a sum that is considered to almost three times the entire direct foreign investment received by Pakistan since 2008 (BBC, 2015). It's believed that this project will be completed in 15 years (Caie, 2017)

According to news sources, China, a country that started pouring in Foreign Direct Investment (FDI) in Pakistan under the China-Pakistan Economic Corridor (CPEC) from 2015, is now completely dominating sources of FDI in Pakistan. Not only is China the biggest trading partner for Pakistan, it has also become the top foreign investor. Of its net FDI inflow of $969 million during the last six months of 2017, 70pc came from China. It should be pointed out that in the same period in 2016, investment from China amounted to $393m and constituted 27.6pc of total inflows (Iqbal, 2018). The drastic increase shows the overwhelming role that Chinese investment has in the Pakistani economy.

The Silk Road Fund Co. Ltd was established in 2014, with $40bn joint-investment from the State Administration of Foreign Exchange, China Investment Corporation, Export-Import Bank of China and China Development Bank. In other words, the Fund is owned by the Chinese State. The Fund will be used to provide investment and financing support for projects related to connectivity for countries along the "Belt and Road." (Gauhar, 2017) The Fund tends to loan money on build-operate-transfer (BOT) projects involving Chinese State Owned Enterprises (SOEs) (Devonshire-Ellis, 2017). China's government and banks will mostly lend to Chinese public companies, which will invest in projects as commercial ventures. (Houreld, 2015)

There are different explanations being provided for the CPEC related loans and interest rates at which the loan must be paid back. According to spokesperson of the Chinese Embassy "Pakistan has to pay only 1 or 2% interest on concessional loans given by the Chinese government for execution of the CPEC-related projects. In case of the investments coming from the Chinese enterprises, the rate of interest is 5% or less than that. And even that interest is to be paid to the Chinese Banks by the enterprises themselves."

Similarly, a detailed analysis on the interest payment on CPEC was provided by Ishrat Hussain, former governor of the State Bank of Pakistan. According to him, of the total $50B being provided under CPEC, the loans are divided into two categories (a) Energy ($35B) and (b) Infrastructure ($15B). The implementation schedule for the loans is hinged to the completion of the project, which is marked for 2030. The disbursement schedule for energy projects are planned for the period 2015-2023, and will be based on Independent Private Producers (IPP) mode being used for the energy sector. IPP mode is based on the Foreign Direct Investment (FDI) mode which means that they all are private businesses like other IPPs plants which are already operational in Pakistan (before the inception of CPEC) and are guaranteed a 17% rate of return in dollar terms on their equity (only the equity portion, and not the entire project cost). According to Mr Husain, "the 17% guaranteed return on these projects would entail annual payments of $2.4bn from the current account." Infrastructure development, CPEC's second component worth $15B, is to be financed through government-to-government loans. As iterated by the Chinese government as well, these loans would be concessional with 2% interest to be repaid over a 20- to 25-year period. According to Mr. Hussain, this amount's debt servicing would be the Pakistan government's obligation which are predicted to be $910 million annually (assuming a 20-year tenor). Based on the energy and infrastructure loans, Pakistan will face an additional burden of approximately $3.5bn annually on a staggered basis depending on the project completion schedule. According to Husain, as a proportion of our total foreign exchange earnings of 2016, this amounts to 7%.

With the corrupt history of Pakistan's elite in mismanagement and corruption in terms of foreign loans, there is little doubt that the case will be no different than before. So even though, the loans are considered concessional, there's no doubt the Pakistani consumers will ultimately bear the brunt of the loan and will be coerced to pay from their pockets.

POSSIBLE IMPACTS OF CHINESE CORPORATIONS IN PAKISTAN

A number of Chinese corporations have been reported to be active in Pakistan. However, this paper will focus on case studies of Chinese corporations who have been active in relation to CPEC projects and have had critical impact on the use of land and water resources. In this context, a brief examination of the China Overseas Ports Holding Company (COPHC), and China Metallurgical Group Corporation (MCC) that has been mining the Saindaq mines in Chagai, Balochistan will be presented. In addition, a case study of the Sindh Engro Coal Mining Company in context to its operations in the Thar Engro Coal Power Project will be presented.

China Overseas Ports Holding Company

As has been mentioned above, CPEC connects the Gawadar, a port city in Baluchistan province of Pakistan to Kashgar, a city from the northwestern region of Xinjiang, China. The suggested route encompasses a length of 3,000 km from Kashgar to Gawadar. China Overseas Ports Holding Company (COPHC) has been given the contract of running the Gwadar Port. COPHC-Pakistan is a branch company of COPHC which is an emerging and fast growing private company in Hong Kong. It has registered its Regional Office in Pakistan. China Overseas Ports Holding Company Limited is running the Gwadar Port and Gwadar Free Zone since 2013. It has been provided a lease of 40 years by the Pakistani government. According to its site, the company's objective is to develop the region's most strategically well located port into a hub of maritime trade in the whole region, including landlocked Central Asian Region (CAR) (COPHC, 2015).

It should be mentioned that Gwadar city is in Balochistan, a province, which has a strong separatist movement underway and has seen violent conflict in the past decade. The province suffers from extreme government neglect and is considered the most underdeveloped of the four provinces in the country with high levels of unemployment, poverty and malnourishment and very low literacy levels.

In addition, parts of the province suffer from drought, and has vast array of barren land. Amidst this scenario, it is indeed quite incredible that CPEC sits on the shoulders of Gwadar, a city so underdeveloped, it basically cannot be considered a city.

Gwadar suffers from extreme shortage of water and electricity. It lacks basic health care service and educational facilities. In 2016, the Pakistan Army put its muscle in re-opening 50-bed hospital in the city. This was done after nearly 70 years of the country gaining independence! It may not be too off the mark to say that this overture was hinged to CPEC, which was initiated in 2015.

But there is no doubt that for daily life, water is the most critical of all needs. Gwadar needs six million gallons of water; currently the entire city is getting water through water tankers and there is no potable water supply. It needs to be added that this water is not by any means safe and comes with many health risks. Riddled with dysfunctional dams, a single tanker costs Rs 17,000 ($147) or Rs 6 per gallon; costs more than bottled water. With Gwadar having been declared a megacity, and the Gwadar port already serving CPEC, water needs are rising even faster. As CPEC projects through COPHC continue, this need and shortage become more stark.

Gwadar and adjoining areas are suffering from drought and it has not rained there for many years. One functional dam had been washed away some years ago, and another is being constructed. All this is not news in Pakistan; the situation of Gwadar is well known but no steps have been taken by government officials to overcome the acute misery of the people.

With initiation of CPEC, a small-sized desalination plant was installed at the Gwadar port, which provides 254,000 gallons of water. According to the news item the reason for its smooth operations it has been installed for "Chinese engineers and other Pakistani workers who have come from out of the province to work in Gwadar and not the locals in dire need of safe potable water. Currently, according to one official, there are 300 Chinese and 700 Pakistanis for whom the plant is providing water."

The above scenario is in direct contrast to what COPHC claims, which are (COPHC, 2015):

"As global corporate citizens, we at COPHC apprehend our responsibilities towards the communities in which we operate. We respect humanity and work for raising the standards of living of the locals and lend them a helping hand whenever needed. We have contributed our support to various sectors of the country which includes, education, health, environment, employment opportunities, and development of overall Gwadar city's infrastructure.

Gwadar city does not have girls' colleges and there is no university. Only last year the now ex-prime minister Nawaz Shariff announced that 500 acres of land would be purchased in Shahabi for building a university; till then students from Gwadar should be admitted to universities around the country.

It is clear that the COPHC has been operational since 2013. If other development projects could not be pushed immediately, the least that could have been done was to make arrangements for drinking water.

This is going to be the crux of the issue. The government of Pakistan's track record for human-rights violations are very high, especially so in Balochistan. The scene has been set to cement the two-tiered system, where the working class will be forced to live under very poor living conditions, whereas Chinese and Pakistani elite will reap the benefits of the increased economic activity from CPEC.

Other than the infrastructure development projects in BRI, the energy projects devised for this initiative don't paint a bright picture either. For example, in Pakistan, China has invested heavily in coal powered energy project like Thar coal power plants under CPEC which means that China has opted to use fossil fuels despite the major global alarm raised against carbon pollution and greenhouse gases emission in recent time. Talking about coal, China itself cuts back on coal within China to save itself from the crippling pollution that kills around one million Chinese annually. However, that doesn't stop the Chinese corporations from developing coal energy plants as part of China OFDI scheme worldwide. Chinese companies are going to make up more than half the new coal plants set up. According to Urgrewald, an environmental organization, even though most of China's coal plants are in China itself but roughly around one fifth of Chinese recent coal plants are located in other countries.

Sindh Engro Coal Mining Company

The Thar Engro Coal Power Project (Thar-ll) is a mining project and coal-fired power plant under construction in Tharparkar District, Sindh. The project was initiated earlier than CPEC but was not able to make progress due to lack of financial backing; it has now been made part of CPEC.

Thar district, unlike the rest of Pakistan, has at least a 50% Hindu population (in contrast to only 2% non-Muslims in the country as a whole), is one of the most neglected and poorest districts of the Province and the country. It is part of the Thar Desert and suffers from ongoing drought.

Thar has some of the world's largest coal mines; the coal (lignite) reserves in Pakistan's Thar Desert spread over more than 9,000 sq/km of land and are estimated to be 175B tonnes in quantity (Guriro, 2016). The coal deposits are divided into 12 blocks, each containing approximately 2B tons. In the first phase the Sindh provincial government has allocated block II to Pakistan's Sindh Engro Coal Mining Company (SECMC) to excavate 1.57B tons of coal and build a 660 megawatt power plant (Haq, 2016).

The project is handled by Sindh Engro Coal Mining Company (a joint venture between the government of Sindh and Engro Corporation) and China Machinery Engineering Corporation in the Thar Block-II of the Thar Coalfield.

In December 2015, Pakistan and China signed on a $820-million financing agreement for Block II of Sindh's Thar Coal (Business Recorder, 2015). The Pakistani corporations, which are part of the project include Sindh Engro Coal Mining Company (SECMC) and Engro Powergen Thar Limited (EPTL); both signed the local and foreign financing agreements. The Sindh Engro Coal Mining Company, a joint venture of Engro Powergen Ltd and the Sindh government, holds the lease of Thar Block-II coalfields, while it's Thar Power Company will construct a series of mine-mouth power plants.

For the financial coverage of the project, a syndicate of Pakistani banks has been formed, and is led by Habib Bank Limited (HBL), United Bank Limited (UBL), Bank Alfalah Limited (BAFL) and Faysal Bank Limited (FBL).

The foreign syndicate consists of China Development Bank (CDB), Construction Bank of China (CBC) and Industrial and Commercial Bank of China (ICBC).

The Pakistani syndicate agreed to provide Rs52B (approximately $52 million) for the mining project, being undertaken by SECMC, and Rs 22B (approximately $22 million) for the associated power plant being established by Engro Powergen Thar Limited. The Chinese syndicate agreed to provide loans amounting to $820 million. The government of Pakistan has provided a sovereign guarantee of $700 million for the loan taken by SECMC.

A Struggle for Land and Water

The Thar Coal project being implemented by SECMC has been under criticism by villagers that are living in its vicinity and has come to surface since mid-2016. The communities living in the vicinity of the project face various human rights violations. These include being forced from their land, ground water depletion, as well as water pollution and air pollution.

SECMC is constructing a dam, which is to store highly saline subsoil water, which will be pumped out from the aquifers to allow for the open-pit mining of coal. The building of the dam has many different impacts. First, the land on which the dam is to be built has been acquired without at least first consultation with the communities. SECMC has publically accepted relocation of some villages (The Nation, 2016). According to the SECMC CEO, it was expected that a "dislocation of around six and a half thousand population from two main villages – Senhri Dars and Tharyo Halepoto - and ten other small settlements" is expected. The news further elaborated, "as a part of the resettlement action plan, modern residential colonies are being constructed for the local people who would be displaced from the Block-II area of Thar Coal deposits."

The community also accepts that SECMC has offered them alternate housing though location of the housing is still unknown, which then does not collaborate SECMCs statement of 'modern residential colonies are being constructed' as then at least the location of the new residential quarters would be known. In addition, it is clear that for the community, there are other issues at hand.

These communities have lived here for many generations, and certainly before Independence in 1947. They consider these lands their ancestral lands though according to the news reports do not necessarily have land titles, which is normal for local communities. In addition, getting land titles is expensive and requires some amount of literacy to follow up on these processes. It needs to be added that for the community, it is not only a question of relocation, these lands have been part of their history and culture for many generations, and money or a new residence spiritual and emotional value which cannot be replaced. The communities in question are a religious minority – any religious minority faced persecution in Pakistan but being Hindu is even more dangerous as they are constantly suspect of working as Indian spies.

The extracted water will be dumped over 2,700 acres of cultivatable land and forest; there are villages right next to the reservoir. According to reports, the extracted water has no toxic or heavy metals, but it is still not safe for drinking. The community is afraid that the saline water reservoir will contaminate their fresh water wells, as well, which will directly affect agricultural activity and of course put at risk their livestock (The Express Tribune, 2016). SECMC has cut down a large number of indigenous trees and despite several promises the company is doing nothing to restore the local forests. The leaves from the trees were being used as fodder for animals. The trees that were now being planted in the name of reforestation included alien spices like Conocarpus, which according to the villages would " bring another disaster in near future." (MAC, 2016) This can actually be corroborated by recent reports that identify the plant to cause respiratory diseases, as well increased level of water intake in comparison to indigenous varieties; it is a plant which is being promoted all through Sindh and is causing various problems due to the monoculture planting of this single variety (Guriro, 2016).

The SECMC Chief Executive Officer (CEO) has rejected the land acquisition claims of the villagers and said his company would only use 1,400 acres for two reservoirs to store the water extracted during excavation. Further, according to SECMC, the water will be "natural underground saline water, not toxic or poisonous in any way and it will not affect any village," According to the SECMC CEO "the company is paying villagers above market prices for their land – PKR 185,000 ($ 1,900) per acre. However, community rightfully has pointed out that they were never asked for permission to acquire their land, nor had the villagers ever granted this permission. In addition, according to the community, this price does not take into account its high environmental value and they do not want to be relocated to the new towns, the exact location of which is yet to be decided."(Guriro, 2016)

The coalmine excavation has already resulted in huge air pollution, covering the entire village in dust. The demand is to relocate the wastewater reservoir. Coal as a source of energy is also being questioned by the wider society in Pakistan. However, the response has been that Pakistan is only responsible for 0.5% emissions globally, therefore giving it leeway to exploit this resource. Further, the coalmine bringing jobs for the locals is also being disputed. According to SECMC, "manpower employed at the project site, he said of the total 2,028 workers, 997 were natives of Thar district, 647 were Chinese and 384 belonged to different parts of the country." (Dawn, 2016)

The continued agitation by various activists and groups across Thar, including hunger strikes and protest camps have been declared to be "unpatriotic' by SECMC leadership.

(The News, 2016). In addition, the Sindh High Court has "termed projects of saline water reservoirs in Thar's Gorano and Dukkrachhu villages 'environmentally, technically and administratively sound' and declared the facts and figures filed by petitioners against the reservoirs as 'highly exaggerated'." (Khan, 2017)

It is shameful that consistent demands by affected villagers, the government of Sindh recently declared compensation for the affected by "making them shareholders of the Sindh Engro Coal Mining Company [SECMC], along with a package stretched over a period of 30 years for the population of Gorano and Dukarcho." (Tunio, 2017). The question is who will follow up on the promises? Once the villagers have been moved it is easy for the government to all back on all promises. In essence, the issue can be considered close; the CPEC projects, especially the Thar Coal Mine project is flagship project, and has absolute backing of the state.

One can see a similar situation in the case of the China Metallurgical Group Corporation (MCC). MCC has been operating in Pakistan for quite a few years working on the Saindaq mines.The Saindaq mines are situated in Chagai, the most downtrodden district of Balochsitan.

China Metallurgical Group Corporation (MCC) works in the mining and mineral sector. MCC has been responsible for developing a gold-copper mine known as the Saindaq Project (Notezai, 2018). The Saindaq copper and gold mines were given to MCC in 2002 for a period of ten years; since then the lease has been extended twice, each time for a period of five years (Notezai, 2018). The security at Saindaq is very high, and access to the common person is almost non-existent. According to a newspaper article, the Chinese firm has been violating several contractual agreements. So it is always difficult for people to access the mining sites, which in any case are also in remote areas with roads and transportation services almost non-existent. Though MCC has a corporate social responsibility, no real benefits are visible to the close by sparsely populated communities. It has been mentioned that MCC does deposit a sum under its CSR head; but no signs of this amount being spent can be seen on the population in the area. Clearly, no accountability is being demanded either by MCC for the sum it deposits, nor are the people in the area questioning the benefit of the Saindaq mines being exploited.

In addition, due to high rate of excavation, total reserves in one section (South Ore Body) have been exhausted in just 15 years when they should have lasted at least another four years. It is thought that MCC has sought illegal collaboration with the local corporation Saindak Metals Limited (SML) in order to increase production beyond the set standards.

Other issues are of using unsafe dumpsters at the mines; workers are offered to be paid extra sum ($3) per ride, which given the high poverty rates is understandable. A driver who met with an accident, and suffered injuries. He was not given an alternate job and was forced to leave employment.

MCC though started work before CPEC was approved. Maybe that is the reason that there is a more clear history on its operations in the country. The corporation has clear corporate social responsibility violations, which may be hard to document for new projects.

CONCLUSION

In the case of Thar Coal mines, the collaboration between the local company and Chinese is clear. The communities around the mine area were organized and were able to generate a momentum for their right to land and water. However, even though the movement continued for nearly two years, there was no response from the government or from the corporations involved. An important point is that the mobilization was mostly from the Hindu communities, or perceived to be from Hindu communities; in general religious minorities, especially Hindu dare not risk strong agitation. Pakistan's involvement in the so called War on Terror and the ongoing conflict with religious right wing groups in the country has led to a very strong anti-people's stance by Pakistan's military and para-military forces.

In the case of Gwadar and Saindak mines, no real mobilization has evolved. The reason could also be the strong security maintained in the province to suppress the separatist movement, as well as to ensure security of the Chinese personnel.

Apart from a clear track record of violations against MCC being noted in the media, no real information on any other Chinese corporations is available. It could be the strong measures taken by government officials to deter such information sharing. Recently, a reporter made remarked on a piece of information "in which officials of the Planning Commission were quoted telling the Senate Committee on Planning and Development that "only Chinese investors will be allowed to invest in these SEZs"." He was hauled in by the Planning Commission and severely rebuked, and later a written response was put forward by the Commission according to which the "article was "concocted and baseless, reported to mislead the masses".

Given our learning of Chinese corporations in the country and outside, it is clear that there needs to a clear strategy to overcome the massive onslaught of Chinese imperialism on the land, water, minerals and other resources of the country.

A clear pathway for mounting a resistance against this fresh onslaught could be based on a two part plan:

The first part should be focused internally. The first step is of course gaining information on the operational work being carried out in relation to Chinese investment. Some of the concrete steps that need to be taken are as follows:

1. Advocacy tools: desk research studies, information material

The study in hand is of course one such endeavor. It is clear that there is global concern regarding Chinese investment and its operations and advocacy on developing accountability mechanism against Chinese corporate sector has been already initiated.

2. Community action research: A critical element of course has to be based on the impacts on the communities whose land and other resources are being grabbed. It is imperative to initiate community-based action research so that primary data from the ground is available. In this context local fact finding missions could be immensely helpful as well. Based on this information, organizing and mobilizing of communities needs to be initiated. It would be important to identify and enroll mass-based organizations, activists, students and academia in an effort to sensitize and politicize to issue of CPEC. The ultimate aim of course would be to demand for active resistance against land grab and other resources

3 Local and national people-centered networks and think tanks: Workshops on Chinese Corporate sector, its impacts on communities, especially rural communities and impact on land, water and other resources need to carried out so that a wider scale of learning and mobilizations can be carried out.

4. State accountability and transparency should be demanded. There is a wide gap between what people know and the level of development aggression these private corporations put their communities through. Indigenous peoples' rights should be upheld by the State and protect their right to land and resources.

The second part of course is to form an international solidarity network of like-minded organizations which could exchange information on strengths and weaknesses of ones own mobilizations that have been implemented in communities.

The steps highlighted for national action need to be pursued for regional and international platforms. Critically important is to create centralized think tanks of people-centered organizations/networks who could learn from each other's experiences and develop toolkits which could be used at local level.


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THE AGGRESSIVE ENTRY OF CHINA in Philippine economy THROUGH DUTERTE'S BUILD, BUILD, BUILD!

Asian Peasant Coalition

In his 10-point Socioeconomic Agenda, Philippine president Rodrigo Duterte envisioned the reduction of poverty in the Philippines from 21.6 percent in 2015 to 13 percent to 15 percent by 2022.

To do this, the government, through its economic and fiscal cluster, have aggressively pushed the acceleration of infrastructure that are projected to create jobs for Filipinos, raise the productive capacity of the domestic economy, increase incomes, and strengthen the investment climate leading to sustained inclusive growth.

From the Public-Private Partnership (PPP) program of the previous Aquino administration that focused on localized projects, Duterte's economic program has shifted to the Build, Build, Build! [1], the preferred mode of public procurement00 along with Build-Operate-Transfer program that mainly relies on unsolicited investment proposals.

Through the Build, Build, Build! program, public spending on infrastructure is targeted to reach Php8 to 9-trillion until 2022. These projects include railways, roads, bridges, mass transport systems, airports, seaports, water and flood control projects.

In fact, the National Economic Development Authority (NEDA) approved some Php1-trillion worth of large-scale infrastructure projects for 2018. However, these flagship projects are concentrated in the National Capital Region and relatively developed regions and far from the concentration of poor rural sectors that are in most need of government social services.

THE CHINA FACTOR

Duterte's election as Philippine President in 2016 changed the climate of Philippines' relationship with China Years of heated row with China over the disputed West Philippine Sea (WPS) a part of the South China Sea within the Philippines' 370-kilometer exclusive economic zone (EEZ) simmered under Duterte.

His administration held even bilateral talks with China, in an attempt to resolve the longstanding maritime row. Through the months, the Philippine government virtually gave up its territorial claim on the West Philippine Sea with Duterte's no-contest attitude with China.

Although China remain as the PH's second top trading partner since 2015, with $17-billion value in total trade, $6B exports, and around $2 trillion imports in the same year, PH-China relations can only be described as toxic under the previous administration of Benigno Aquino III. However, it changed when Duterte openly and vocally expressed economic and political cooperation with China.

Duterte even entertains China's offer of joint exploration as a co-ownership of the resources in the disputed areas in West Philippine Sea.

In October 2016, President Duterte embarked on a four-day visit to China to boost trade with China. Chinese President Xi Jinping described the visit as a "milestone". The two countries had agreed to seek "settlement through bilateral dialogues." Duterte and Xi signed documents covering several trade deals as well as co-operation in cultural, tourism, anti-narcotics and maritime affairs. The deals signed amounted to US$13.5-billion. A total of US$24-billion investments was pledged at that time.[2]

In May 2017, President Duterte participated in two leaders' roundtable summits during the Belt and Road Forum for International Cooperation in Beijing.

Since the start of the Duterte presidency up to May 2017, the Philippines managed to bag 27 business deals from China[3] or an equivalent of US$9-billion in loans and US$15B in investment pledges.

Lucrative projects were granted to Chinese firms. Such projects range from power plants, steel mills, banana plantations, reclamation projects, inter-island bridge systems, and water resources projects. Majority of the projects are infrastructure projects.

BOX 2

History of the Philippines' Most Expensive Dam Project

The Balog-Balog Multipurpose Dam Project (Balog-Balog project) is considered as the biggest and most expensive locally-funded dam project in the Philippines. It was first proposed in 1963 and over the decades, administrations funded the project withBs from public funds and foreign loans.

The funding of the project started during the administration of the late President Corazon Cojuangco-Aquino.

The construction of the project was shelved for years after the eruption of Mt. Pinatubo in 1991.

The first phase of the multipurpose dam project that started construction in 1999 was already completed in 2012. It currently provides irrigation services to 12, 745 hectares of farm and rice lands in Tarlac province in Central Luzon, considered as the rice granary of the Philippines.

The Balog-Balog project was supported by all the previous administrations including the current administration of President Rodrigo Duterte.

The project was previously proposed for funding to the Japan and Italian governments and several other loan institutions but did not materialize. At present, the contract for the construction of the project is under the consortium of Filipino company ITM Construction Corp. and Chinese construction company – Guangxi Hydroelectronics Ltd.

The Balog-Balog project is targeted to reduce flooding in low-lying areas, provide inland fish production, and produce 43.5 megawatts (MW) of electricity from its hydropower component.

The mega dam is also targeted to increase the cropping intensity in the area from 124 percent to 200 percent.

Civil works for the project will include a mega dam, a diversion tunnel as well as irrigation canals and structure main canals. Project components will likewise entail land and right-of-way acquisition, institutional development of local irrigators associations and resettlement.

The second phase of the project will cost Php15.356-billion including the power component, while the phase 1 will be funded with Php2.632-billion.

From an initial project cost of more than Php3-billion in 1987, the cost of the mega dam is currently pegged at Php17.718-billion as of 2018.

According to the Philippine government, these investment agreements will generate two million jobs for Filipinos over the next five years.

Of the US$15-B pledged investments, a total of US$9-B in financing facilities have already been identified to come from the China State Bank (US$6-B) and the Bank of China (US$3-B)

Duterte's participation in the high-level Boao Forum for Asia that was attended by government leaders, business and academe last April 2017 generated more investment pledges.

Ten more Chinese companies have signified interest to invest in the Philippines. Letters of intent were already signed and manifested. The estimated value of new investment pledges total to US$9B or P467B.

The 10 additional companies[4] and their intended investments are the following:

- **Shanghai GeoHarbour Group** - exploration opportunities on land reclamation and development
- **Jovo Group Co. Ltd** - building and operation of LNG receiving terminal
- **Zhongfa Group** - development of large tourism projects, electronics industry parts
- **Haocheng Group** - infrastructure and construction project and thermal power supply
- **China Green Agriculture Group** - explore agriculture and tourism opportunities in cooperation with the Philippines' Calata Corp.
- **East-Cloud Biz Travel Ltd** - venture in the tourism sector
- **China National Heavy Machinery Corp** - development of China-Philippines International Techno-Industrial Zone
- **Shanghai Shinehigh Biotechnology Ltd and Zhejang Dongyang Chemical Co Ltd** - establishment of pharmaceutical factory
- **Sino BMG** - establishment of aerated concrete block production facility in the Philippines

THE COST OF BALOG-BALOG TO FILIPINO FARMERS AND AETAS OF CENTRAL LUZON

The Balog-Balog Multipurpose Dam Project Phase 2[5] is the continuation of a multibillion dam project that was initiated under the administration of Corazon Cojuangco-Aquino.

Under the current Build, Build, Build! program, the Philippine government, under President Duterte, has funded, and started implementation of the lucrative project.

The Duterte administration is hastening the building of infrastructure projects including mega dams, some of which have been planned by previous administrations but stalled by broad peoples' protests and opposition.

The dam and its components

The proposed mega dam has a height of 105.5 meters, and length of 1,429 meters. It will have three cascading sections each at 25 meters high and a crest length of 1.4 kilometers.

The dam's reservoir will have a storage capacity for 550 million cubic meters of water for irrigation, power generation, fishery and flood control purposes. It will occupy 28,076 hectares of forest lands as watershed.

Proponents said that once completed, the mega dam will provide year-round irrigation to 34,410 hectares of farmlands in 10 municipalities in Tarlac.

Service areas of the project will cover the municipalities of Concepcion, Gerona, La Paz, Paniqui, Pura, Ramos, Victoria and the city of Tarlac. It will also cover portions in Magalang town in Pampanga province. The target location of the dam's watershed area is in the mountainous areas of Bamban, Capas, and Tarlac City.

Even before China's entry, the Balog-Balog project has been mired with anomalies and controversies. The Philippine government's awarding of the big-ticket dam project to Guangxi Hydroelectronics is no different, and the social and environmental costs of the project remain.

After completion, the mega dam will be operated by a private firm as this is under build-operate-transfer (BOT) scheme.

Displacement and loss of livelihood

The construction of large dams in the Philippines have always been associated with the massive displacement of people living near the dam projects and its components and those living downstream.

Other mega dams previously constructed including San Roque, Binga and Ambuklao dams in Benguet province and Pantabangan dam in Pangasinan have displaced tens of thousands of farmers and indigenous people.

It is expected to be the same for the Balog-Balog dam project. Balog-Balog is not only regarded as the Philippines' most expensive dam project, the social, economic and cultural effects of the mega dam will also be costly for the people.

The Balog-Balog dam project will affect and displace almost a thousand families[6], mostly farmers and indigenous people from 27 local communities in Sitio Maamot, Sitio Tangan-Tangan, and Sitio Dirita in Tarlac province.

Aeta tribes Aberlling and Umay are among those who are most at risk of being displaced and evicted from their farms and ancestral lands. These tribes have been dwelling in the mountains ranges of Tarlac and Zambales provinces for decades. The Balog-Balog dam's reservoir will be built on the ancestral lands of these Aeta communities.

A local tribal chieftain of the Aeta community in the affected area in San Jose in Tarlac maintained that the locals do not want the construction of the mega dam to pursue because it will destroy their farms and ancestral lands

Aeta leaders and communities have raised these concerns to appropriate government agencies including the National Commission on Indigenous People (NCIP). However, the agency stil supported the construction of the mega dam.

The government promised a relocation program for the affected farmers and Aetas. The relocation site is targeted at NIA's Maambog Relocation Area in Sitio Mambog, Sula, San Jose, Tarlac and Sitio Troso, Bgy. Sta. Juliana in Capas, Tarlac. The construction of relocation houses in the resettlement areas reportedly started in 2015.

The impending displacement and ejectment[7] of Aetas from their land is among the main reasons why, for years, the Balog-Balog project continued to face strong resistance from farmers and residents in communities.

Since the project entered its planning stage, farmers and indigenous people knew that the mega dam project will further imperil their interests, welfare and livelihood.

TABLE 1

Itemized list of PH projects covered by China's $15-B investment pledges to Duterte:

PROJECT	PROPONENTS
Subic-Clark railway project	Bases Conversion and Development Authority (BCDA) and China Harbour Engineering Co.
Bonifacio Global City-Ninoy Aquino International Airport Segment of Metro Manila Bus Rapid Transit-EDSA project	BCDA and China Road and Bridge Corp.
Real Estate Project	BCDA and China Fortune
BCDA Safe and smart city projects	BCDA and Huawei Technologies
Transportation and logistics infrastructure at Sangley Point	Cavitex Holdings, International Container Terminal Services Inc. and China Harbour Engineering
Joint venture agreement for infrastructure projects	Jimei Group of China and Expedition Construction Corp.
North Negros biomass and South Negros biomass project	North Negros Biopower and Wuxi Huaguang Electric Power Engineering
Globe Telecom projects to improve network quality and capacity	Globe Telecom and Huawei
Jin Jiang hotel room capacity expansion from 1,000 to 2,000	Double Dragon Properties and Hotel of Asia Inc.
Joint development project on renewable energy	Columbus Capitana and China CAMC Engineering
New Generation Steel Manufacturing Plant	Mannage Resources and SIIC Shanghai International Trade HK
Joint venture on steel plants	Global Ferronickel and Baiyin International

Renewable energy projects	Xinjiang TBEA Sunoasis
Davao coastline and port development project	Mega Harbor Port and Development and China Harbour Engineering
Manila Harbour Center reclamation	R-II Builders Inc. and China Harbour Engineering
Cebu International and Bulk Terminal project	Mega Harbour Port and CCCC Dredging Company
Cabling manufacturing facilities	MVP Global Infrastructure Group and Suli Grp Ltd.
Manila EDSA Bus Transportation program	Phil State Group and Yangtse Motor group and Minmetals International
Hybrid rice production	SL Agritech and Jiangsu Hongqi Seed Inc.
Bus manufacturing facility	Zhuhai Bus and Coach Co.
Banana plantation project	AVLB Asia Pacific and Shanghai Xinwo Agriculture Development Co.
300MW Pulangi-5 Hydro Project	Greenergy Co. and Power China Guizhou Engineering Corp.
Pasig River, Marikina River and Manggahan Floodway bridges construction project	Zonar Construct and SinoHydro
Ambal Simuay sub-river basin flood control project	One Whitebeach Land Development and Sino Hydro
Nationwide island provinces link bridges	Zonarsystems and PowerChina Sino Hydro
Railway project (study)	MVP Global Infrastructure group and China Railway Engineering Corp.

Uprooting Aetas from their land

The Peasant Alliance in Central Luzon described the Balog-balog dam as a financial blackhole and an environmental hazard to the people.

Farmers groups opposing the project said that the mega dam poses more damage than benefit for farmers and Aetas in Tarlac and Pampanga because of the impending displacement of residents in affected communities.

The entire project will heavily disrupt the Aeta communities' way of life. Farming is the main livelihood of Aetas. They work by households in upland farms. They plant root crops and vegetables for their consumption. They also sell their produce in the lowlands. This will all change if they are uprooted from their ancestral land.[8]

Aetas living in the mountains rely mostly on upland farming and selling of charcoal made from the wood trees that they gather in the forests. If they are relocated to the lowlands, there might be not enough work and livelihood available to them.

Aside from the many livelihood and environmental issues arising from the Balog-Balog project, the construction of the mega dam would also affect the cultural practices of the Aeta tribes.

Likewise, the earth and rock fill needed for the dam and its reservoir will come from Mt. Pwangi in the village of Iba, San Jose, Tarlac. Aeta communities consider Mt. Pwangi as a historical and sacred site, but it is threatened to be destroyed for the sake of the infrastructure project.

While the dam targets to provide irrigation, water supply and electricity for lowlanders, the project would also drive away Aeta tribes from their only source of livelihood – the land.

The project's nature will also redirect river waters away from farming communities, further undermining the right of the people to access to water.

Flooding and effects on the environment

The mega dam also poses various risks for the environment. The Bulsa River, now known as Moriones River, will be the primary source of water of the Balog-Balog Dam. In case the mega dam overflows, an estimate of 30,000 people residing within the riverside communities of Sula, Iba, Villa Aglipay,

Pao, Lubigan and Moriones villages in San Jose town and nearby villages of Tibagan and Balanti in Tarlac City that are all connected to the Bulsa River, will be affected.

The dam would also cause the inundation of 14 smaller villages and communities along the three rivers in the villages of Maamot, San Jose and Buboy River in Capas town in Tarlac because the dam would catch water from three big rivers -- the Tangan-Tangan, Boboy and Malilit Rivers that are all flowing down from the mountains.

The dam also poses danger to Tarlac City proper because of its target location. The dam is 23 kilometers away from McArthur Highway, a major thoroughfare in the province of Tarlac.

Environmental groups maintained that mega dam projects like the Balog-Balog, will flood communities and whatever purported benefits intended by the project are not worth the invaluable lands, lives, livelihoods, and cultures that will be lost.

Experiences in the construction and operation of mega dams in the Philippines showed that dams have not entirely fulfilled their purpose and have not significantly helped uplift the situation of farmers. On the contrary, mega dams brought disasters, and costly electricity and water. It also deprived farmers and indigenous people of their land, their water source, and their livelihood.

Indigenous peoples' ancestral domains have been hosts, albeit by force, intimidation, and deceit, to large-scale and multi-purpose dams. These dams, which the government has peddled to be indispensable for national development, have resulted to the displacement of indigenous peoples from their territories, and destroyed their homes, sources of livelihood and sacred sites.

As a result of their displacement, indigenous groups, especially those who have migrated and settled in other areas, experience worsening socio-economic conditions and erosion of their culture.

Several years ago, Philippine military soldiers were also deployed in the mountain areas to supposedly secure the project area for any threat or encumbrances.

In 2010, the military have set up their 'shooting ranges' in the forests and mountain areas within the ancestral land of the Aeta tribes. Checkpoints and patrols were also set up in the area to conduct routine checking of community members.

Not worth the high price

In addition to its expensive price tag, reports show that the Balog-Balog dam might not be a viable project after all.

A news report[9] stated that it would take 12 to 18 years to fill-up the dam's reservoir with 560 million cubic meters of water.

The dam's water source, the Bulsa River, has a relatively thin, short and low-lying length compared to other dams in Luzon such as the San Roque dam, the Ambuklao, Ipo, Pantabangan and Casecnan dams, among others, which are all located in the Caraballo-Sierra Madre mountain range.

If this is the case, the project's objective to supply water to targeted irrigable agricultural lands will be delayed or worse, would not materialize at all. Worse, the dam will also likely dry-up the downstream river which will severely affect flora and fauna below the dam.

Furthermore, in the rapid technical and economic analysis[10] of the Balog-Balog dam phase 2 conducted by the Philippines Department of Budget and Management showed "design problems, too optimistic assumptions, understated cost estimates, and overestimated benefits."

The analysis stated that the designed spillway capacity of the dam seems too low and the risk of the dam being overtopped maybe high because of an inadequate spillway. The reservoir sediment storage allocation appears to be under-designed and likely to be good only for a reservoir life of 25 instead of 50 years.

Likewise, the expected best water yield of 17CMS would appear too low compared to the service area that the project is supposed to irrigate which will require between 38 to 58 CMS, excluding water losses which could be between 30 and 40 percent.

The construction of large dams is a lucrative business, and this is among the main reasons for its continuation despite its failure in bringing about development.

Irregularities and Anomalies

The consortium of Philippine-based company ITP Construction Inc. and Guangxi Hydroelectric Construction Bureau Co. Ltd. were tapped for the construction of the second phase of the Balog-Balog project.[11]

Guangxi Hydroelectric Construction Bureau Co. Ltd. bagged the construction deal for the mega dam that is marred with anomalies and controversies since the start.

The PH government's cabinet secretary Leoncio Evasco led the groundbreaking ceremonies of the project in July 2017, with a promise that the Balog-Balog phase 2 would be completed and become operational under the current administration. The mega dam project is expected to be finished by 2021.

In its company profile, the Guangxi Hydroelectric Construction Bureau Co. Ltd. describes its business as "large-scale, public general contractor specialized in water conservancy and hydropower construction in China. It is also a contractor in national foreign aid project, construction of buildings, roads and bridges, municipal works, electric power, ground and foundation engineering, earth and rock works."

In 2017, the NIA has signed contract with ITP Construction Inc. and the GHCB to construct the dam and other structures associated with the 43.5-MW Balog-Balog hydropower plant. The cost of the contract is a US$116.6 million.

However, the NIA is being alleged of conducting hasty bidding procedures and revising the bidding requirements so that only one firm would qualify. In this case, winning bidder, the ITP and Guangxi consortium.

Necessary rules on the procurement of contracts for government projects is stated in Republic Act 9184 or the Philippine Government Procurement Reform Act

The procurement process is governed by the following principles[12]:

a) Transparency in the procurement process and in the implementation of procurement contracts through wide dissemination of bid opportunities and participation of pertinent non-government organizations.

b) Competitiveness by extending equal opportunity to enable private contracting parties who are eligible and qualified to participate in public bidding.

c) Streamlined procurement process that will uniformly apply to all government procurement. The procurement process shall be simple and made adaptable to advances in modern technology in order to ensure an effective and efficient method.

d) System of accountability where both the public officials directly or indirectly involved in the procurement process as well as in the implementation of procurement contracts and the private parties that deal with GOP are, when warranted by circumstances, investigated and held liable for their actions relative thereto.

e) Public monitoring of the procurement process and the implementation of awarded contracts with the end in view of guaranteeing that these contracts are awarded pursuant to the provisions of the Act and this IRR, and that all these contracts are performed strictly according to specifications.

Controversies in the bidding

The losing bidder in the project, the Green Asia Construction Development Crop that partnered with Guandong No. 2 Hydropower Engineering Co. Ltd. alleged that the ITP entered into a joint venture partnership with Guangxi Hydroelectric Construction Bureau, which is unqualified for the project.[13]

Guangxi was reportedly classified as a local contractor by the Quezon City Government since 2012 and was disqualified from entering into any joint venture agreement as a foreign firm.

The NIA Bids and Awards Committee (BAC) chief Milagros Nopre said the agency followed Section 36 of the Government Procurement Act which states guidelines in case of a sole bidder for a project. The NIA said it was the ITP and GHCP consortium that made it to the detailed evaluation and post-qualification phase of the project.

Persistent controversies in the bidding of the Balog-Balog project actually led to the resignation of former NIA Administration Peter Lavina.

This is not the first time that Guangxi's involvement in a dam project was questioned.

The Commission on Audit said the Public Sector Assets and Liabilities Management have erred[14] in entering into a negotiated contract with the joint venture of Guangxi and ITP Construction Inc. for the total replacement of Agus IV hydroelectric power plant in Mindanao without the approval of the PSALM board.

Another Guangxi project, and its partner, the CohecoBadeo Corporation, that will build a 500-megawatt pump storage hydro power plant[15] in Badeo, Kibungan in Benguet is being questioned for violating proceedings for the acquisition of free and prior informed consent.

These controversies question the integrity and reliability of Guangxi and its local partner corporations regarding following rules and procedures in the construction of big-ticket projects.

Violation of Free Prior and Informed Consent

Aside from the questionable bidding procedures, proponents of the Balog-Balog project also did not properly follow certification precondition procedures that is a significant requirement of the Free Prior and Informed Consent.

Free, Prior and Informed Consent is one of the most important principles that indigenous peoples believe can protect their right to participation. It is embedded in the right to self-determination. The duty of states to obtain indigenous peoples' FPIC entitles indigenous people to effectively determine the outcome of decision-making that affects them, not merely a right to be involved."[16]

FPIC is a standard protected by international human rights law. It states that "all peoples have the right to self-determination" and "all peoples have the right to freely pursue their economic, social, and cultural development."

In the words of the UN Special Rapporteur on the rights of Indigenous Peoples, James Anaya: "we need to return to the origins of the discussion about FPIC having to do with identifying Indigenous Peoples' rights of self-determination over lands and resources. With those rights come certain safeguards, and one of those safeguards is that those rights can't be affected or impacted or diminished without consultation and Free, Prior and Informed Consent."

Before a specific project commences, a Certification Precondition (CP) is required to ensure that the economic, social and cultural well-being of indigenous cultural communities and indigenous peoples are protected in the event of introduction and implementation of plans, programs, projects, activities and other undertakings that will affect them and their ancestral domains.

A CP is required under the Revised Guidelines on Free and Prior Informed Consent in the Philippines. Once the CP is accomplished, the NCIP will issue a certification, signed by its Chairperson, attesting to the grant of FPIC by the concerned indigenous people after appropriate compliance with the requirements provided for the guidelines.

The NIA was able to secure a Free Prior Informed Consent in 2006 but local leaders in affected communities said that the Aetas who signed the CP did not fully understand the document they signed.

The Aetas signed a waiver that forfeits their right or claim to their ancestral land in exchange for payment of their ancestral land and houses. Despite signing the waiver, Aetas do not want to leave their communities and are asserting their right to the ancestral land.

The NCIP and local government unit held meetings with affected the Aeta communities, but the government officials only explained to the Aetas that they will get money from the government if they would agree with the project.[17]

Lacking or problematic processes in the Free Prior and Informed Consent of dam projects are evidenced by the following: 1) bypassing the traditional tribal or village leadership when conducting community consultations; 2) giving more weight to the approval of local village officials rather than the consensus and decision of the indigenous community members; 3) the divide and rule tactics used such as bribery of key community leaders, formation of fake indigenous peoples' organizations and designation of chieftains or councils of leader contrary to traditional customary practices and indigenous socio-political institutions; and 4) threats and coercion by military units against indigenous peoples to force them to give their consent.

Expired Compliance Certificate?

Another violation of the Balog-Balog multipurpose dam project is the expired Environmental Compliance Certificate (ECC). According to the PH Department of Environment and Natural Resources, the original ECC granted to the project in 1992 expired after the non-development of the area for five years.

Furthermore, the NIA has reportedly failed to submit the project's Environmental Impact Assessment (EIA) study. Likewise, NIA do not have the necessary building permits from the local government on the construction of the project. Even municipal officials are complaining about NIA's irregularities in the conduct of the project.[18]

An ensuing row between the LGU of San Jose in Tarlac and the NIA has delayed the start of the project's construction.[17] Local authorities from the

San Jose Municipal Council Sangguniang issued a resolution for the temporary work stoppage of the project's construction to compel NIA to comply with necessary requirements before pushing through with the project.

The LGU said NIA have yet to complete the requirement such as list of names of affected families entitled for disturbance compensation, land titles to be paid, a Sangguniang Bayan land re-classification resolution, village resolution of no objection for the project, and an amended environmental compliance certificate (ECC).

NIA maintained that the ECC issued by the Department of Environmental Environmental Management Bureau in 1992 remains valid and effective.

The proposed resettlement site in Barangay Sula where about 970 families from Barangay Maamot would be relocated, has no re-classification order and remain as an agricultural land.

Conclusions and Recommendations

Farmers and Aetas in Tarla and Zambales are continuously campaigning against the construction of the Balog-Balog Multipurpose Dam. They are being aided by their local organizations and the Peasant Alliance in Central Luzon.

Local organizations of farmers and indigenous people in affected areas in Tarlac and Zambales provinces are conducting information campaign on the social costs of the Balog-balog dam project on the community, particularly effects on the livelihood of residents, and the ensuing environmental concerns.

On the national level, Filipino farmers have persistently campaigned for the enactment of free irrigation services. This campaign yielded positive results, when in January 2018, President Duterte approved and signed into law the Free Irrigation Services Act. Organization of farmers and irrigators nationwide are working together to realize the efforts of their campaigning and to ensure the implementation of free irrigation for farmers.

To address the abovementioned identified irregularities concerning the Balog-Balog project, farmers and the indigenous communities can file resolutions to the 1) Local Government Unit and 2) Philippine Congress, and raise the current and future impact of the Balog-Balog Project on their communities.

The Philippine Congress can conduct an onsite investigation on the communities that are likely to be affected by the dam project. An ocular inspection of the project area is also necessary.

Likewise, a Congressional probe on the bidding process of the Balog-Balog project can also be undertaken to determine the accountability of the NIA, the Department of Public Works and Highways and the consortium for the construction – the ITP and Guangxi. This is important, especially since Guangxi and its local partners, have also been involved in controversies with other big-ticket construction projects.

Farmers and Aetas, through their respective organizations, can link their ongoing campaign against the Balog-Balog project to the overall campaign against mega dams in the Philippines.

Constructions of mega dams under the policy and frame work of privatization is costly and damaging to the environment and the people's rights.

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HENGFU SUGAR RUSH: A CASE STUDY ON ECONOMIC LAND CONCESSIONS IN CAMBODIA

China and its corporate sector investment and how it affects access to Land and Water

People's Coalition on Food Sovereignty

Cambodia's economic land concessions (ELCs) have received widespread criticisms for the extensive damages it has brought to countless affected communities. Yet it has persisted for more than 25 years (Leuprecht, 2004), and Cambodia's economy still relies on the investments brought by ELCs.

ELCs are public agricultural lands leased to private enterprises for decades. They are among Cambodia's main mechanisms to draw in foreign direct investments to agro-industry that could supposedly drive development in the country.

To date, around 33 percent[i] of Cambodia's arable land resources are already converted into large-scale, export-oriented plantations. That is equivalent to 12 percent of Cambodia's total land area. Despite changes to the Land Law in 2001 and reviews of granted leases to reduce the number of binding years (Socheata, 2015), ELCs remain a big threat to rural communities' control of and access to land while their contribution to development continue to be questioned.

ELCs are reflective of Cambodia's economic and diplomatic ties with other countries. Like everything else in their economic and political affairs, China is in the lead.

In 1999, China initiated the "Going Out" policy. China encouraged its local enterprises to invest abroad to expand their businesses because the domestic economy is already exhausted (B. Wang, 2017). Of course, China saw this as a move to further expand its influence globally while making the most out of its foreign exchange reserves.

i Computed from LICADHO's documentation of ELCs (LICADHO, n.d.) in comparison with the size of Cambodia's arable land (Leuprecht, 2004)

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And now that the Belt and Road Initiative (BRI) is in place, the "Going Out" policy was made more strategic. Unfortunately, this has also meant more allegations and reports of abuses by Chinese corporate investors.

BRI is China's grand development plan unveiled in 2013 to foster trade and cooperation links among the countries in Southeast Asia and Western Europe. It is characterized by many heavy infrastructure projects, mostly on transportation, energy, and communications (Huang, 2015). While it promotes interconnection among the involved nations, it is also expected to invigorate China's economy through the investments of its state-owned enterprises (SOEs) as well as private sector that have been facing slower growth and profits in the domestic market.

As China spread out its dominance worldwide, its trusted allies especially Cambodia readily jumped into its bandwagon. Cambodia's ELCs complemented China's "Going Out" policy and BRI.

The case of Chinese state-owned conglomerate Guangdong Hengfu Group Sugar Industry Co., Ltd. is one such example of a disputed Chinese ELC. Hengfu is a Chinese state-owned agribusiness mainly producing diversified sugar products for export.

In 2011, in partnership with Zhanjiang Huada Trading Co. Ltd., it acquired a total of 42,000 ELC licenses from the government of Cambodia ("Communities in Preah Vihear," 2017). It was able to circumvent the 10,000-hectare legal limit for investors through its subsidiaries, namely: Lan Feng, Rui Feng, Heng Nong, Heng Rui, and Heng You.

While both Hengfu and Huada are nominally classified as SOEs, they are now transformed into private enterprises in essence and in practice . Since the Chinese government reformed its SOEs in 2015, the Chinese private sector now holds shares of SOEs' stocks as mixed-ownership has been required through mergers and acquisitions. The reform also promoted "market-oriented management mechanisms." SOEs, including the two in this study, were restructured into corporations to remove the government approval in their operations. (Qinglian, 2015; X. Wang, 2017)

To note, part of Huada's shares is owned by AVIC Trust, a Chinese company that is partly owned by the high-profile Singapore-based bank Overseas-Chinese Banking Corporation. (CNA, PKH, GRAIN, CIYA, & AIPP, 2017)

Aside from financing from the private stockholders of Hengfu and Huada, they also receive loans from foreign banks including BNP Paribas from France and Korea Development Bank from South Korea. (CNA, PKH, GRAIN, CIYA, & AIPP, 2017)

The government of Cambodia has claimed Hengfu's investment in Cambodia to be the "world's largest" sugarcane factory (Chan, 2016). Hengfu subsidiary Rui Feng's USD 360 million sugar mill is supposedly capable of producing 2,000 tons of refined sugar daily, with an initial 1,000 workforce operating the single production line. The sugar is intended to be primarily exported to the European Union, China, and India (Sokhorng, 2014).

In addition, according to Cambodia's Ministry of Industry and Handicraft, the venture would include a power plant, fertilizer factory, and social infrastructures – costing USD 1.5B in total (Sokhorng, 2014).

At present, Hengfu's concession is reduced to 35,762 hectares (CNA, PKH, GRAIN, CIYA, & AIPP, 2017) following a nationwide effort by the Prime Minister to deal with land conflicts, but it still remains to be among the biggest sugar plantations in Asia. The ministers in industry of Cambodia argues that the project would bring jobs in the province of Preah Vihear, urging locals to work for Hengfu's subsidiaries (Chan, 2016).

The experience of the people of Preah Vihear, however, tells a different story. According to reports, Hengfu has violated many of their basic rights and has caused environmental destruction in Preah Vihear.

Since 2012, the people of Preah Vihear have carried out various actions to confront this situation. They have written to all concerned authorities – the government of Cambodia and its concerned institutions, the government of China, and different UN bodies – to assert the return of their land through the cancellation of the concessions. They have filed court cases against Hengfu's violations. Concurrently, locals have camped out on their land against clearing, blocked bulldozers and backhoes, pulled out sugarcane, and even held traditional indigenous ceremonies to curse the companies.

Despite the locals' resistance, Hengfu continues its operations – and human rights violations it accompanies. Aside from that, the local government is doing efforts to suppress the movement on ground.

This research is a case study of Hengfu as a Chinese investment that is concretely taking control of land and water in Cambodia at the moment. It shall probe how Cambodian authorities hold accountable violating Chinese investors given the existing relationships between the Cambodia and China. It shall also give an overview of the Chinese economic presence in the country with highlight on ELCs, aside from describing the extent of Hengfu's damages and the current situation.

CHINA-CAMBODIA DEVELOPMENT COOPERATION: AN OVERVIEW

China has been able to establish itself as powerful ally of Cambodia, and the latter embraced it with open arms. While diplomatic relations between the two became official in 1958, it was only in the past two decades that the relationship was fully established and strengthened especially in the economic sense (Graceffo, 2017; Hutt, 2016). Note that it coincides with the time that China was able to build its influential status.

Since China recognized the leadership of Hun Sen in Cambodia in the late 1990s, USDBs-worth of loans, aids, investments, and military assistance from China poured in Cambodia. In Hun Sen's first year alone, in 1998, Cambodia received a total of USD 85.8 million: USD 6 million of aid, USD 2.8 million loan for the military, and USD 113 million of investments from USD 36 million the prior year (Mengchou, n.d.a).

Through the years, China was able to build itself as the most reliable development partner to Cambodia by being its major patron in driving its economic growth.

China has delivered Cambodia's largest official development assistance (ODA) – in the form of loans and grants with supposedly "no strings attached." Since 2002, China provided Cambodia loans worth USD 3B and grants amounting USD 180 million in total (Mengchou, n.d.c).

In the past three years alone, according to government data, Chinese ODA amounted to USD 828.92 million. It is followed by the Asian Development Bank with USD 397.27 million and Japan with USD 361.1 million in the same period (Council for the Development of Cambodia, 2018).

Of the total 70 ODA projects provided by China since 2004, according to CDC, 11 are grants, while the rest are concessional loans. More than half of the projects are under the transportation sector, followed by agriculture accounting to around 20 percent of the total number of projects while 40 are considered as investment programs/projects .

Questions have also been raised regarding the transparency of these Chinese ODA due to discrepancies in the reports made by Cambodia's implementing government agencies (Mengchou, n.d.c).

In terms of Chinese military aid, the Army Institute at Thlork Ta Sek, Kompong Speu province became Cambodia's largest source. China funded its construction, military equipment, and improvement of its training facilities. (Mengchou, n.d.a; Lim, 2015).

Meanwhile, Cambodia has accumulated USD 7.1B in foreign debt from 1993 to 2014 – and around 45 percent of it is owed from China (Mengchou, n.d.c).

The latter would then cancel a few millions of the debt from time to time as a confidence-building and goodwill measure.

Aside from ODA, Cambodia's economy also relies – and heavily so – on foreign direct investments. Chinese investments alone from 1994 to 2016 totaled USD 15B. China mainly invests on agriculture and agro-industry, the industrial sector, infrastructures, and services and tourism. (Vannarith, 2017).

While China-Cambodian projects were, for the most part, done through ASEAN and, later, WTO, it was only in 2006 that a formal bilateral agreement – Comprehensive Partnership for Cooperation – was signed. By 2010, this agreement was raised to Strategic Partnership for Cooperation (Graceffo, 2017).

China remains to be Cambodia's top foreign investor in recent years according to government data. Since 2012, half of the total investments were from local investors, while China in second gets 15 to 25 percent of the pie. In 2016, however, China took over as the highest investor in the country covering about 30 percent of the total investment shares, while local investments tailed next with 28 percent. Japan followed suit with around 23 percent, a big jump from the usual one to two percent in the previous years (Couuncil for the Development of Cambodia, n.d.).

Noteworthy among these investments are those in the agro-industry and energy sector. They have become notorious for landgrabbing and destroying the environmental resources where they thrive.

Economic land concessions (ELCs) cover majority if not all of the investments on agriculture and agro-industry. According to data collated by Open Development Cambodia (2017)[ii], Cambodia has awarded a total of 286 ELCs from 1996 to 2014. The total size of all ELCs combined is 2.2 million hectares, excluding six whose information was not available in the dataset. All are intended for agro-industry except for six with little to no information available. Around 35 percent of the concessions were downsized, while 11 percent were revoked. The remaining 54 percent had no adjustments whatsoever.

That being said, there are 253 remaining effective ELCs, still with land size of around 2 million hectares to date.

Contracts of these ELCs range from 50 to 99 years. However, majority in the dataset – about 39 percent – are unaccounted for. Ninety-two of the concessions, or 32%, span for 50 years, while 77 or 27%are binding for 70 years. Five span for 90 to 99 years.

The dataset identifies 30 Chinese investments that are still in effect, with overall land area of 347,311 hectares. Interestingly, Vietnam is noted to have the most number of foreign ELC grants with 46 listed, but it is just second to China in terms of land expanse covering a total of 285,627 hectares. On the other hand, only half to a million hectares are ELCs granted to local investors.

The information on these Chinese ELCs is partial, however, as 20 percent of the ELCs – more than Vietnam's share – with origins undisclosed. Listed among them is Heng You, one of Hengfu's subsidiary companies. There are also a few companies included that bear Chinese names.

So similar with ODA in Cambodia, public information on these ELCs are lacking transparency and are marred with inconsistencies and confidentialities.

Worse, Cambodia is apparently not reaping as much from these investments. News reports show that the country earned a little over USD 5 million from ELCs in two decades – a measly $5-6 share per hectare (Sokheng, 2016).

ii LICADHO (n.d.) also has its own documentation of Cambodia's ELCs. There are differences in the data it presents in comparison with Open Development Cambodia's (2017), but the figures are similar. For the sake of the discussion, however, the research used the dataset of Open Development Cambodia, which has collated more exhaustive information.

The investing Chinese corporations, on the other hand, have been vocal about the increase in their profits. Hengfu's director was even quoted to attribute so to the BRI (Caixiong, 2016).

Hengfu Sugar's impact on people's access to land and water[iii]

The massive landgrabbing of Hengfu has been the major dispute since it started its operations in 2012. As of 2016, 13,000 hectares or 36 percent of the land granted are now being used for sugarcane farming. These were former rice fields, grasslands, and forest areas.

For the people of Preah Vihear, land is their major source of food and livelihood. Majority of the locals farm rice and root crops for self-sustenance and income, as well as raise cattle. Many, especially the indigenous Kuoy communities, rely on resin harvesting from the wild forest trees. The forest also provides them the timber for building their homes and traditional medicines.

Reports from the locals reveal that the land was forcefully taken from them. They first learned about the company in 2010 through rumors. Come 2011, the company started demarcating and clearing their concession area even before the land was formally declared as a state private land in July and a granted concession in November.

There was no proper information dissemination nor consultation conducted; villagers were able only able to confirm everything thereafter, in a meeting with their commune chief and district officials. During then, the locals registered their opposition to the project, especially its impact on livelihood – their land. The government representatives present said the company would bring development and prosperity, and it would provide them jobs.

iii Aside from the accounts from interviews and discussions held during the ocular visit of PCFS in March 2018, this section sums up with it the following reports and researches made by different local and international organizations:

- Cambodia Indigenous Youth Association (CIYA), Community Legal Education Center (CLEC), NGO Forum on Cambodia, Ponlok Khmer, & Indigenous Community Support Organization (ICSO). (2013, November 28). Report on land conflict in Prame Commune, Tbeng Meanchey District, Preah Vihear Province.
- Cambodia Indigenous Youth Association (CIYA). (2014). The Expert Mechanism on the Rights of Indigenous People - Access to Justice.
- Community Network in Action (CNA), Ponlok Khmer, GRAIN, Cambodia Indigenous Youth Association (CIYA), and Asia Indigenous Peoples Pact (AIPP). (2017, June 8). Cambodia: Communities in Protracted Struggle Against Chinese Sugar Companies' Land Grab.
- Mackenzie, E., & Ang, L. (2016). The impact of economic land concessions on indigenous communities in Preah Vihear Province, Cambodia.

Hengfu pushed through the operations with the affected communities having little to no information about the concession. The company proceeds with its operations without giving them any prior notice. They will just see their lands already cleared or being cleared by company bulldozers, and Hengfu will already be claiming ownership over these lands. The people are not allowed go into the property or else they will be accused of trespassing.

In some forest areas where the trees are still intact but Hengfu has hold over, the locals are restricted entry and are threatened of being filed with charges as well.

The landgrabbing is so ruthless that even ruins of Kuoy ancient temples were uprooted and plowed with sugarcane, leaving intact only a hectare or two per site in some areas. In 2014, Lan Feng seized an 8th century Buddha sandstone carving that they have excavated while clearing one of the ancient Kuoy sites. At least one sacred forest has disappeared.

As Hengfu converts vast expanse of land for its use, environmental destruction ensues. Aside from land reclamation, its factories dump chemical wastes to streams and ponds, which is the source of drinking water and irrigation for many of the communities. It also poisoned the fish thriving in them and the land along the banks. Cattle deaths were also attributed to the poisoning, of which some of the residents consider to be done on purpose.

Because of the loss in livelihood, many of the locals leave their villages to find work elsewhere. Some were forced to participate in illegal logging activities. Others gave in to Hengfu's job offer and have worked in its subsidiaries with adverse working conditions – not paid in full or at all, without job security, and beaten for any company rules violated. Lan Feng was even reported to employ child laborers.

The villagers learned to defend their lands and themselves, eventually, that they confiscate bulldozers and engage in fistfights with the company in its succeeding attempts to clear their lands. To this, Hengfu responded with more aggressive schemes to forcefully evict them.

Among Hengfu's tactics is offering compensation for the villagers to voluntary relocate. Later on, it tried to deceive people by letting them sign a document, claiming that it states the land belongs to them. They found out that it will be tweaked to declare that the villagers are bequeathing the land to Hengfu.

This was futile, however, which caused Hengfu to resort on intimidation to compel the people in giving up their lands. In fact, threats and harassments now haunt the locals at the daily. They are restricted to meet in groups of more than five. Outside visitors are limited and monitored. "People's guards" have been set up to conduct surveillance in villages.

Hengfu also employed a "divide and rule" scheme to break the unity of resisting communities. When the Hun Sen's Directive 001 and leopard skin policy was implemented in 2012 and 2015 respectively, parcels of land from the awarded concession were allowed to be owned by the locals. This in turn required them to apply for land titles for individual ownership, which had devastating consequences to the villages later on.

At the onset, beneficiaries refused to join the struggle calling out Hengfu. They thought the company helped them to finally acquire land to call their own through the individual land titling.

The individual land ownership also affected the application for the acquisition of collective land titles of five Kuoy communities. It was already stalled beforehand to give way to the concession, and the issued individual land titles are now cited as reason not to grant their application.

A few of these individual land title owners accepted the company's offer to "lease" their lands and plant sugarcane for USD 800 a year. After the first year of its implementation, more were encouraged to do the same. But in 2017, Hengfu stopped paying them and in 2018, the company asserted ownership and control over these lands. Majority of the recipients of individual land titles who leased their awarded lands to the company are now left landless.

To date, 25 villages from ten communes, with a total population of about 23,000, have been cleared by the company. The concession grant is supposed to run for 70 years.

HOLDING CHINESE INVESTORS ACCOUNTABLE: HENGFU AS CASE IN POINT[IV]

When it comes to land concessions including ELCs, the Land Law of 2001 is the main reference document, having a dedicated chapter on the topic. It categorizes land concessions based on purpose: economic, social, or others. Validity of such concessions is "limited" up to 99 years maximum. Concessionaires are bestowed with the same rights as land owners, except for the right to alienate the land.

According to the law, only state-owned private land can be leased. It also details the penalties for erring concessionaires and state authorities, as the violation of the law is considered a penal offense to be offset by civil remedies.

While there are sub-decrees and other laws that specify the measures and parameters in relation with ELCs (Open Development Cambodia, 2015), Cambodia's malpractice in awarding ELCs has only furthered landlessness in the country.

In the case of Hengfu, for example, the 42,000 hectares of land in Preah Vihear was declared as a state-owned private land despite the sizeable forest area and waterways. Previously considered inalienable public lands due to their natural origin and for their conservation and protection, it seems that the government lost its public interest over these areas overnight to warrant their lease.

The practice has become so well documented that Hun Sen was pushed to declare a moratorium on granting ELCs in 2012 (LICADHO, n.d.) and he reduced the permissible period of a number of existing ELCs to 50 years in 2015 (Socheata, 2015).

But of course, what makes ELCs more controversial is Cambodia's incapacity to hold these investors accountable. And it is more difficult if the violations were committed by China's SOEs.

The villagers of Preah Vihear have utilized various legal and meta-legal means to protest the company and assert their right over their land. They have been able to draw in support at the national and international levels, making this as one of the prominent land dispute cases in Cambodia.

iv This part made use of Ponlok Khmer's documented timeline of events and interviews with the villagers during the ocular visit made by PCFS in March 2018 aside from the references used in the discussion of Hengfu's impacts.

Among all who were affected by Hengfu, the people of Prame commune is the most vocal and visible, being the community that was first affected by the company. Its population is mainly comprised of indigenous Kuoy.

As was mentioned, they received no formal notice nor coordination from the local government regarding the company and its operations. And although they were able to register their opposition in April 2011, in the meeting where they were able to confirm about the "development," the Chinese company's operations started a month or two later.

It was a year later – in April 2012 – when the villagers first engaged in legal battles to complain against the company. Lan Feng, one of Hengfu's subsidiaries and the first to be in operation, cleared the Prame people's rice fields to make a wide road. They went to the commune chief to complain the incident and make inquiries regarding the company, but the chief simply said that he was following orders from the higher ups. They then confronted the company foreman, who said that their operations were approved by the government including the commune chief. They also went to the district official, who denied any knowledge on the matter.

They drafted a demand letter, which called the company stop its operations at least during the celebration of the Khmer new year, and had the Prame commune chief sign it. Lan Feng did not recognize nor accept their demand letter.

After then, the people from Prame filed complaints at all levels of the provincial government. However, the provincial governor responded that they needed the development project and it could provide them jobs in any case that they would lose their livelihood.

In a span of days, the clash between the locals and Hengfu peaked when the former seized the company tractors that were plowing their land. The Chinese company representative, in his rage, threw to them Lan Feng's legal documents, which was the first time for the people to have access of.

Soon after, they filed complaints to the different ministries and national government offices in Phnom Penh. They held a press conference to reiterate their stance against the Hengfu's landgrabbing in Prame commune.

Halfway through the year, Hun Sen ordered Directive 001 that put on freeze new ELC grants and reviewed those already awarded. Members of the

Government Youth Volunteers went to the villages including Prame's and urged to get individual land titles. In response, the Prame people decided to apply for collective land registration as an assertion of their indigenous rights over their land. This then became a major demand in all negotiations with the government that took place afterwards.

Come 2013, the provincial office of the Ministry of Agriculture, Forestry, and Fisheries (MAFF) intervened on the dispute and attempted to make a signed settlement between the two parties. Lan Feng agreed to suspend its clearing, and proposed land exchange and payment of the farmers, but these never materialized

As the issue got greater attention, different non-government and civil society organizations extended assistance to the affected communities. In solidarity with their campaign against Hengfu, they conducted investigations and held capacity building seminars. These efforts greatly helped the people to mount their three-month campout at the start of 2014.

By this time, the Mlu Prey commune also became active in the struggle against Hengfu because of the operations of Rui Feng, the largest subsidiary of Hengfu. They have held similar militant demonstrations against the grabbing of their land.

The 2014 campout was a landmark action by the people of Preah Vihear. Almost 500 Kuoy families camped on their lands to protect it from the landgrabbing of Hengfu. They blocked out tractors and patrolled the forests, calling for the conservation of the environment and of their land as a cultural heritage. They also reclaimed parts of their land that was already grabbed by Hengfu; they planted rice and uprooted the sugarcane that the company planted on their one-hectare communal farmland that the company encroached.

During the campout, the government's connivance with the company was exposed. Officials urged the villagers to accept whatever compensation the company is offering, disregarding the efforts made prior in the assertion of their indigenous rights. The Preah Vihear representative at the National Assembly even tried to bribe the people of 20 kilograms of rice and cash worth USD 12.5, but only eight families out of 500 accepted the offer.

The government also labelled the protesters as "secessionists," and threatened to arrest them on the charge that they faked their petition against the company. Officials also ordered the arrest and detention of supporting monks and NGO members for inciting the villagers to protest when the company was operating within the law, according to them. But the villagers were quick to respond and pressured the provincial government to release them through their protest.

Hengfu, on the other hand, filed complaints against the active leaders of the community, which compelled two of them to go into hiding. In one of the encounters with the protesting communities, their tractors almost run over the villagers.

The efforts of the campout were not in vain, however, as the Ministry of Interior (MoI) wrote to the provincial government ordering the proper and fair resolution to the land conflict and the acceleration of issuance of communal land titles (CLTs). While it proposed that the land be awarded to them as a social land concession in light of the leopard skin strategy – of which the communities of Prame do not agree with – it recognized the three Kuoy communities from Prame applying for CLTs as legal entities.

Prior to this, the only government document the Kuoy people of Prame are holding on to was the "letter of identity" from the Ministry of Rural Development that gives its recognition to the three Kuoy communities.

After the campout, Lan Feng filed a complaint against 200 villagers for uprooting its sugarcane. The provincial government of Preah Vihear, meanwhile, urged the MoI to close Ponlok Khmer, a local NGO supporting the communities. It alleged the organization as an inciter of the villages to protest. The provincial government also proposed the creation of a working group to settle the land dispute with the villagers and to allow Rui Feng to file a lawsuit against community leaders.

Court battles took place afterward. The villagers would always stage a picket protest in front of the provincial hall in support of those who were filed with charges by the Chinese company – the accusation of incitement and the uprooting of sugarcane. To counter, they charged Lan Feng and Rui Feng crimes against humanity for its massive landgrab of their lands, but the case was dismissed by the prosecutor. They have raised the case to the Court of Appeals, but there is no action until present day.

The Preah Vihear people also embarked on another land reclamation campaign by planting rice on their land that the company has already occupied. The company just plowed their crops to clear the land again.

They again brought up the clearing of their rice fields to the different government offices, local and national. The Preah Vihear representative at the National Assembly promised to intervene, and said that the villagers should write to his office and submit the boundaries of their land with the list of affected households. Meanwhile, the provincial government ignored their complaint and even encouraged Lan Feng and Rui Feng to continue their clearing.

Aside from these efforts, the villagers participated in different public venues such as governance consultations and public forums to air their concerns. They have also met with international bodies such as the European Union and the Geneva-based Observatory for the Protection of Human Rights Defenders to intervene on their fight against Hengfu.

Another development in their legal battles came in December 2014. The first committee for land dispute resolution of the National Assembly requested the provincial government to gather information on the negative impacts of Hengfu and submit so to it as well as to other relevant government institutions. The official also said that he will discuss the resolution of the land dispute with the provincial governor.

Around that time, the villagers of Preah Vihear and Hengfu's subsidiaries Lan Feng and Rui Feng had another confrontation. The people withheld two of the company bulldozers with their drivers, who were released the next day. The provincial government agreed to indefinitely cease the land clearing and accelerate the processing of CLTs to the three Kuoy communities.

In 2015, the people submitted a formal complaint to the Ministry of Justice and the Senate, but both referred them back to the MAFF. They also filed charges regarding the bulldozing to court – to which the court said it would not take action, and the company counter-charged them for detaining the drivers.

The MAFF responded in favor of the villagers after its meeting with the first committee for land dispute resolution of the National Assembly. They called the company to temporarily stop its clearing. NGOs in solidarity released support statements to this. The Preah Vihear representative at the National Assembly ordered the same after visiting the ancient cites ravaged by Hengfu.

Provincial government official, however, urged the subsidiaries to continue with their operations. They even tried to sneak out the confiscated bulldozers and threatened to imprison dissenting community members.

Hengfu became more aggressive in clearing lands, affecting more areas in Preah Vihear. They blocked the people from their fields just as they were to harvest their planted rice. In response, the people camped on their remaining lands and confiscated chainsaws aside from the company tractors.

International support poured in during this period. The Asia Indigenous People's Pact submitted a letter in behalf of the affected communities to the United Nations Special Rapporteur on the rights to freedom of peaceful assembly. Representatives from the EU also came to visit.

At the end of 2015, the villagers staged a picket protest in front of the provincial hall. More people gathered as people from the other areas that are newly affected by the concession joined. They followed up on the promises of the MAFF and other government officials that called for the acceleration of the CLTs and the temporary termination of Hengfu's operations.

So in the next month, in January 2016, the provincial government established a committee to resolve the land dispute. But the only agreement reached was the recognition of the Prame people's right over the land registered in Chhep commune that was originally part of Prame commune. It was uncertain when the government changed the borders, and it declined in restoring the previous demarcations of the communes. And for that reason the agreement backfired, as it only caused a rift between the people of Prame and Chheb regarding their territorial jurisdictions during the CLT mapping.

Repression became more apparent at this time, as the active community leaders had experienced harassment and surveillance. One of them was even arrested for the trumped-up charge of stealing a motorbike, who was later on released after the villagers mounted a protest.

Sensing that government help is highly unlikely, the people of Preah Vihear are working on better ways to intensify their struggle against Hengfu's occupation of their lands. A strategic workshop was held in December 2016, followed suit by a strategic planning in June 2017.

Among these efforts include the communication with Hengfu's influential actors, for them to urge the Chinese government to regulate its abuses in Cambodia. Complaints and petitions are launched at the international level, which includes the case filed at the International Criminal Court.

Meanwhile, the affected communities continue to defend their lands despite the worsening state repression. Communities and their leaders are now surveilled at the regular, and the villagers are not allowed to meet in groups of five and more. Outsiders are also restricted entry into the communities. Any movement on ground against the government is considered a "secessionist" act to revive the opposition party that the Hun Sen administration forcefully dissolved.

The extensive experience of the Preah Vihear people against Hengfu demonstrates how and why efforts to raise complaints on erring private enterprises to the Chinese government have become futile in many cases; China's economic interests would always be primary. While guidelines may have been set, there is no guarantee that the Chinese government will regulate its corporations including SOEs overseas.

Additionally, bilateral agreements between the two countries often assure protection and leeway to these Chinese investments. For instance, both have signed in 1996 a bilateral investment treaty "for the promotion and protection of investment," which guarantees investors "the transfer of their investments and returns" including the subrogation of any right or claim ("AGREEMENT," n.d.).

With Cambodia deeply indebted to China because of all the aid, loans, and investments it brought to the country, and Hun Sen staying in power for long, China will always have the greater leverage over the Khmer people affected by these Chinese-funded development aggression projects.This in effect compromised the latter's interests and welfare.

CONCLUSION AND RECOMMENDATIONS

To sum the Preah Vihear people's experience, Chinese corporate investors such as Hengfu have little to no accountability unless the people themselves demand so.

Given the political situation in Cambodia, it is very difficult to rely on government intervention in regulating the exploitation especially by Chinese private enterprises to the land and people of Cambodia. At the national level, Hun Sen's political interest to stay in power is being fed by the Chinese government through its overwhelming economic patronage in the form of aid, loans, grants, and investments.

In the case of Hengfu, it is worth noting that the company had already set up its boundary markers around the concession area in Preah Vihear even before it was reclassified as a state private land and granted to Hengfu's subsidiaries as an ELC. That in itself is a clear violation of the Land Law 2001. It puts to question how binding are the laws of the land in Cambodia. For as it is, the implementation of these laws is very dependent on the political will of the government officials.

What this experience points out, however, are the potentials in the strength and unity of the people in Preah Vihear. Empowered by their movement, they are able to exert pressure to the local government especially during court battles and in order to get a few accomplishments here and there despite some being band-aid solutions.

While reaching out to China is commendable as part of a comprehensive effort for the campaign against such abusive Chinese investments, demanding it to self-regulate is a long shot. Unless the policy of ELCs and Cambodia's subservience is hit, in addition to the lacking democracy in the country, land and water will be inaccessible to the Cambodian people and holding abusive Chinese investors accountable is far from happening.

As such, opportunities for various policy and advocacy actions must be maximized to alleviate the conditions in Preah Vihear and more so in Cambodia as a whole. These measures, coupled with the active movement on ground, may bring significant changes that genuinely benefit the people of Cambodia.

1. The government of Cambodia should fulfill its obligation in upholding and defending the rights of its people as mandated by its constitution. The third chapter of the constitution, which extensively lists the rights of the Khmer people, declares the state obligation to recognize and respect human rights first and foremost (Article 31). The fifth chapter, on the economy, avows the protection of the environment (Article 59). The immediate action that the government can do to accomplish this is to cancel the concession granted to Hengfu's subsidiaries as there are more than enough grounds to do so and return the land back to the locals of Preah Vihear.

   The laws such as the Land Law of 2001 should be implemented in accordance primarily with these constitutional stipulations, instead of being selective in their enactment with the bilateral economic agreements as principal. Doing so sets the bias of the Cambodian government, that it takes the interests and welfare of the Khmer people as its upmost priority true to what the constitution states: the Cambodian people are the "masters of their country" and that "all powers belong to the people" (Article 51, Chapter IV). This is more so highlighted as the community efforts to resist Hengfu for just grounds – the robbing of their livelihood and grabbing of their land and resources – is being criminalized.

2. The government of Cambodia is also compelled to champion the rights of its people as a signatory of many international covenants and conventions that enshrine human rights. Such commitment is usually voluntary, but it is specified by the same Article 31, Chapter III of the constitution of Cambodia.

   In the case of Hengfu, a number of those agreements are already clearly violated such as Covenant on Economic, Social, and Cultural Rights (ESCR), the Covenant on Civil and Political Rights (CPR), and most especially the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

   The UNDRIP is emphasized because of the indigenous Kuoy communities that have been ravaged by Hengfu. Its guarantee on the free, prior and informed consent (FPIC) of indigenous people was absent in the whole process from the acquisition to the operations of Hengfu. Their right as indigenous peoples to their territories and resources has been grossly violated, as they face forced eviction and the destruction of their ancestral riches and heritage.

   With the UNDRIP in order, the application of the indigenous Kuoy for CLTs should not have been an issue. And it would not be difficult for the government of Cambodia to do so as it has already recognized the identity of the indigenous Kuoy in Preah Vihear and thus gives them the legitimacy to reclaim their lands.

3. The Chinese government and its investing enterprises in Cambodia should also take the necessary steps in protecting the rights of and providing remedy to the communities as they violate their responsibilities to respect human rights as per the United Nations Guiding Principles on Business and Human Rights.

Aside from that, violations to international and national legal frameworks which promote and protect the rights to land, territories, economy, culture, tradition, and natural resources of indigenous peoples by these Chinese companies awarded with ELCs must also be given attention. China promotes the practice of Corporate Social Responsibility, and has its own Guidelines for Environmental Protection in Foreign Investment and Cooperation, yet many corporate abuses still happen in investments overseas.

4. The government of Cambodia should exercise greater political will for the increased engagement with civil society organizations (CSOs). It should create more meaningful spaces for dialogue with the CSOs, especially that they have been actively taking part in many social issues such as in the case of Hengfu.

   Like the people of Preah Vihear, CSOs working in support of their struggle have been persecuted by the government. They are accused to incite the people to "secession" because they are against the development that Cambodia envisions – namely, the FDIs, especially from China like Hengfu. But the government must understand that in accordance with the Istanbul principles[v], CSOs strive for a rights-based and democratic development. It should maximize their contributions as fellow development actors working for the betterment of Cambodia with and for its people.

v The Istanbul CSO Development Effectivness Principles is the international framework on that define the good and effective practices of CSOs as they contribute to development. It is an initiative made in 2010 by the Open Forum for CSO Development Effectiveness, in response to the Paris Declaration of 2005 that launched the principles in facilitating official aid to promote development.

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