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### **Abstract**

In the 1990s Multilateral Development Banks created accountability mechanisms (AMs) that allowed people affected by development projects redress. Currently undertheorised, this paper examines how and why the Asian Development Bank (ADB) created an AM, and whether the AM serves its purpose to hold the ADB to account and to provide “fair hearing of the views of the affected group”. This article argues that the ADB created a *new* AM because of institutional isomorphism, *borrowing* the idea of the AM from the World Bank as a result of coercive and mimetic isomorphic processes. Further, that the ADB introduced a mechanism ill-suited to the pre-existing (*old*) organizational culture of the ADB, which is based on consensus and hierarchical rule-following in the context of ADB operations to further economic growth while upholding state sovereignty. Despite its restructure and recent review, the mechanism’s weakness was revealed through a stand-off between China and the AM over an investigation begun in 2009 (creating something ‘*blue*’). The paper concludes that the AM’s ability to serve its purpose will remain hampered as long as ADB maintains consensus around economic growth and state sovereignty over providing recourse to affected people.

**Keywords:** Asian Development Bank, Multilateral Development Banks, Organizational Culture, Accountability Mechanisms, Institutional Isomorphism, Coercion, Mimicry, Ideas

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## **INTRODUCTION**

Accountability mechanisms (AM) proliferated rapidly amongst the Multilateral Development Banks (MDBs) in the 1990s.<sup>1</sup> Designed to provide redress for people affected by MDB projects by investigating Banks' non-compliance with their own policies, AMs have since spread to bilateral aid and export credit agencies. While the origins of the World Bank's AM has been documented (Park 2010a), it is unclear why the other MDBs established such mechanisms. Using an ideational analysis, this paper examines how and why the Asian Development Bank (ADB) established its accountability mechanism in 1995 and whether the AM is able to serve its purpose. It argues that the ADB adopted an AM because of institutional isomorphism, borrowing the idea from the World Bank as a result of coercive and mimetic isomorphic processes.<sup>2</sup> Second, the paper argues that the ADB introduced a mechanism ill-suited to the organizational culture of the ADB.

The article proceeds in five parts: first it highlights ADB's organizational culture and operations, which is based on consensus and hierarchical rule-following in the context of ADB operations to further economic growth while upholding state sovereignty. Second, the article illustrates the process of institutional isomorphism, explaining how the ADB's AM emerged in the mid-1990s. ADB followed the World Bank's lead in creating an AM which aimed to investigate ADB compliance with its own policies and provide fair hearing for affected groups (ADB 1995: 1). Third, the paper argues that the structure and function of the ADB's accountability mechanism is ill-suited to the organizational culture of ADB,

undermining the AM's key aims. Despite being reformulated in 2003, tension continues between donor member states and the ADB over the AM's powers to undertake in-country investigations of individual harm. Fourth, the paper suggests that this is an intractable problem that cannot be overcome. The paper finishes by arguing that the AM remains hampered by the ADB's organizational culture, which restricts its ability to investigate the claims of people adversely affected by ADB funded projects.

### **SOMETHING OLD: ADB'S ORGANIZATIONAL CULTURE AND CONTEXT**

The organizational culture of the ADB – its “system of meaning that governs staff expectations and behavior” – reflects its regional composition (Chweiroth 2008: 133). Organizational culture can lead IOs to promote norms generated from inside the organization or may prevent IOs from taking up new ideas (Barnett and Finnemore 2004; Chweiroth 2008; Weaver 2008; Park 2010b; Park and Vetterlein 2010). Established in 1966 to further economic growth and cooperation in the Asia Pacific, the ADB is a multilateral development bank (MDB) aimed at meeting the needs of states. In 2010 ADB operations totaled \$17.5 billion, with \$3.7 billion in co-financing (ADB 2011a: 7), including “loans, grants, guarantees, a trade finance facilitation program, equity investments, and technical assistance projects” (ADB 2009: 35). A regional institution dominated by Japan, ADB is a consensus-styled hierarchical institution that promotes two overriding norms in its operations: 1) lending to promote economic growth over social development and 2) maintaining state sovereignty with non-interference.<sup>3</sup> ADB's response to pressure to become more accountable in the 1990s is at odds with its organizational culture, leading to the establishment of an Accountability Mechanism ill-suited to the ADB.

#### *Organizational Culture*

Ostensibly an “Asian institution” (Yasutomo 1983: 53; Strand 1999: 267) the ADB currently has 67 member states including 19 extra-regional members. Member states delegate responsibility to a 12-member Board of Executive Directors (EDs), eight of whom are from the region. Three members have their own ED: Japan, the United States (US) and China; the rest share nine EDs (Strand 1999). Chaired by the (customarily Japanese) President of the Bank, the Board of Executive Directors “supervise ADB's financial statements, approve its administrative budget, and review and approve all policy documents and all loan, equity, and technical assistance operations” (ADB 2011b). The Board actively formulates policy but the President has a great deal of autonomy and wields “particularly strong influence over which ideas, approaches and policy issues emerge as institutional priorities” (Nakhooda 2011: 122; Wan 1995-6: 514; Dent 2008; Interview 10 with an ADB Executive Director July 2 2009; Interview 11 with an ADB Vice President July 2 2009).

The ADB was largely devised by Japan and backed by the US (Yasutomo 1983; Wan 1995-6, 511; Kappagoda 1995). Regional members should control 60 per cent of the votes in a weighted voting system based on the capital subscribed to the organization and a formula of basic and proportional votes (Wan 1995-6, 510; Strand 1999; Dutt 2001: 246). Japan and the US are the largest equal voting members of the Bank with 12.8 per cent of the voting stock (Dutt 1997: 79; ADB 2012a). Voting power is determined by the amount of capital members have “paid-in” as well as the amount of “callable” capital provided; Japan and the US are the largest subscribers to the ADB. Other large voters are China with 5.4 per cent, India with 5.3 per cent, Australia with 4.9 per cent and Canada with 4.5 per cent (ADB 2012a: 124).

Originally states like Burma/Myanmar, Mongolia and Indonesia opposed the ADB’s Western image. To be sure, the ADB was modeled on the World Bank as a donor-driven conservative financial institution (Dutt 2001: 249), recognizing the need for industrialized states’ financial

participation (Yasutomo 1983: 38; Kappagoda 1995: 14; Dutt 1997). Scholars debated whether Japan or the US had been more influential creating the Bank, as Japan provided ideas but required the hegemon's support to implement them (Wan 1995-6; Dutt 2001). The US has played a prominent role in forming the ADB to promote its regional economic and strategic interests (Kappagoda 1995: 14; Dutt 1997: 243; Dutt 2001: 255). Industrialized states such as Japan firmly control ADB lending and policy (Krasner 1981: 304). The Japanese ED has not overtly advocated Japanese interests, but given Japan's strong imprint on the organization, this is perhaps unnecessary (Wan 1995-6). Japanese and US interests continue to influence ADB lending flows (Kilby 2011 Wan 1995-6: 514).

Japan's influence over the ADB organizational culture has been significant. Japan not only created the rules for the institution and leads it, but Japanese nationals continue to fill roles in Budget, Personnel, the Management Systems, and the Strategy and Policy Departments (Wan 1995/6: 509, 516-18; Kappagoda 1995: 39; Dent 2008: 769). The President oversees recruitment of senior management for the Bank and Japan has the largest number of professionals on staff, followed by the US, India and China (ADB 2009: 109). Bank management is administered by the (Japanese) President and the rules and procedures of the institution reflect a "Japanese administrative culture" formulated by the first ADB president Takeshi Watanabe (Yasutomo 1983: 93; Pascha 2000: 169; Interview 11 with an ADB Executive Director July 2 2009).

The ADB's decisions, made consensually and consultatively, reflect Japanese culture (Dent 2008: 768; Yasutomo 1983: 102-3, 130-32). Interviewees note that the ADB is hierarchical and includes "rule-following" and officers "look to the person above to see how [they] should manage" (Interview 13 with an ADB Division Director July 3 2009; Interview 1 with an ADB staff member July 1 2009). Culturally, people still claim that the organization remains

wedded to practices established in Japan's Ministry of Finance in the 1970s when there was a revolving door of technocrats to ADB (Yasutomo 1983: 95-6; Wan 1995-6; Jokinen 2004).

As chair of the Board of Executive Directors, the President is able to set the agenda.

Consensus rather than formal voting often underpins decisions. However, the President has the capacity to "ascertain and announce... the sense of the meeting" such that the "Board shall be deemed to have acted in accordance with the announcement of the Chairman without the necessity of taking a formal vote" (ADB n.d). While the President takes direction from the Board in decision-making, one interviewee notes that the President has been able to change the Board's mind on sub-committee issues not pertaining to management (Interview 10 with an ADB Executive Director July 2 2009).

### *Organizational Context*

The ADB mandate is derived from the normative framework of the region, where states prioritize economic growth over social development and prize state sovereignty and non-interference.<sup>4</sup> This section explains how the ADB reflects these norms and argues that ADB's organizational culture influences the way it has adopted new ideas such as accountability. First, as a multilateral institution, the ADB tends to focus on economic growth which is enshrined in its charter rather than the "social" aspects of development in its dealings with borrowers (ADB 1966, Boas 1998; Jokinen 2004). Dutt argues "economic development is explicitly equated with economic growth," which suggests "a purely quantitative approach devoid of any qualitative aspects like 'social progress'" (2001: 248).<sup>5</sup>

Sectoral lending over time bears out this focus: between 1966 and 1972 61.5 per cent of all ADB loans were for traditional infrastructure projects such as roads, ports, and power grids (Yasutomo 1983: 7; Dutt 1997: 81-82). Investment in food, housing, health and education

throughout the 1970s was limited despite the basic needs of the region's rising population (Dutt 1997: 81-82). Agriculture, energy, transport and communications, and infrastructure projects dominated ADB lending until the late 1980s, when the Bank began to take up "social infrastructure" such as health, education, public amenities and poverty reduction (Dutt 2001). Social infrastructure lending remained at approximately 14 per cent throughout the 1980s (Kappagoda 1995: 29; Pascha 2000: 158).

The ADB has placed less emphasis on social development than other MDBs (Culpeper 1997: 111; Pasha 2000: 166). Economic growth remained the primary focus through the 1990s although social spending increased to 30 per cent of ADB lending (Kappagoda 1995: 6, Wan 1995-6: 524). Sectoral lending figures continue to demonstrate ADB's preference to lend for traditional economic growth rather than social sectors: In 2009 infrastructure funding represented 65 per cent of investments (ADB 2009: 7; Rosser 2009: 378). In 2010, over 54 per cent of ADB lending was for transport, information, communications and technology, and energy (ADB 2012b). This is important not because the region does not need large scale infrastructure, but because these projects primarily trigger AM claims, highlighting member state and ADB concerns over state sovereignty and non-interference (Park 2010b).

States' concern with sovereignty is not limited to the Asia Pacific. However, state sovereignty and the principle of non-interference are strongly defended in Asia, a legacy of colonial wars and ongoing territorial disputes. Other regional institutions such as the Association of South East Asian Nations (ASEAN), the ASEAN Plus Three and the ASEAN Regional Forum also prioritize state sovereignty and non-interference. Acharya claims that regional "multilateral conferences and institutions helped to embed the Westphalian norms of sovereignty and non-interference within regional diplomatic and security practice" such that

Asian institutions have focused equally on defending the norms of sovereignty and the regional context of conflict and cooperation (2009: 149, chapter three).

The ADB lends to sovereign states and upholds state sovereignty in its operations, primarily through Article 36 of the ADB Charter which states that the Bank “shall not interfere in the political affairs of any member, nor shall they be influenced in their decisions by the political character of the member concerned” (ADB 1966: 22, Article 36.2; Yasutomo 1983: 100; Kappagoda 1995: 15-16). This is not peculiar to the ADB as the World Bank’s Articles of Agreement state that it too should not interfere in the politics of its member states (World Bank 1989: Article IV, Section 10). The ADB does not strictly adhere to its non-political mandate (Kappagoda 1995: 149), and has been known to carry out development in the region in “an ‘Asian’ way, through non-confrontational consultation” (Jokinen 2004: 148-9).

However there can be no doubt that many ADB members are not prepared to forfeit any state sovereignty in allowing in-country investigations by the ADB Accountability Mechanism to assess the negative impact of ADB-financed projects.

Sensitivities about state sovereignty affect the way new ideas such as good governance, democratic development, and human rights have been incorporated into ADB. Regional member states have been “apprehensive” about linking the new development concerns of Western donors to multilateral funding and have resisted attaching conditions to ADB lending (Kappagoda 1995: 148-9). Some argue that the ADB has incorporated issues such as gender, the environment and poverty reduction in an ad hoc manner in response to the “shifting moods in the West” (Pascha 2000: 160). Indeed, the US pushed for increased lending for social and environmental sectors in the late 1990s (Babb 2009: 167).

Environmental and social policies have been “unpopular with most Asian governments, which are wary of the associated infringements on their sovereignty” (Nakhooda 2011: 122).

The ADB followed Japan in integrating environmental concerns (Boas 2000: 21) and successfully resisted incorporating democratic development and human rights, arguing that ADB's Charter explicitly precludes political interference (Jokinen 2004: 141).

While the donor agenda has led ADB to implement non-traditional development lending policies pushed by the West, it has modified them to suit the Bank's consensus-oriented organizational culture. The ADB was the first MDB to have a policy on governance in response to Western donors (Jokinen 2004: 137). Boas (1998) argues that the ADB was able to redefine governance as the management of "the development process," for "collective economic rights rather than individual political rights" (Boas 1998: 128). This was to avoid a Western bias in advancing a governance agenda to further democracy, individual political rights and human rights (Boas 1998: 129). Doing so made the policy palatable to DMCs. It also eased the policy's "integration to the ideological framework of the Bank" (Jokinen 2004: 137), avoiding the perception of ADB infringing on state sovereignty (Boas 1998: 119).

## **SOMETHING NEW: THE ADB, INSTITUTIONAL ISOMORPHISM AND ACCOUNTABILITY**

In 1995, the ADB created an AM called the Inspection Function to provide redress for people "directly, materially and adversely affected" by an ADB-financed project (ADB 1995: 9).

While much of the literature on the AMs does not document why they emerged (Suzuki and Nanwani 2006; Nanwani 2010; van Putten 2008, 2011; and Bissell and Nanwani 2009), it is clear that the ADB follows the World Bank's lead (Jokinen 2004: 140). For example, in the 1990s the ADB followed the World Bank in: establishing a review of project quality (Kappagoda 1995); prioritizing lending for poverty reduction, gender mainstreaming and the environment in the 1980s and focusing on private sector financing in the 1990s (Pascha 2000:

171, 175); and adopting policies on confidentiality, information disclosure, and the AM (Suzuki and Nanwani 2006: 177).

Clearly the ADB's consensus-oriented organizational culture determines how the ADB will interpret and implement new ideas but why it follows the World Bank remains under-theorized. The explanation posited here is that the ADB created an AM immediately after the World Bank did because of "institutional isomorphism." Isomorphism is defined as "a constraining process that forces one unit in a population [of MDBs] to resemble other units that face the same set of environmental conditions" (Hawley 1968 cited in DiMaggio and Powell 1983: 149). Two factors fit this explanation: first, that member states with a presence on multiple MDB boards have particular concerns; and second, that MDBs have similar functions and face similar problems. MDBs adopted AMs in a wave in the 1990s.

Institutionalist scholars have sought to explain such an international spread of ideas as a result of competition, learning, and emulation or mimicry (Drori, Jang and Meyer 2006; Simmons, Dobbins and Garrett 2008, 9; Sharman 2008). They do so through examining the perspective of the agent capable or intending to change (Simmons, Dobbins and Garrett 2008).<sup>6</sup>

Alternatively, the constructivist norm diffusion literature outlines processes of social influence, persuasion, framing and coercion (for overviews see Acharya 2009, 9-23, and Park 2006). This tends to focus on the one doing the shaming or persuading and the resultant outcome for those being shamed or persuaded. This tends to rely on the normative suasion of an entrepreneur, which arguably is not evident in the case of the ADB's AM (Park 2010b).

One exception however is Acharya who uses concepts of norm localization (2009) and subsidiarity (2011) to explain norm diffusion in Asian regionalism, although this perspective cannot explain how and why the ADB adopted an AM. Norm localization proposes a bottom-

up norm creation process, which is not evident in the ADB because it did not establish an AM to reflect its consensus-oriented organizational culture and economic growth objectives.

Further, norm localization refers to national “local” resistance among Third World elites to outside “dominant Western” norms which cannot readily be applied to an IO dominated by Japan and the US (Acharya 2009: 4). Norm subsidiarity, proposing that Asian multilateral institutions were established to preserve local actors’ autonomy, cannot be applied here either (Acharya 2011: 97). Rather than preserving autonomy, the ADB was modeled on the World and continues to reflect US influence.

Institutional isomorphism as with the Institutionalists mentioned above begins from the perspective of the agent capable or intending to change (ADB) by examining why the IO incorporated new ideas such as accountability. It identifies the ADB’s structural dependence on its member states through their financial contributions (coercive isomorphism as discussed below) that enables donors to press for their ideas to be taken up by the organization. Owing to this structural dependence, these new ideas may not align with the IO’s culture nor do they spread merely because the ideas are good or because of the moral exhortations of norm entrepreneurs as identified by constructivists (Acharya 2009; Park 2006). Institutional isomorphism explains why the ADB adopted the AM and provides insight its aftereffect: why the AM struggles to hold the ADB to account.

Isomorphism has two forms: competitive and institutional. Competitive isomorphism assumes that there is an environment in which organizations compete freely and openly (DiMaggio and Powell 1983: 150). Competitive isomorphism is where the actor adopts a policy to compete more effectively against like units (such as other MDBs), but where pressures promoting the policy are decentralized (Simmons et al. 2008: 17-24; Sharman 2008: 649-51). Competitive isomorphism cannot explain why the ADB created an AM in the

absence of evidence that the ADB created a mechanism to provide an edge over other MDBs in securing loans with borrowers. Indeed the opposite is true. The ADB has the most expensive of all of the AMs (van Putten 2011) and increased loan costs and AM oversight may mean that borrowers shy away from the ADB and the other MDBs in favor of non-conditional loans from other sources.

Institutional isomorphism identifies three processes, coercive, mimetic or normative that shape how organizations seek to maintain their legitimacy (DiMaggio and Powell 1983: 150). I argue below that the ADB adopted an AM not because it was a good idea but primarily as a result of coercive isomorphism, secondarily linked to mimicry. DiMaggio and Powell's third process of institutional isomorphism, normative pressure, is not evident. Normative institutional isomorphism is defined as the professionalization of work (DiMaggio and Powell 1983: 152), but the push to create the AM did not come from a single profession of economists or sociologists for example. Rather, it emerged within the context of member states attempting to improve MDB efficiency and effectiveness (ADB 1995; Weaver 2008; Park 2010a).

Coercive isomorphism can explain why the ADB adopted the AM. Coercive isomorphism is "both formal and informal pressure exerted on organizations by other organizations upon which they are dependent and by cultural expectations in the society within which organizations function" (DiMaggio and Powell 1983: 150). DiMaggio and Powell argue that coercive isomorphism may result from government regulation or from the way regulatory agencies engage with organizations. This can take the form of force (Simmons et al 2008) or persuasion. In the case of the ADB, member states such as the US had plenty of opportunity for financial coercion linking funding to policy change in the ADB's five-yearly General

Capital Increase (GCI) and periodic replenishments of the soft-loan facility, the Asian Development Facility (ADF).

The US threatened to suspend capital subscriptions to the World Bank's soft loan facility in 1993 until it created an AM (Park 2010a; Bissell and Nanwani 2009: 5; Suzuki and Nanwani 2006: 176). This sent a clear signal to other MDBs about the US's intentions to flex its financial muscle. In 1993 the US also used the ADB's fourth GCI in 1993 to press for an AM (United States Congress 1996: 192; Babb 2009: 192). Donors including the US would later advocate reforming the Inspection Function during the replenishment negotiations of the ADF in 2000 (ADB 2000: 36-37).

The US was therefore willing to exercise its power to establish accountability measures within the MDBs as part of a broader strategy to make all of these functionally similar organizations more effective. From the 1980s, MDBs were targeted for overestimating the benefits of project loans (Weaver 2008) and were implicated in development disasters that displaced communities and degraded the environment (Park 2010b). The ADB states that it "established the Inspection Function in the context of increased attention to accountability, transparency, and public participation by ADB and other multilateral development banks" (ADB 2003a: 5). All MDBs were perceived to be non-transparent, ineffective and unaccountable and donors, including the G7, made it clear that greater MDB accountability was needed (Bissell and Nanwani 2009: 8; Suzuki and Nanwani 2006: 187). The World Bank's response to state and non-state demands for greater transparency and accountability created a "ripple effect on the global decision-making process" because the MDBs had the same major shareholders (Suzuki and Nanwani 2006: 177). This supports the argument that coercive isomorphism was at work.

World Bank measures to promote transparency and accountability in operations, as well as to enhance efficiency and development effectiveness by establishing an AM in 1993 prompted the ADB to create one (Bissell and Nanwani 2009: 7). Interviewees routinely stated that the ADB adopted an AM following the World Bank (Interviews with ADB staff, July 2009). This suggests that the ADB's decision to adopt an AM was not only due to the threat of material pressure from powerful donor member states. ADB's adoption of the AM may be best understood not just a coercive process but a mimetic one as well (DiMaggio and Powell 1983: 151; Simmons et al 2008; Meyer and Rowan 1977).

Mimicry is defined as a process where actors copy organizational leaders to gain legitimacy not because this is the best means of being legitimate but in response to an uncertain environment (Sharman 2008). In this context, the ADB could be seen to copy the World Bank due to uncertainty that emerged in the 1990s (detailed below) about the ADB's effectiveness, transparency and accountability. As DiMaggio and Powell state, uncertainty is a "powerful force that encourages imitation...when goals are ambiguous, or when the environment creates symbolic uncertainty, organizations may model themselves on other organizations" (1983: 151). They note that

[O]rganizations tend to model themselves after similar organizations in their field that they perceive to be more legitimate or successful. The ubiquity of certain kinds of structural arrangements can more likely be credited to the universality of mimetic processes than to any concrete evidence that the adopted models enhance efficiency [or in this case accountability] (1983: 152).

Just as the World Bank created the first AM, the Inspection Panel, to respond to pressure from NGO campaigns and member state demands for greater MDB effectiveness and accountability (Park 2010a) so did the ADB AM emerge. Donors, MDBs and NGOs provided social acceptance of the World Bank's AM (ADB 1995: 2003a, 2; Meyer and Rowan 1977).

The ADB's AM emerged from a similarly uncertain environment. The 1990s was a period of visible civil society opposition to its lending activities in Developing Member Countries

(DMCs) exemplified by campaigns against the environmental and social impact of the Theun Hinboun dam and the Nam Theun 2 project in Laos (Bello 2002; Soutar 2007; Singh 2009). These campaigns occurred within the context of broader opposition to the ADB's neoliberal agenda (Oehlers 2006; Rosser 2009). Civil society activists conducted mass protests at the Bank's annual meetings, peaking in Chiang Mai in Thailand in 2000 (Tadem 2003). Such opposition took the ADB Management by surprise and led Executive Directors to push for new measures to monitor the organization's effectiveness, transparency and accountability.

In short, the ADB emulated the World Bank's AM because donors wanted the ADB to be more accountable and these donors had the potential to use the GCI and the ADF replenishments as leverage. This is explained as coercive institutional isomorphism, whereby the US indicated its preference for establishing mechanisms that could hold the Bank to account. The secondary process evident is mimetic: the ADB copied an organizational leader, the World Bank (Suzuki and Nanwani 2006: 177) at a time of uncertainty over the lack of MDB accountability in its organizational field. The World Bank's AM was used as a benchmark for the ADB (ADB 1995, 2003a). However, the organizational culture of the ADB, which prioritizes economic growth and state sovereignty, meant that its success was limited.

### **SOMETHING BORROWED: THE ACCOUNTABILITY MECHANISM AND THE ADB**

Having outlined the way institutional isomorphic processes led the ADB to create an AM, it is worth examining whether the mechanism has achieved its objectives (ADB 1995: 1; ADB 2003a: 3). This section outlines the original Inspection Function before analyzing the way operations were stymied in the very first case in 2001 before the AM was revised in 2003.

The new AM's operations were again blocked in 2009, revealing the power of consensus around economic growth and state sovereignty at the ADB in contrast to donor demands.

The AM's mandate is to "review complaints concerning the Bank's compliance with its operational policies and procedures" (ADB 1995: 1). It provides recourse to people who are or may be directly, materially and adversely affected by an ADB funded project during the loan dispersal phase. This occurs separately to the feedback mechanism for stakeholder engagement incorporated into the ADB project cycle. People with concerns related to implementation of a project contact the ADB operations department and may then file a claim with the AM (this does not suspend the project unless Management or the Board directs it, ADB 1995: 13).

The original Inspection Function was not independent from the Bank's Board of Executive Directors or from the interests of its Developing Member Countries (Fukuda 2003: 31; Suzuki and Nanwani 2006: 208; van Putten 2008: 121). The 1995 Inspection Function was comprised of six Executive Directors of the Board (with three of those from DMCs), in a subcommittee called the Board Inspection Committee (BIC). The BIC used a roster of independent experts nominated by the President to form a three-member Panel of Experts to investigate a claim. The Panel would report to the subcommittee which in turn would report the findings to the Board (ADB 1995). Affected people needed their claim to be accepted by the Board, on which their own government sat. The Board could approve an investigation and make the final decision about the investigation's outcome. This is unlike the World Bank where the Board accepts AM recommendations on a "no objection basis" (Nanwani 2010: 121). The net effect was such that "the panel's lack of independence threatened the credibility and viability of the inspection process itself" (Suzuki and Nanwani 2006: 208, 217).

A scheduled 1998 internal review of the Inspection Function's operations could not make any definitive recommendations because it had only received two claims regarding the Korangi Waste Water Treatment Project in Pakistan, both of which were deemed ineligible because they did not cite ADB policy violations (ADB 2003a: 1; van Putten 2008: 121). The Inspection Function's first eligible claim, the Samut Prakan Waste Water Project in Thailand led to a highly political confrontation between a DMC and the ADB, demonstrating opposing interests between the consensus-oriented ADB and the investigating body, the AM. The project was the site of opposition from local villagers who had opposed the project from 1998 and who protested at the ADB annual general meeting in 2000 (Fukuda 2003: 33). Although deemed eligible by the ADB's Board in July 2001, the investigation process was stymied when the Panel of Experts requested permission from the Thai government to undertake a field visit to investigate the claim. According to one expert, the Thai government agreed to allow the investigation at the project site with conditions including that the ADB would accept "liability for any loss or damages claimed by the contractors as a result of the Panel's visit" (Wiertsema cited in van Putten 2008: 118; ADB 2002a: 14). The Panel could not do so and therefore could not proceed with the investigation, despite attempts to negotiate with Thailand by the Chair of the Board Inspection Committee and requests to Management for clarification on the issue of financial liability (ADB 2003b: 9, 2002a: 14; van Putten 2008: 119). Technically the AM has the right to visit project locations but only with the consent of the DMC (ADB 1995). Information from a closed ADB Board meeting details vehement opposition from DMCs such as Bangladesh, China, India, the Philippines, Pakistan and Thailand to investigative field visits based on concerns over borrowers' sovereign rights (Bello 2002; Fukuda 2003: 35; Suzuki and Nanwani 2006: 215; van Putten 2008: 120).

The outcome of this failed investigation was a report by the Panel of the Inspection Function, which outlined the failures of the ADB in relation to seven of its own policies (ADB 2003b: 1-2; ADB 2002a: 10-11). This was endorsed by the Board's Inspection Committee but "fiercely" rejected by Bank Management (Bello 2002: 9). According to the Board Inspection Committee, Bank Management "traversed almost every finding of the Panel, joined issue with it, at times severely criticizing the findings as well as its methodology" (ADB 2002a: 12). This the Board Inspection Committee felt,

is not a correct approach for ADB's Management to criticize findings of the panel on questions of fact, methodology or reasoning processes. However, if the panel makes a finding that is so demonstrably contrary to the weight of the evidence before it or so untenable that no reasonable panel could have reached the conclusion that it did, a case may be established for the intervention of the Committee. This is plainly not such a case (ADB 2002a: 13).

The ADB Board was split over the Board Inspection Committee's endorsement of the Panel's findings: China, Thailand, India and Pakistan opposed the report while developed states such as the US argued that Thailand's actions undermined the credibility of the process (van Putten 2008: 120). The UK Alternate Director criticized the President and Bank Management for their defensiveness and for "rejecting the findings of an independent panel" (Bello 2002: 9). Others also directly point to the failure of the President for not intervening when the "Thai government objected to the Panel's site and Board opinion split between the South and the North." This Fukuda continues was a result of the reluctance of the President to "strongly lead the institution" where Japanese presidents' see "their role as a mediator in the culture of a consensus-based... 'Asian' organization" (Fukuda 2003: 37).<sup>7</sup>

The Board ultimately approved the Inspection Function's recommendations for improving the process but it did not endorse the findings that the ADB had violated its own policies (ADB 2002b; Fukuda 2003: 33). The UK Alternate Executive Director resigned from the Board Inspection Committee in protest (ADB 2002c). In February 2003, one month after the report

was released, the Thai government suspended the project's construction (Fukuda 2003: 33; ADB 2003b). The Thailand case undermined the entire AM process and revealed tensions between Western notions of accountability and consensus around state sovereignty and economic growth among the ADB President, Management and DMCs.

The US and other donor member states on the Board of Executive Directors used the seventh replenishment negotiations of the ADF in 2000 to advocate reforming the Inspection Function (ADB 2000: 36-37; Bissell and Nanwani 2009: 7; van Putten 2008: 121). The review of the Inspection Function began during the Samut claim in 2001 and was considered the most "transparent and participatory policy making process in the ADB's history" (Fukuda 2003: 34). From 2002 input from NGOs and stakeholders was collected as roundtables and consultations were held around the world (ADB 2003a: 6-8; van Putten 2008: 121-22). The Board Inspection Committee recommended amending the AM procedures following the Samut Prakarn investigation, especially those relating to "access to [ADB] documentation, prohibition of visiting the project site, lack of transparency, and most of all the process's lack of independence" (van Putten 2008: 119).

In May 2003 ADB established an AM to replace the Inspection Function. The newly designed mechanism established separate processes for mediation between project-affected people and the ADB, and complaints, where ADB compliance with its own policies would be investigated. This two-step process was sequential, requiring project-affected people to first engage in mediation before submitting a claim on ADB policy non-compliance. The AM is therefore comprised of two separate offices: the Office of the Special Project Facilitator (OSPF), which offers consultation, and the Office of the Compliance Review Panel (OCRP), which investigates non-compliance by the ADB with its policies that may have resulted in harm (ADB 2012d). Importantly, the Special Project Facilitator reports to ADB Management

under the President while the Compliance Review Panel reports to the Board of Executive Directors (Bissell and Nanwani 2009: 14; Suzuki and Nanwani 2006: 221; ADB 2012d; van Putten 2008, 2011). Both offices constitute the AM.

Ultimately this means that the OSPF, under ADB Management, reinforces the state sovereignty of member states because

[M]any DMCs did not want the SPF to probe into their areas of responsibility. Thus, the 2003 policy clearly provided that '[t]he SPF will not interfere in the internal matters of any DMC and will not mediate between the complainant and local authorities' (Suzuki and Nanwani 2006: 221).

The second office, the OCRP, like the previous Inspection Function, is comprised of three Panel members appointed by the Board to report directly to the Board's sub-committee; (now the Board Compliance Review Committee). The President recommends appointees to the Board (ADB 2012c: ii). These measures ensure "that the panel is not given unfettered discretion in carrying out its work" (Suzuki and Nanwani 2006: 208). However, the CRP now ensures Management compliance with any remedial steps the CRP recommends to the Board via its investigations. It has used this substantial power in two cases: the Sri Lankan Southern Transport Development Project (STDP) and the Chashma Right Bank Irrigation Project (Stage III) in Pakistan (ADB 2012d).

Yet despite its restructure the AM remains hampered by the consensus oriented-organizational culture of the ADB which reaffirms state sovereignty and non-interference to further economic growth. The ADB decision to continue to require prior consent of the DMC government for AM investigations demonstrates the countervailing forces of the ADB, with its culture of consensus around economic growth and state sovereignty, and the AM. In January 2009 another project was deemed eligible by the AM, the Fuzhou Environmental Improvement Project in China. Again the issue of DMC sovereignty led to a stand-off

between the AM and the DMC, with the Chinese government resisting a Compliance Review Panel site visit. The Compliance Review Panel deemed a site visit necessary to “corroborate the claims made by the requesting parties” (ADB 2011c, 62). As Suzuki and Nanwani state, “the policy assumes DMCs will routinely give consent as part of the good faith cooperation of all parties in the compliance review process” (2006: 215). The Chinese government declined the site, stating: that, the project met ADB policies; that previous visits by the OSPF should be sufficient for the CRP to work from (although they are separate offices with different mandates, staff and functions); that those requesting a compliance review no longer lived at the site; and that the compliance review request was no longer necessary as the project had since been modified (ADB 2011c: 62). The CRP was unable to progress the investigation because it was unable to confirm the claim without visiting the project site.

### **SOMETHING BLUE? THE FUTURE OF THE ACCOUNTABILITY MECHANISM**

The previous section detailed the AM’s limitations in providing a fair hearing for affected groups in the 2001 Thailand case due to consensus amongst the President, Management and DMCs around state sovereignty. This section examines how the ADB’s consensus continues to limit the AM’s activities despite a review of the mechanism which concluded in 2012. This is because the AM was adopted through coercive and mimetic isomorphic processes, whereby the ADB mimicked the World Bank but had little internal support for AM at the upper management level. This hampered its ability to hold the ADB to account. The review reveals that the AM has not penetrated the consensus-oriented hierarchical culture of the ADB, which favors economic growth and state sovereignty and limits the AM’s ability to serve its purpose.<sup>8</sup>

The AM was a “creature of the West” (Interview ADB staff member 21 March 2012) that aimed to hold the ADB to account of the social ramifications of projects for economic

growth. One of the AM's architects argued that establishing an AM was difficult for the ADB because

in Asia it is somewhat different to disclose information. People shy away from direct confrontation. Inspection we are not accustomed to...It requires a whole lot of internalization for both staff and countries. But as a public institution, we have to move in that direction. Otherwise, we cannot satisfy all the donor countries that want to know how their taxpayer's money is spent (Nanwani cited in van Putten 2008: 123).

In practice the AM has been unable to persuade DMCs of the need for site visits to investigate harm as evidenced in the 2009 China investigation. DMCs remain unconvinced that the AM only investigates *ADB* compliance with its own policies not governments (Fukuda 2003; ADB 2003a). China's determination not to allow in-country investigation also shows that the President, Management and the Board will acquiesce on the basis of state sovereignty.

One of the reasons the AM remains limited is that it is not backed by a strong internal advocate for accountability - particularly ADB Management, the President, or the Board. According to one staff member, accountability is not on the President's radar (Interview with ADB staff member 21 March 2012). Even Executive Directors on the ADB's Board do not know if the current President is interested in accountability (Interview with an ADB Executive Director July 2 2009). Meanwhile, Developing Member Country Executive Directors do not act on this issue (Interview with an ADB Executive Director July 2 2009). The Fuzhou case also demonstrated a lack of leadership on behalf of donor Executive Directors who stridently disagreed with China's reasons not to allow an investigation but did not call for a formal Board vote, thus letting the issue drop (Interview with ADB staff member 21 March 2012). Donor states such as the US, Canada and the Europeans indicated that limiting the AM might affect future ADB funding but this seems an empty threat as a substantial GCI was passed in 2009 and ADF financing remains unchanged (Interview with ADB staff member 21 March 2012; ADB 2009: 6). Without the President, high level

management or donors strongly defending accountability, there is little chance that accountability will be prioritized within a consensus-oriented hierarchical institution.

The AM also lacks a powerful internal champion which is not surprising given that staff are selected by Management with little regard for international legitimacy. NGOs agree that the AM is comprised of “ADB men,” who are career ADB professionals (Interviews 16 and 17, 7 July 2009; Fukuda 2003, 35-6).<sup>9</sup> One of the key architects of the mechanism has further argued that AMs “tend to have limited competence to review the internal law of their parent institution” (Nanwani 2010: 113) - an inherent flaw in the selection process. For example, the former Inspection Function only accepted two of eight claims for inspection (ADB 2003a: 5). This was despite four of those coming from the Chashma Irrigation project, which were eventually deemed to be eligible under the revised AM, and where the ADB was found not to have complied with its own policies (ADB 2012d). The body also rejected four requests for investigation of the Sri Lankan Southern Transport Development Project by four separate local groups (ADB 2002c: 3-4). The new AM accepted a fifth claim for mediation although claimants were unhappy with the process and felt that mediation failed. They proceeded to an investigation of ADB non-compliance through the CRP, which determined that ADB had not met its policies and that remedial action by ADB Management was required (ADB 2012d; Nanwani 2010: 112).

The ADB’s organizational culture further restricts the AM’s capacity to act. Although permanent offices have been created for the SPF and the CRP, the AM relies on the Office of the General Counsel of the ADB for legal advice. The General Counsel also advises the President, Management, and the ADB’s Board of Directors (Interview with an ADB Executive Director 2 July 2009; Interview with ADB staff member 21 March 2012). An in-built conflict of interest exists between 1) advice given by the Office of the General Counsel

to Management in reply to a claim for investigation and 2) its advice to the CRP which makes recommendations on required remedial steps to comply with policy. The AM has the power to oversee Management's remedial actions. In a hierarchical institution where the President hires senior management, this raises questions of the impartiality of the Office of the General Counsel and the independence of the AM. The ADB does not uphold a separation of powers between the Board and Management, or between Management and the AM with separate lines of accountability and compliance checks. Some argue that this is evidence that accountability is just "not part of the DNA of the joint" (Interview with ADB staff member 21 March 2012).

The AM's limited capacity was reinforced by the outcome of its review. In May 2010 the President of the ADB announced that the Board and ADB Management together would review the AM (ADB 2011c). ADB Management was therefore able to oversee a review of a mechanism that investigates whether Management has complied with its own policies. A working group comprised of four Board members and the Managing Director General established the review parameters and two external reviewers then conducted the review (ADB 2012c). As with the 2001-03 review, the process included worldwide stakeholder roundtables to solicit input. An assessment was due in 2006, but was delayed because of the "limited experience of the mechanism". At that stage "only one complaint ha[d] gone through the full process of the consultation phase and one request ha[d] gone through the full process of the compliance review phase" (Bissell and Nanwani 2009: 15). As of May 2012, the OSPF had received 32 complaints, of which 11 were eligible for mediation, while the OCRP has received seven complaints since its inception (ADB 2012d).

The AM review was still underway when the Compliance Review Panel closed the Fuzhou investigation, claiming it could not make a recommendation to the Board. Most of the

review's recommendations concerned making the AM easier to access for affected people, including eliminating the two-step process (ADB 2011c: i-ii, 7, 16; ADB 2012c: i). The AM review recognized that the current combination of (i) requiring borrowing countries' consent, and (ii) giving the CRP responsibility for acquiring the consent has not worked in all cases (ADB 2011c: 24). In its working papers the review posits a range of options to overcome this problem including mandatory site visits for the CRP but notes that this has been "*seen as infringing upon national sovereignty, and contradict[s] ADB's established principles and practices of working in partnership with DMCs*" (ADB 2011c, 24; emphasis added).

Ultimately it does not recommend enforcing mandatory visits as it may inflame relations with DMCs, and borrower governments may reject entry visas anyway (ADB 2011c: 24). The final review report suggests that ADB management should try to use its good offices to help the CRP to obtain a site visit, but where DMCs refuse, that the CRP should nonetheless complete their investigation (ADB 2012c:16, 39). This clearly misunderstands the interests of the ADB President, Management and DMCs on the one hand, and the AM on the other, particularly considering that the ADB's Office of the General Counsel advises both.

Equally importantly, the review recommends that Management, not the CRP, should devise remedial actions where the Bank has been found not to comply with its own policies (ADB 2012c, 16-17). This is despite the fact, or perhaps because, the CRP undertook lengthy monitoring processes in relation to the STDP and Chashma investigations. These are the only two investigations that have been completed and they demonstrate that the AM can hold the ADB to account. However, Fukuda argues that some ADB staff are not in favor of the AM because it interferes with the lending process and may draw attention to problems "caused by their funding" such that "ADB staff consistently derail the inspection process" (2003: 34).

While the AM is hampered in its capacity to operate, it has retained its ability to monitor the

remedial actions of the ADB, thus providing it with the power to rectify problems in ADB-funded projects and address direct and material harm to affected groups.

## **CONCLUSION**

In 1995 the ADB established an AM for people adversely affected by ADB funded projects. Using ideational analysis, this paper analyzed how and why the Asian Development Bank established its AM and assessed whether it is able to serve its purpose. It argued that the ADB adopted an AM because of institutional isomorphism, borrowing the idea from the World Bank as a result of coercive and mimetic isomorphic processes. The US and Western donors wanted the ADB to establish an AM to make it more effective, transparent and accountable and they were able to link future funding to requesting a mechanism for accountability. The ADB then emulated the World Bank in creating the AM. As a result, the ADB introduced a mechanism ill-suited to the ADB's organizational culture, which is based on consensus and hierarchical rule-following to further economic growth while upholding state sovereignty. This was evidenced by the AM's inability to investigate its first claim in 2001 in Thailand, and one of its most recent claims in China in 2009, as a result of DMC resistance to infringements on their sovereignty. Despite its restructure in 2003 and recent review, the AM remains unable to fully serve its purpose. The paper concludes by arguing that the AM will remain limited as long as the organizational culture of the ADB continues to prioritize economic growth and state sovereignty over recourse to affected people. Without a strong advocate in the President, Management or the Board, the AM will be limited in its capacity to hold the ADB to account and provide affected people with a fair hearing.

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## NOTES

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<sup>1</sup> These include the African, Asian, and the Inter-American Development Banks, the European Bank for Reconstruction and Development and the World Bank.

<sup>2</sup> 'Ideational analysis' denotes the spread of an idea through institutional isomorphism, which could easily fit within the constructivist norm diffusion framework (see Park 2006; Acharya 2009) while indicating the importance of an organization's system of meaning or culture which is a key concern for Institutionalists (DiMaggio and Powell 1983) and Constructivists (Barnett and Finnemore 2004; Chweiroth 2008; Weaver 2008; Park 2010b).

<sup>3</sup> Many regional members of the ADB are also members of ASEAN. ASEAN's 1976 Treaty of Amity and Cooperation in Southeast Asia enshrined the principles of sovereignty and non-interference, while principles guiding members' interactions became known as the 'ASEAN Way' (Nesadurai 2008: 228). Scholars debate the extent to which these principles determine members' behaviour or when they use them for their own strategic ends (for a small sample see Kim 2011; Aggarwal and Chow 2010; *Pacific Review* 2008 Special Edition). Irrespective of their motivation concerns surrounding sovereignty are strong for ABD's regional members.

<sup>4</sup> While an increasing number of Asian states are inching towards providing minimum social welfare (*The Economist* 2012; Rosser and Wilson 2012; Ramesh and Asher 2000), development lending from the ADB has focused on infrastructure and energy which can be ascribed to a trickle down approach leading to increased welfare for the population rather than borrowing for social development.

<sup>5</sup> ADB's approach can be conceived of as providing infrastructure for promoting economic growth in order to reduce poverty rather than prioritizing social welfare provisions to promote economic growth (on the difference and the IMF's shift from the former to the latter see Vetterlein 2010).

<sup>6</sup> Institutional isomorphism includes examining competition and mimicry. There is no evidence that learning from the World Bank took place as there is no evidence of the Bank's "success" with its AM (see Park 2010). It is not therefore discussed here.

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<sup>7</sup> Even if the President became more interventionist or was no longer held by a Japanese national, the ADB organisational culture around economic growth and state sovereignty would remain. While Japan has control over the ADB and strong elements of its formative Japanese administrative culture remain, the ADB has its own organisational culture (Yasutomo 1983). Yet organisational cultures tend to be “sticky” and resistant to change (Park 2010b).

<sup>8</sup> In organizational terms this may be called “de-coupling” or “organizational hypocrisy” creating new organizational components to address new issues in the organization’s environment that do not reflect the organization’s myths or culture (Meyer and Rowan 1977; Lipson 2007).

<sup>9</sup> Both of the key architects of the AM have retired. The most recent Secretary of the OCRP was an internal advocate for the AM but was unable to influence the President, Management or the Board to ensure that the AM should provide fair hearing to affected people.