

ACTIVISM AGAINST WATER & ENERGY INFRASTRUCTURE PROJECTS IN MONGOLIA



BY RIVERS WITHOUT
BOUNDARIES COALITION
(MONGOLIA)
AND
SUKHGEREL DUGERSUREN

EXECUTIVE SUMMARY

Rivers without Boundaries Coalition is a coalition of activists, researchers, and academia in Russia and Mongolia that has worked since 2011 on hydro and coal powered energy infrastructure projects with potential harmful impacts of local, national, and regional significance. Climate change and environmental stress in countries of the region with resulting internal and external displacement of population is already leading to transboundary conflict. China's Belt and Road Initiative (BRI) plans to develop infrastructure which will eventually connect as regional and global infrastructure is likely to add to transboundary conflict in Central Asian countries.

This study will present a case of the use of various international mechanisms: the UN bodies for monitoring conformity with commitments under its conventions; multilateral development bank (MDB)'s safeguards systems and grievance mechanisms as well as direct campaigning with potential project financiers in diverting investment from a hydro dam project with potential transboundary environmental and social impacts.

Mongolia planned hydroelectric dams and water transfer projects to support growing demand from mega mines in the Gobi Desert and plans to expand mining in the northwestern regions.

The World Bank provided \$25 million USD credit under the Mining Infrastructure Investment Support (MINIS)¹ project for technical assistance to facilitate investment in mining infrastructure by designing & packaging projects ready for investment for Government of Mongolia to seek financing by other parties. These included Shuren HPP, Orkhon HPP & Water Transfer project and Egiin Gol HPP - all located in the Selenge River basin in Mongolia. Egiin Gol HPP was put up for financing by China's Export Import Bank soft loan signed in 2015.

¹ <https://projects.worldbank.org/en/projects-operations/document-detail/P118109?type=projects>

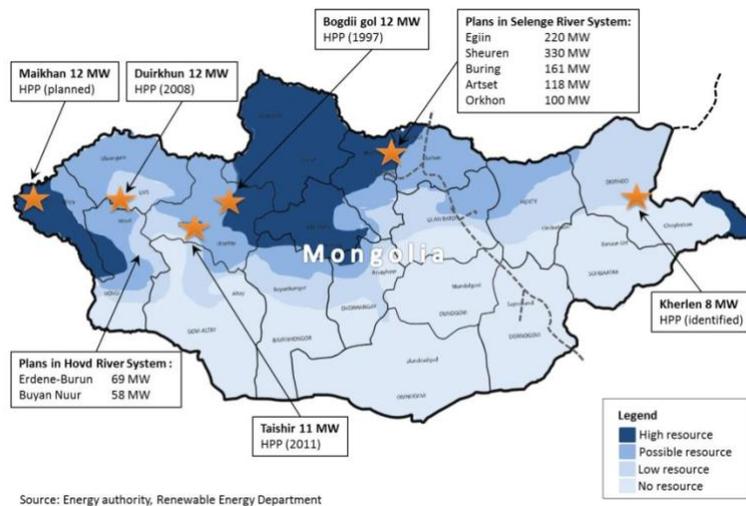


Photo 1. Mongolia hydro power plans²

Potential negative impacts from these hydropower projects ranged from physical and economic displacement at local level without adequate compensation and information disclosure to risks of earthquake,³ loss of agricultural land for both crop⁴ and livestock sectors, loss of nomadic pastoralist tradition, loss of important resources for tourism and light industry sectors at national level both in Russia and Mongolia, and negative impacts on internationally protected sites such as Lake Baikal under the World Heritage⁵ and Selenge Delta Ramsar Wetland.⁶⁷

The Rivers without Boundaries Coalition (RwB) carried out immense research and field work to organize communities and stakeholders at the local, national and international levels to file two complaints to the WBGIP (2015, 2017), annual information submissions to the WHC and public awareness raising campaigns to delay these projects. RwB consists of Vertical Partnerships of stakeholders, for example local community in Tsagaan Nuur with RwB in Ulaanbaatar, which in turn works in partnership with members of RwB in Russia and the RwB International Coordinator further connecting to international civil society networks through their own channels.

A TRANSBOUNDARY PROACTIVE PREPAREDNESS FOR ADDRESSING TRANSBOUNDARY IMPACT.

² <https://www.adb.org/sites/default/files/project-document/81826/43079-012-tacr-01f.pdf>

³ <https://www.researchgate.net/publication/347878753>

⁴ <https://reliefweb.int/sites/reliefweb.int/files/resources/i8377en.pdf>, page 21

⁵ <https://whc.unesco.org/en/list/754/>

⁶ <https://en.wikipedia.org/wiki/Selenga>

⁷ <https://whc.unesco.org/en/list/1081/>

The BRI projects will be affecting communities in neighboring countries and thus Horizontal Partnerships at project impacted community level needs to be developed to address the transboundary nature of the impacts. A close cooperation of these Vertical and Horizontal Partnerships is essential in campaigning and lobbying against potential transboundary impacts and conflicts resulting from implementation of the BRI initiative projects.

INTERNATIONAL ACCOUNTABILITY MECHANISMS (IAMs)⁸

All multilateral development banks have an accountability mechanism that have core elements such as public access, access to information, independence from management of the institution, fairness of the compliance review and dispute settlement mechanisms, and effectiveness of the mechanism. IAMs receive complaints regarding violation of a MDB's safeguards policies for protecting the environment and communities affected by their projects.

Since Shuren HPP and Orkhon-Gobi HPP-Water Transfer project were designed by the World Bank's MINIS project, communities in 3 settlements in Mongolia and 7 settlements in Ulan-Ude Buryatia and Irkutsk (Russian Federation, RF) have filed a joint complaint to the Bank's Inspection Panel in 2015.⁹ Complainants requested investigation of Bank decisions and MINIS operations for compliance with the Safeguards Policies in assessing all potential impact from the projects on WHS Lake Baikal, Selenge River basin and communities living in these areas, including lack of consultation and information disclosure on projects' impacts.

The Inspection Panel team visited Mongolia and Russian to meet with the complainants in 2015 and caused the MINIS project to carry out stakeholder consultations throughout 2016-2017 in all settlements in RF and Mongolia to be affected by the HPPs and water transfer project. The consultations carried out at all levels of national and local government resulted in a decision to carry out a Regional Ecological Assessment (REA) of the Lake Baikal in Mongolia and RF before finalizing the hydro dam projects. Inspection Panel deferred its decision to investigate the project twice and in July 2017, based on "sufficient and satisfactory changes made by MINIS in the design of Shuren HPP and Orkhon-Gobi HPP-WT sub-projects" as well as arguing that "no harm" was caused by the design stage, the IP closed the complaint without investigation.¹⁰ Feasibility studies for Shuren and Orkhon-Gobi projects were halted in 2017 to ensure that

⁸ <https://brill.com/view/book/edcoll/9789004337787/BP000009.xml>

⁹ <https://www.inspectionpanel.org/panel-cases/mining-infrastructure-investment-support-and-mining-infrastructure-support-additional-2>

¹⁰ <https://www.inspectionpanel.org/sites/www.inspectionpanel.org/files/ip/PanelCases/102-ThirdandFinalReportandRecommendationEnglish-July2017.pdf>

strategic regional environmental assessment is implemented first. The MINIS project was closed in December 2019 leaving Shuren and Orkhon-Gobi projects awaiting development and preliminary agreement on the REA terms of reference but with no further financial or technical support for its implementation.

The future of using international financiers' accountability mechanisms will be affected by a number of salient changes: proliferation of the mechanisms beyond the current community of multilateral development banks to include a wide range of development organizations, rise to prominence of the human rights standards across all institutions, the emergence of private sector entities adopting independent accountability processes, and the evolution of the world of international accountability to become a spectrum of choices for complainants and institutions. At the same time there is fear that there will be a race to the bottom with more financiers competing to invest in mega size projects under the BRI initiative.

The AIIB as the key financier of BRI projects has established a Project-affected Peoples' Mechanism¹¹ which became effective in March 2019 to ensure compliance with its Environmental and Social Policy¹² and thus is too early to assess its effectiveness.

WORLD HERITAGE CONVENTION MECHANISMS AND BILATERAL LOBBY

Using the UN treaty body mechanisms is an effective direct pressure on a State Party to conform with the commitment under a convention. In the Egiin Gol HPP case, the Mongolian government turned to China for a loan to support the construction of the dam prepared by a number of actors including the ADB in early 90s. In November 2015, China and Mongolia announced that a \$1 billion USD loan to the project was to be provided by the China Export Import (EXIM). The project contractor, China Gezhouba was provided a \$100 million USD for construction of access roads and bridges in preparation of dam construction and accessibility during winter months.

In the case of Egiin Gol HPP, Rwb used the World Heritage Convention annual reporting commitments to the WH Committee sessions, World Heritage Centre and IUCN mechanisms to raise public awareness at international level providing research backed justifications and specific recommendations. This resulted in the WHC calling on GoM to not “approve any of the

¹¹ <https://www.aiib.org/en/about-aiib/who-we-are/project-affected-peoples-mechanism/how-we-assist-you/index.html#>

¹² <https://www.aiib.org/en/policies-strategies/framework-agreements/environmental-social-framework.html>

[dam] projects until the above mentioned REAs and assessment of cumulative impacts have been reviewed by the World Heritage Centre and IUCN.”¹³ Annual sessions of the WHC are used to provide updates on Mongolia dam projects and recommend conclusions for the State party of Mongolia as and when necessary.

Direct lobbying with financiers in the case of bilateral arrangements was used by residents of the Russian town Kabansk in 2016, whereby the Municipal Administration was prompted to communicate to China Exim and project developer China Gezhouba International of community concerns regarding the potential environmental, social and transboundary impacts of the Eg HPP.

An AVAAZ public petition that called on the Russian, Chinese, and Mongolian presidents to cancel hydropower projects in the Selenge River basin signed by 70,000 concerned citizens from around the world to protect the world’s deepest lake from Mongolia's hydro plant construction plants and recommended fund environmentally friendly wind and solar solutions in Mongolia’s Gobi desert.”¹⁴ In addition to creating public awareness, this petition served as a loud warning to any potential investors of the reputational risks associated with the project.

China Exim froze the \$1 billion USD Egiin Gol loan until all necessary environmental and social assessments, including a regional basin-wide assessment with meaningful public consultation carried out prior to disbursement of the loan. The Mongolian authorities then attempted to support the dam through its own Development Bank bond program restructuring the Egiin Gol HPP Project Administration into a state-owned limited liability company. The Egiin gol Project has been investigated for embezzlement and double charging significant amounts of money under this Development Bank loan but has not been held accountable due to alleged "limitations caused by disagreement with the Russian Federation."

An important lesson learned is the need to have alternate project suggestions steering investment away from new but also poor projects, like in this case, China Exim redirected funding from Egiin Gol HPP to Erdeneburen HPP, yet another harmful project.

CONCLUSIONS AND RECOMMENDATIONS

¹³ “State of Conservation: Lake Baikal”, World Heritage Committee. <https://whc.unesco.org/en/soc/3247>

¹⁴ “RWB Mongolia Explains the Reasons for Compliant to the World Bank Inspection on Selenge Basin Dams”, Rivers Without Borders, February 28, 2015. <http://www.transrivers.org/2015/1498/>

The use of the World Bank Inspection Panel as the accountability mechanism to look into the complaints about potential transboundary impacts of Mongolian HPPs on the Lake Baikal in RF has set a good precedent of holding consultations in both countries with all communities to be affected by potential transboundary environmental and social impacts and should be taken on as a good practice tool in this region.

The United Nations treaty body and special procedures mechanisms are an underutilized resource which should provide to be useful in monitoring and holding BRI projects accountable and compliant with China's own as well as recipient countries' international pledges and commitments.

The use of public petitions, like Avaaz, mobilizing board international popular pressure has completed many successful campaigns and should be considered in cases of projects with transboundary nature of impacts.

While there are various international mechanisms for campaigning against harmful projects the mega infrastructure projects coming under China BRI plans in South and Southeast Asia already confirmed the fears that the national accountability mechanisms in the jurisdiction of projects and China's own commitments are not likely to protect from negative and especially transboundary impacts of BRI.

There is a clear need for enhancing or preventing existing international mechanisms from relaxing accountability requirements and performance standards as well as applying concerted international effort by all networks monitoring MDBs, IFIs or intermediaries to uphold their safeguards policies.

There is also a clear need for developing Vertical and Horizontal Partnerships to cause China and AIIB to enforce their safeguards policies and international commitments in implementing BRI projects in CA.

There is need to build capable Horizontal Partnerships of neighboring communities along BRI projects in the region to stand together and be prepared to face and/or mitigate transboundary conflicts arising from transboundary impacts.

There is also a need for a change from environmental groups/networks focusing solely on water, aquatic biodiversity, etc. to finding partners to work together on the nexus of environmental and human rights, ability to articulate climate, ecological impacts on human rights and vice versa the human right to live in ecologically balanced and safe environment.