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CONTENTS

S.No.	Title and Name of Author/s	Page Number
1	ENSURING ACCOUNTABILITY AND TRANSPARENCY FOR MULTILATERAL DEVELOPMENT BANKS UNDER INTERNATIONAL LAW: LEGAL OBLIGATIONS AND POLICY PATHWAYS FOR ENVIRONMENTAL GOVERNANCE <i>Amrendra Kumar and Taniya Ahuja</i>	1-20
2	LEGAL PHILOSOPHY AND ENVIRONMENTAL OBLIGATIONS: EXPLORING THE JURISPRUDENCE OF FUNDAMENTAL DUTIES RELATING TO ENVIRONMENT <i>Dr. Chandreshwari Minhas</i>	21-36
3	REVISITING KYOTO PROTOCOL: DECODING ADVISORY OPINION OF INTERNATIONAL COURT OF JUSTICE ON KYOTO PROTOCOL <i>Dr. Santosh Kumar Sharma</i>	37-50
4	CLIMATE-INDUCED DISPLACEMENT: EMERGING CHALLENGES IN HUMANITARIAN LAW <i>Aishwarya & Apoorva Roy</i>	51-81
5	CORPORATE CRIMINAL LIABILITY AND ENVIRONMENTAL PROTECTION: A COMPARATIVE AND POLICY ANALYSIS <i>Prof. (Dr). Alok Kumar and Dr. Tijender Kumar Singh</i>	82-98
6	BEYOND THE STATUS QUO: REPRESSIVE TOLERANCE AND THE FUTURE OF PUNJAB'S WATER RESOURCES <i>Bhupinder Kaur</i>	99-108
7	GROUNDWATER CRISIS IN HIMACHAL'S INDUSTRIAL HEARTLAND: A STUDY OF HEAVY METAL POLLUTION IN BADDI-BAROTIWALA REGION <i>Dr. Praveen Kumar and Dr. Nutan Kanwar</i>	109-134
8	INTEGRATING TRANSFORMATIVE CONSTITUTIONALISM IN CLIMATE CHANGE CASES: AN IN DEPTH ANALYSIS OF PROGRESSIVE SUSTAINABILITY IN INDIA <i>Oishika Bnerjeea</i>	135-153
9	LEGAL DIMENSIONS OF RENEWABLE ENERGY IN INDIA: NAVIGATING REGULATION, INVESTMENT AND ENVIRONMENTAL SUSTAINABILITY <i>Dev and Apporva</i>	154-171
10	INTEGRATING GLOBAL VISION WITH LOCAL ACTION: INDIA'S PURSUIT OF THE SUSTAINABLE DEVELOPMENT GOALS <i>Dr. Bharat Barowalia</i>	172-226
11	RESOLVING ENVIRONMENTAL DISPUTES BEYOND COURTS: THE FUTURE OF ADR IN INDIA <i>Arinjay Mishra and Shubham Mishra</i>	227-240
12	SACRED AIR, POLLUTED REALITY: ANCIENT RELIGIOUS WISDOM MEETS MODERN ENVIRONMENTAL CRISIS <i>Dr. Narinder Pal</i>	241-258

ENSURING ACCOUNTABILITY AND TRANSPARENCY FOR MULTILATERAL DEVELOPMENT BANKS UNDER INTERNATIONAL LAW: LEGAL OBLIGATIONS AND POLICY PATHWAYS FOR ENVIRONMENTAL GOVERNANCE

Amrendra Kumar and Taniya Ahuja***

Abstract

Multilateral Development Banks (MDBs) are international financial institutions engaged in facilitating and providing funds and finances for environmental concerns and development for its member nations and other entities worldwide. These are considered 'international organizations' under international law, enriching their legal rights, obligations, and immunities for their functions, facilities, and activities. The most catalyst MDBs found at the international and regional level are the World Bank (WB), Asian Development Bank (ADB), and Islamic Development Bank (IDB), which provide funds, loans, credits, and technical assistance based on legal instruments agreed with member nations. Several MDBs have recently been controversial due to certain legal and human rights issues related to the environment in different regions. Hence, there is a legal debate and demand for responsibility, accountability, and other compliances on the part of MDBs to facilitate environmental governance, promote human rights, and achieve sustainable development goals (SDGs). Against this background, this article aims to examine the legal status of MDBs, international responsibility, accountability, and immunity provided to them under international law, and environmental and human rights issues recently raised against them. It argues that MDBs have to adhere to their legal mandate limited to object, mission, and activities relating to financial assistance and development engaged in domestic jurisdiction of member nations. They are required to be more responsible, accountable, and transparent, supporting environmental governance and sustainable development. Reviewing the existing literature and legal instruments, this article uses a deductive method through doctrinal research to obtain useful and viable findings.

Keywords: *Multilateral Development Bank, International Organization, Financial Mechanism, Environment Governance, Sustainable Development.*

I

Introduction

Multilateral development banks (hereinafter MDBs) are international financial institutions that offer financial support for developmental projects across nations. Their object and mandate have expanded to environmental concerns for its member nations and other entities worldwide.¹They are considered as ‘International Institutions’ under international law. Established by international treaties, MDBs such as the World Bank, the Asian Development Bank(hereinafter ADB), and Islamic Development Bank (IDB) possess a distinct international legal personality.²The status of legal personality grants them certain privileges, including immunity from national courts while mandating obligations and responsibilities to ensure compliance with international law. The global debt crisis and persistent bottlenecks in multilateral green finance have underscored the importance of reforming MDBs to align with international environmental standards and human rights obligations. Despite various internal disclosure policies and accountability mechanisms, many MDBs have been criticized for not providing sufficient information about project finances, environmental and social impact assessments, and overall performance.³ Lack of detailed, timely and accessible information limits the ability of civil society and affected communities to monitor projects and hold MDBs accountable. Critics argue that without full transparency, MDBs risk undermining public trust and perpetuating imbalances between powerful financial institutions and vulnerable populations.⁴MDBs are governed by the principles of international responsibility law, which require them to be responsible for wrongful acts under international law. Legally, they raises concerns about MDB’s

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¹Daniel D. Bradlow, *Multilateral Development Banks, Their Member States and Public Accountability: A Proposal*, 11 INDIAN J. INT’L ECON. L. 21, 22 (2019).

²JasminaBosto, *Legal Accountability of Multilateral Development Banks under International Law: The Quest for Effective Protection of People Affected by Development Projects* (Master’s Thesis, Vienna 2020), <https://doi.org/10.25365/THESIS.63910> (last visited Jun. 16, 2024).

³*Supra* 1, Bradlow, at 22.

⁴Eisuke Suzuki and Suresh Nanwani, *Responsibility of International Organizations: The Accountability Mechanisms of Multilateral Development Banks*, 27 MICH. J. INT’L L. 177 (2005).

compliance with international law, particularly in ensuring transparency and accountability in environmental governance.

In this context, this article aims to analyze the legal status of MDBs, with a particular emphasis on ADB, their international responsibility, accountability, and immunity under international law. It argues that MDBs have to adhere to their legal mandate limited to object, mission and activities relating to financial assistance and development engaged in domestic jurisdiction of member nations. They are required to be more responsible, accountable, and transparent, supporting environmental governance and sustainable development. This article includes three central parts analyzing the legal status of MDBs under international law; intersection of MDBs and environmental governance; role of MDBs in environmental peace-building, along with an introduction and conclusion. For practical understanding, this article opt an example of ADB for better analysis and criticism based on its projects, policies and activities in Asian region. Reviewing the existing literature and legal instruments, this article uses deductive method through doctrinal research for useful and viable findings.

II

Multilateral Development Banks and International Law: Legal Positioning of ASIAN Development Bank

MDBs operate within a complex international legal framework that governs their mandates, structures, and accountability. There is a growing consensus that MDBs are subjects of international law.⁵ MDBs derive their legal authority from key sources of international law.⁶ The principle of '*erga omnes partes*' also applies to MDBs by emphasizing their responsibility to respect universal obligations, particularly in human rights and environmental governance, aligning with international law ensuring accountability for their missions and actions.⁷ These legal sources guide in understanding the rights and responsibilities of MDBs. These institutions are established through their own

⁵Robert T. Coulter et. al., *Principles of International Law for Multilateral Development Banks: The Obligation to Respect Human Rights* in FREE, PRIOR AND INFORMED CONSENT: PATHWAYS FOR A NEW MILLENNIUM³ (Nov. 1, 2013), available at: <https://scholar.law.colorado.edu/cgi/viewcontent.cgi?article=1001&context=free-prior-and-informed-consent> (last visited 8 Jun., 2024).

⁶Statute of the International Court of Justice, 1945, Art. 38.

‘Articles of Agreements’ among sovereign nations, on either global (like World Bank) or regional (operate in specific region like ADB) basis which grant them operational autonomy and legal immunities.⁸ Like, ADB is governed by its own constituent agreement which further accords it international legal personality for world at large.⁹ The Vienna Convention further helps to interpret their treaties that create MDBs and outlines how they must be followed.¹⁰ On the basis of existing principle and norms of international law, legal positioning of the MDBs could be analyzed as:

(i) *MDBs and International Personality*

MDBs are recognized as international organizations as they fulfill all essential criteria, including the establishment through a multilateral treaty, the participation of sovereign states, and the existence of their own institutional bodies.¹¹ MDBs are not parties to the UN Charter like sovereign states. However, they are related to the United Nations system. For example, the World Bank is a specialized UN agency. The United Nations Charter establishes a high benchmark for advancing human rights and fostering international cooperation, applying not only to member states but also to international institutions, including financial organizations.¹² World Bank has served as model for other MDBs. Thus, other MDBs are also expected to align their work with the values of the UN, especially regarding human rights and environmental protection.¹³

For this purpose, ADB, as the best among MDBs, has been established through the 'Agreement Establishing the Asian Development Bank', which further outlined its governance structure, objectives, and financial

⁷*Supra* 5, Robert TCoulter, at 2.

⁸*Id.*, at 8.

⁹Asian Development Bank, AGREEMENT ESTABLISHING THE ASIAN DEVELOPMENT BANK 123, 571 U.N.T.S. (4 Dec., 1965), available at – <https://www.adb.org/sites/default/files/institutional-document/32120/charter.pdf> (last visited 8 Jun., 2024).

¹⁰ Vienna Convention on the Law of Treaties, 1969, Art. 5.

¹¹Chengjin Xu & Bin Gu, *A Critique of Immunity for Multilateral Development Banks in National Courts*, 4 CHIN. J. GLOB. GOV'T 49, 52 (2018).

¹²*Supra* 2, Jasmina Bosto, at 13.

¹³*Supra* 5, Robert TCoulter, at 11.

mechanisms.¹⁴ This constituent agreement of such bank gives juridical personality and legal capacity: (i) to contract; (ii) to acquire, and dispose of, immovable and movable property; and (iii) to institute legal proceedings.’¹⁵ MDBs are subject to legal rights and obligations under international law. The development of international law concerning MDBs reflects a growing integration of global norms into their internal regulations and practices. Their financed projects result in significant environmental and human rights consequences, which necessitate the incorporation of new norms of international law, especially those related to sustainability and participation into the legal structure of MDBs.¹⁶ Alike all MDBs, ADB is supposed to protect human rights during their finance and funds.¹⁷ Since its inception in year 1966, ADB has been committed to work for prosperous and sustainable Asia and the Pacific region. It is managed by sixty nine member countries, with forty nine of these members being from the Asia-Pacific region itself. The legal personality of MDBs provide extensive immunities and privileges to MDBs, often shielding them from legal proceedings.

(ii) *MDBs and International Immunity*

A key feature of MDBs' international legal status is their immunity in domestic courts. The jurisdiction of member states and hosting states do not apply to them. Their constituent agreement exempts them from legal suits in domestic courts, preventing challenges to its policies or operations.¹⁸ MDBs invoke these protections to maintain operational continuity and secure the swift disbursement of financial resources to developing countries.¹⁹ This immunity prevents politically motivated litigation from interfering with development projects. However, this special status is not an absolute shield. International legal principles demand that MDBs conduct their activities in a

¹⁴*Supra* 9, ADB.

¹⁵*Id.*, ADB, Art. 49.

¹⁶Michael Riegner, *The Law of Multilateral Development Banks: Sustainability and Participation in International Development Finance* in SUSTAINABILITY THROUGH PARTICIPATION?: PERSPECTIVES FROM NATIONAL, EUROPEAN AND INTERNATIONAL LAW 433 (Birgit Peters & Eva Julia Lohse, eds. 2023).

¹⁷*Supra* 5, Robert T Coulter, at 3; *Supra* 16, Michael Riegner at 433.

¹⁸*Supra* 9, ADB, Art. 50.

¹⁹*Supra* 11, Chengjin Xu & Bin Gu, at 49.

manner consistent with international law. This judicial deference safeguards the banks' autonomy while also limiting access to legal remedies for individuals and communities negatively impacted by MDB-funded projects.²⁰ The broad application of immunity, however, often results in a *de facto* barrier to accountability, leaving affected parties without a direct avenue to challenge or remedy environmental and social harms.²¹ However, this immunity may be withdrawn in certain cases according to their international responsibility under international law.

(iii) *MDBs and International Responsibility*

International responsibility is the legal concept that requires States as well as International Organizations, including MDBs to answer for wrongful acts affecting communities and the environment under international law.²² The International Law Commission's (ILC) Draft Articles establish a framework indicating that international organizations, including MDBs, should be held accountable for wrongful acts.²³ Although these draft articles were not originally tailored to MDBs, they imply that when these banks fund projects that lead to environmental damage or human rights violations, they should offer remedies and be held accountable in some form.²⁴ As MDBs, ADB also continue to fund large-scale projects that shape economies and societies, their actions have far-reaching consequences. The absence of clear enforcement mechanisms for international responsibility raises concerns about whether these institutions can be effectively held accountable.

(iv) *MDBs and International Accountability*

In practice, MDBs have established various internal oversight systems intended to monitor and evaluate the environmental impact of their projects. These include independent review panels and environmental compliance units designed to scrutinize project design and implementation. MDB accountability

²⁰*Id.*

²¹*Id.*, Chengjin Xu & Bin Gu, at 70

²²Report of the International Law Commission on the Work of its Fifty-fourth Session, U.N. GAOR, 57th Sess., Supp. No. 10, U.N. Doc. A/57/10 (2002).

²³Draft Articles on the Responsibility of International Organizations, U.N. Doc. A/66/10 (2011), Art. 57.

²⁴*Id.*

systems have evolved from simple internal compliance reviews to more complex frameworks that incorporate problem-solving functions and remedial measures. Initially, accountability focused on verifying adherence to established procedures; later iterations expanded to engage directly with project-affected stakeholders by offering avenues for redress. This evolution has enhanced stakeholder participation in institutional decision-making.²⁵ However, these mechanisms continue to operate within an administrative framework that restricts their capacity to impose binding legal sanctions on the banks. The scope of their remedial functions remains narrow, primarily addressing compliance failures without delivering enforceable remedies for environmental or social harms.²⁶ These mechanisms not only monitor compliance with internal policies, but also serve as conduits for external review of the banks' operational decisions.²⁷ The design of accountability mechanisms reflects the balance MDBs attempt to maintain between operational autonomy and external oversight. However, such mechanisms often function in an advisory capacity, providing recommendations that are not always enforceable. This limitation raises concerns about the effectiveness of internal controls in mitigating environmental risks and ensuring remedial action when adverse impacts occur.²⁸

As regards ADB, it has established oversight body and policy for inspection in year 1995 which was later replaced by the 'Accountability Mechanism Policy, 2003'. ADB also provides a forum for affected communities to submit grievances regarding project implementation.²⁹ The Accountability Mechanism (AM) of ADB is designed to address concerns from people affected by ADB-assisted projects. However, the process can be complex, and there may be

²⁵Suresh Nanwani, *Holding Multilateral Development Banks to Account: Gateways and Barriers*, 10 INT'L COMMUNITY L. REV. 199 (2008).

²⁶*Id.*

²⁷Johanna A. P. Lorenzo, *Accountability Mechanisms of Multilateral Development Banks and the Law of International Responsibility*, 73 INT'L & COMP. L.Q. 209 (2024).

²⁸Susan Park, *ENVIRONMENTAL RECOURSE AT THE MULTILATERAL DEVELOPMENT BANKS* 67 (Cambridge Univ. Press 2020).

²⁹Asian Development Bank, *REVIEW OF THE INSPECTION: ESTABLISHMENT OF A NEW ADB ACCOUNTABILITY MECHANISM* (Manila 2003) available at: <https://www.adb.org/sites/default/files/institutional-document/32108/adb-accountability-mechanism.pdf> (last visited 8 Jun., 2024).

delays in resolving complaints. For instance, the AM handled a complaint in Mongolia that was deemed ineligible for compliance review, which might indicate a need for clearer eligibility criteria or more transparent decision-making processes.³⁰Stakeholder engagement forms a central pillar of MDB accountability. The mechanisms empower civil society by facilitating direct access for individuals and groups adversely affected by development projects. Civil society organizations actively contribute to shaping these processes by advocating for enhanced transparency and stronger remedial provisions.³¹ Accordingly, ADB also retains significant discretion in handling grievances, and internal procedures often limit the range of remedial actions available.

Procedural hurdles such as restrictive filing deadlines, language requirements, and concerns about potential reprisals, hinder access to these mechanisms. As a result, even when a grievance is successfully lodged, the response may be more administrative than transformative, resulting in remedial measures that fall short of fully addressing the harm suffered.³²Observations from recent analysis of MDB accountability mechanisms emphasize that the existing framework operates as a self-regulatory tool rather than an independent adjudicatory system. It may be noted that the current approach reinforces a procedural safeguard that permits institutional oversight while deferring robust legal liability. This operational model supports a dialogue-oriented resolution process that prioritizes internal correction over external judicial review.³³The evolving landscape of MDB oversight thus demands a proactive reconfiguration of accountability structures that not only enhances transparency and stakeholder engagement but also expands the remedial powers necessary to address complex trans boundary harms. International legal principles now increasingly emphasize that accountability and transparency go hand in hand.

³⁰Asian Development Bank, ACCOUNTABILITY MECHANISM ANNUAL REPORTS (2023) available at: <https://www.developmentaid.org/api/frontend/cms/file/2024/04/adb-annual-report-2023.pdf> (last visited 8 Jun., 2024).

³¹Suresh Nanwani, *Directions in Reshaping Accountability Mechanisms in Multilateral Development Banks and Other Organizations*, 5 GLOBAL POLICY2 242, 243 (2014).

³²*Id.*

³³*Supra* 29, Johanna A. P. Lorenzo, at 209.

‘ADB Annual Report 2023’ and ‘ADB Financial Report 2023’ highlight several accountability challenges that impact transparency, governance, and development effectiveness.³⁴One significant issue is ‘climate finance accountability’. While ADB allocated \$9.8 billion to climate finance in 2023, concerns persist over the monitoring and evaluation of these funds. The reports lack comprehensive details on whether these funds are producing measurable climate resilience and mitigation outcomes. ‘Gender equality and social inclusion’ is another area where ADB falls short. Although the bank claims that nearly all its projects contribute to gender equality, there is little evidence demonstrating the transformative impact of these initiatives. The report does not provide independent audits or detailed outcome assessments, making it difficult to evaluate their effectiveness. ‘Private sector operations and risk management’ also present challenges. ADB committed \$3.8 billion to non-sovereign operations, yet its safeguards on environmental and social impacts remain weak. There is limited disclosure on due diligence processes, making it difficult to assess whether these investments align with sustainability standards. ADB’s ‘Accountability Mechanism’ remains ineffective in resolving project-related grievances. In 2023, the bank received 40 complaints, of which only one was forwarded for compliance review, and most were deemed ineligible. This suggests a procedural bias that prevents affected communities from seeking meaningful redress. Thus, while ADB emphasizes transparency and sustainability, gaps in oversight, project evaluation, and grievance redress highlight serious accountability concerns. Strengthening independent monitoring and enhancing public disclosure mechanisms are crucial for improving governance and ensuring development outcomes align with ADB’s commitments.

(v) *MDBs and Transparency*

Transparency is a critical component to accountability. Multilateral development banks face increasing demands to operate with high levels of transparency. Without adequate transparency, holding MDBs responsible for lapses that lead to environmental degradation or social displacement becomes exceedingly difficult.³⁵In today’s global governance landscape, openness in decision-making, project selection, and performance monitoring is seen as essential for protecting the rights and interests of affected communities.

³⁴Asian Development Bank, ANNUAL REPORT 2023: ACCELERATING CLIMATE ACTION FOR SUSTAINABLE DEVELOPMENT (2024) available at:<https://www.adb.org/sites/default/files/institutional-document/959761/adb-annual-report-2023.pdf> (last visited 8 Jun., 2024).

Stakeholders expect MDBs to disclose detailed information on project finances, environmental and social impact assessments, and ongoing monitoring activities in formats that are accessible and understandable.³⁶ A significant challenge lies in ensuring that information is not only available but also presented in ways that enable meaningful public scrutiny. While many MDBs have introduced online portals and periodic reports, gaps remain in the detail level and the disclosure timeliness. In some cases, concerns about commercial confidentiality and political sensitivity have led to restrictions on releasing key project data. Such limitations hinder civil society organizations and affected communities from effectively monitoring the operations of MDBs and challenging decisions that may lead to environmental or social harm.³⁷ These restrictions can limit the amount of information available to external observers, thereby reducing the potential for effective public scrutiny.³⁸ Transparency also underpins the legitimacy of MDB operations. When local stakeholders have reliable access to clear information, they are better equipped to engage in the governance process and hold these institutions accountable. For example, improved transparency measures can facilitate more robust participation in dispute-resolution processes. This approach aims to empower communities by reducing informational asymmetries that often favor MDBs and large-scale investors.³⁹ The Asian Development Bank too maintains public registries for project data including the ADB Data Library, Operational Procurement Statistics Dashboard, Project Data Sheets. ADB provides documents in multiple languages and its 'Access to Information Policy' supports transparency and accountability. MDBs are encouraged to adopt proactive disclosure policies that make information readily available to all stakeholders. Stakeholders argue that robust transparency measures are essential for building trust and ensuring that MDBs remain responsive to the communities they serve.⁴⁰ Civil society groups have consistently pushed for stronger transparency policies, advocating for

³⁵*Supra* 30, Susan Park, at 89.

³⁶*Supra* 2, Jasmina Bosto,

³⁷*Id.*

³⁸*Supra* 30, Susan Park, at 72.

³⁹Roxanna Altholz & Chris Sullivan, *Accountability & International Financial Institutions: Community Perspectives on the World Bank's Office of the Compliance Advisor Ombudsman* (International Human Rights Law Clinic, UC Berkeley School of Law, Mar. 2017) available at: <https://www.law.berkeley.edu/wp-content/uploads/2015/04/Accountability-International-Financial-Institutions.pdf> (last visited 8 Jun., 2024).

establishing public registries for project data and for translating key documents into local languages.

III

Multilateral Development Banks and Environmental Governance: Functioning of ASIAN Development Bank

Environmental governance in the 21st century is increasingly shaped not only by states and international treaties but also by powerful institutional actors such as Multilateral Development Banks (MDBs). MDBs, including the ADB and others, play a pivotal role in financing infrastructure and development projects that have significant environmental impacts. With this influence comes a growing responsibility to ensure that such projects align with sustainable development principles and environmental safeguards. MDBs are key players in global environmental governance, offering financial and technical support to developing nations. Their activities are increasingly scrutinized for their environmental impact, as they are expected to balance economic development with environmental sustainability. This section explores the role of ADB in environmental governance, their challenges, and future prospects as:

(i) *Environmental Governance: The Concept*

Environmental governance is a multifaceted concept that encompasses the regulatory processes, mechanisms, and organizations through which various actors influence ecological actions and outcomes.⁴¹ It extends beyond traditional government roles to include businesses, communities, and non-governmental organizations (NGOs), emphasizing a collaborative approach to managing environmental resources. This governance framework is essential in addressing the complex challenges of global environmental change, which requires fair knowledge of interface between human activities and ecological systems. Environmental governance is rooted in recognizing that natural resources and the environment are global public goods which are non-excludable.⁴² Examples encompass clean air, a stable climate, and

⁴⁰*Supra* 5, Robert T Coulter.

⁴¹Maria C. Lemos & Arun Agrawal, *Environmental Governance*, 31 ANNU. REV. ENVIRON. RESOUR. 297, 297–325 (2006) available at: <https://doi.org/10.1146/annurev.energy.31.042605.135621> (last visited 16 Jun., 2024).

biodiversity. Managing these public goods necessitates a collective approach to prevent their degradation by any state or private entity.

The international environmental governance system is structured around three principal elements. *First*, intergovernmental organizations, including UNEP and UNDP, coordinate environmental policy at the international level, formulating agendas for environmental protection and sustainable development. *Second*, a network of international environmental laws establishes legally binding agreements among nations for joint action on environmental problems. These treaties assign responsibility to each nation for action within their territories. *Third*, financing mechanisms support capacity building, national sustainable development efforts in poorer countries, and UN agencies and treaty secretariats. These mechanisms include general funds like UN dues and voluntary contributions, as well as targeted funding like the Global Environment Facility (GEF).⁴³ The international environmental governance framework includes key initiatives like Agenda 21, the Sustainable Development Goals (SDGs), and Rio+20, which promote sustainable development and global cooperation. These initiatives collectively support a comprehensive approach to sustainable environment and planetary future.

(ii) *ADB and Environmental Governance*

The Asian Development Bank (ADB) has invested significantly in environmental sustainability projects across Asia and the Pacific. 'ADB's Strategy 2030' emphasizes enhancing environmental sustainability, which includes improving air quality, conserving natural capital, and ensuring water, energy, and food security.⁴⁴ Initially, its Environment Policy aimed to mainstream environmental considerations into economic development

⁴²Juha I. Uitto, *Evaluating the Environment as a Global Public Good*, 22 EVALUATION 108, 109–110 (2016), available at <https://www.gefio.org/sites/default/files/documents/evaluating-environment-public-good-2016.pdf> (last visited 16 Jun., 2024).

⁴³World Resources Institute *et. al.*, *World Resources 2002–2004: Decisions for the Earth: Balance, Voice, and Power* 137 (2003) available at: https://pdf.wri.org/wr2002_execsumm.pdf (last visited 16 Jun., 2024).

⁴⁴Asian Development Bank, *ADB Strategy 2030: Achieving a Prosperous, Inclusive, Resilient, and Sustainable Asia and the Pacific* (Manila, July 2018) available at: <https://www.adb.org/sites/default/files/institutional-document/435391/strategy-2030-main-document.pdf> (last visited 16 Jun., 2024).

planning and strengthen environmental assessment processes.⁴⁵ This policy was later superseded by the ‘Safeguard Policy Statement (2009), which emphasized minimizing and mitigating environmental and social risks in development projects.⁴⁶ The ADB plays an important role in environmental governance in India, focusing on sustainable development through various projects. These initiatives address key environmental challenges while fostering economic growth and inclusive development.

For example, ADB’s support for the ‘Swachh Bharat Mission 2.0’ includes a \$200 million loan aimed at improving municipal waste management and sanitation infrastructure across multiple Indian states. By enhancing urban cleanliness and sanitation, this initiative contributes to better public health and environmental sustainability.⁴⁷ Similarly, the ‘Kolkata Environmental Improvement Investment Program’ seeks to enhance urban infrastructure by improving water supply, sewerage, and drainage systems. By investing in these essential services, the project promotes urban livability and environmental sustainability.⁴⁸ ADB also funds ‘eco-tourism and sustainable agriculture projects’, supporting biodiversity conservation while fostering rural economic development in India. These initiatives align with ADB’s strategy of promoting environmentally sustainable growth.

Through collaboration with the ‘Green Climate Fund’ and its own resources, ADB advances climate change mitigation and adaptation projects in India.

⁴⁵Asian Development Bank, *Environment Policy* (Manila, 8 Nov. 2002) available at:https://www.adb.org/sites/default/files/institutional-document/33343/environment-policy_0.pdf (last visited 16 Jun., 2024).

⁴⁶Asian Development Bank, *Environmental and Social Framework* (Manila, Oct. 2023) available at:<https://www.adb.org/sites/default/files/institutional-document/915711/environmental-and-social-framework-w-paper.pdf> (last visited 16 Jun., 2024).

⁴⁷ Asian Development Bank, *Swachh Bharat Mission 2.0–Comprehensive Municipal Waste Management in Indian Cities Program* (Manila, Nov. 2023) available at:<https://www.adb.org/sites/default/files/project-documents/56286/56286-001-pam-en.pdf> (last visited 16 Jun., 2024).

⁴⁸Asian Development Bank, *Kolkata Environmental Improvement Investment Program – Tranche 1: Sewerage and Drainage Subproject Appraisal Report* (Manila, Dec. 2023) available at:https://www.adb.org/sites/default/files/project-documents/42266/42266-023-apfs-en_4.pdf (last visited 16 Jun., 2024).

Investments in renewable energy, energy efficiency, and climate-resilient infrastructure support India's climate commitments and help reduce carbon emissions.⁴⁹ ADB also promotes 'integrated water resource management', enhancing irrigation systems and efficient water use. These projects contribute to sustainable agricultural practices and mitigate water scarcity issues in India. The need for sustainable development and climate action requires MDBs to prioritize environmental governance without compromising their core mission of promoting economic growth.⁵⁰ MDBs have made notable contributions to environmental governance through climate finance, environmental social governance safeguards, and sustainability initiatives. However, their effectiveness is often undermined by governance inefficiencies, policy fragmentation, and limited enforcement mechanisms. To enhance their impact, MDBs must promote inclusive environmental governance structures and strengthen accountability.

IV

Multilateral Development Banks and Environmental Peace-Building: Recent Action of ASIAN Development Bank

Environmental peace building uses sustainable resource management and environmental cooperation to foster peace and reduce conflict. While MDBs like the ADB have made strides in integrating environmental considerations into their operations and contributing to environmental governance and peace-building. MDBs play a crucial role in promoting environmental peace-building through their financial and technical support to developing countries especially in the area of war conflict and internal conflict as such.

(i) *Environmental Peace-Building: A Path to Sustainable Peace*

Environmental peace building is an emerging approach that integrates environmental management with conflict resolution to foster long-term stability. Considering that more than 40% of internal armed conflicts over the

⁴⁹Green Climate Fund & Asian Development Bank, *Asian Development Bank (ADB) – Accredited Entity Profile* (Songdo, 2023) available at: <https://www.greenclimate.fund/ae/adb#projects> (last visited 16 Jun., 2024).

⁵⁰Christoph Nedopil *et. al.*, *Catching up with Climate Priorities: Understanding Multilateral Development Banks' Evolving Approach to Biodiversity*, 15 GLOBAL POLICY 660, 660–675 (2024) available at: <https://doi.org/10.1111/1758-5899.13403> (last visited 16 Jul., 2024).

past 60 years have been associated with natural resources, addressing environmental factors is essential for preventing and resolving conflicts.⁵¹ Environmental peace building focuses on three key goals.⁵² *First*, it strengthens environmental governance to prevent conflicts by addressing resource-related tensions while promoting economic opportunities and improved services. *Second*, it protects natural resources from damage and illegal exploitation during and after conflicts, ensuring long-term recovery and stability. *Third*, it fosters cooperation between states and communities through environmental management, using governance as a platform for dialogue and peace building. By integrating environmental considerations into conflict prevention, resolution and post-conflict recovery, environmental peace building leverages shared natural resources as a tool for promoting stability, economic growth and collaboration among diverse stakeholders. One major aspect of environmental peace building is tackling grievances related to resource distribution and wise utilization. According to grievance theories, conflicts often arise when communities feel excluded from access to essential resources such as land and water. Inequitable resource distribution can fuel resentment and contribute to violence.⁵³ These grievances create fertile ground for armed groups to recruit marginalized individuals, further destabilizing the region.⁵⁴ Peace-building efforts can reduce tensions and prevent future conflicts by improving environmental governance and ensuring fair access to

⁵¹United Nations & World Bank, *Pathways for Peace: Inclusive Approaches to Preventing Violent Conflict* (Washington, DC: World Bank Publications, 2018) available at: <https://openknowledge.worldbank.org/entities/publication/4c36fca6-c7e0-5927-b171-468b0b236b59> (last visited 16 Jun., 2024).

⁵²Daniëlla Dam-de Jong & Britta Sjöstedt, *The International Legal Dimensions of Environmental Peacebuilding*, in *RESEARCH HANDBOOK ON INTERNATIONAL LAW AND ENVIRONMENTAL PEACEBUILDING 1* (Daniëlla Dam-de Jong & Britta Sjöstedt eds., 2023).

⁵³Karen Ballentine, *Beyond Greed and Grievance: Reconsidering the Economic Dynamics of Armed Conflict*, in *THE POLITICAL ECONOMY OF ARMED CONFLICT: BEYOND GREED AND GRIEVANCE* at 259 (Karen Ballentine & Jake Sherman eds., International Peace Academy; Lynne Rienner Publishers, Boulder & London, 2003).

⁵⁴Katharina Nett & Lukas Rüttinger, *Insurgency, Terrorism and Organised Crime in a Warming Climate: Analysing the Links Between Climate Change and Non-State Armed Groups*, at 16–18 (Adelphi, Oct. 2016) available at: <https://adelphi.de/en/publications/insurgency-terrorism-and-organised-crime-in-a-warming-climate> (last visited 16 Jun., 2024).

resources.⁵⁵ Another crucial component is protecting the environment during and after armed conflict. War frequently leads to deforestation, pollution, and water scarcity, exacerbating hardships for affected populations.⁵⁶ According to the 2020 Global Peace Index, nearly a quarter of the world is projected to face severe water and food stress by 2050 as a result of climate change and biodiversity loss.⁵⁷ Environmental degradation also hampers post-conflict recovery efforts, making it vital to integrate ecological restoration into peace processes.⁵⁸ Additionally, weak governance in post-conflict settings may enable illegal exploitation of natural resources, further destabilizing the region.⁵⁹ Collaboration between states, international organizations and local communities is essential for effective environmental peace building. Cooperation over shared natural resources can serve as a foundation for rebuilding trust and fostering long-term peace.⁶⁰ By integrating environmental considerations into conflict resolution strategies, environmental peacebuilding offers a sustainable pathway toward stability and development in post-conflict societies. In view of this, ADB has also played important role in supporting

⁵⁵Advisory Group of Experts on the Review of the Peacebuilding Architecture, *Report: Challenge of Sustaining Peace*, U.N. Doc. A/69/968-S/2015/490, 16–18 (June 30, 2015).

⁵⁶Institute for Economics & Peace, *Ecological Threat Report 2021: Understanding Ecological Threats, Resilience and Peace* at 2 (Oct. 2021) available at: <https://www.economicsandpeace.org/wp-content/uploads/2021/10/ETR-2021-web.pdf> (last visited 16 Jun., 2024).

⁵⁷Institute for Economics & Peace, *Global Peace Index 2020: Measuring Peace in a Complex World* at 71 (Sydney, June 2020) available at: https://www.visionofhumanity.org/wp-content/uploads/2020/10/GPI_2020_web.pdf (last visited 16 Jun., 2024).

⁵⁸Nao Shimoyachi-Yuzawa, *Linking Demining to Post-Conflict Peacebuilding: A Case Study of Cambodia*, in *ASSESSING AND RESTORING NATURAL RESOURCES IN POST-CONFLICT PEACEBUILDING* 181 (David Jensen & Steve Lonergan eds., Earthscan from Routledge, New York & London 2012).

⁵⁹Gena Steffens, *In the Colombian Amazon, Peace Has Environmental Consequences*, GLOBAL POST (25 Apr. 2018) available at: <https://theworld.org/stories/2018/04/25/environmental-consequences-peace> (last visited 16 Jun., 2024).

⁶⁰Tobias Ide et. al., *The Past and Future(s) of Environmental Peacebuilding*, 97 INT'L AFF. 1 (2021).

the environmental peace-building specifically in Asia-Pacific region including in India.

(ii) *ADB And Environmental Peace-building in India*

Several ADB projects in India align with this approach by addressing environmental sustainability while promoting social and economic stability. Additionally, the ‘North Eastern Region Urban Development Projects (NERUDP-I and NERUDP-II)’ focus on improving urban infrastructure and transport, thereby reducing environmental conflicts arising from inadequate services.⁶¹ A ‘Development Project in Meghalaya’ supported by the ADB, promotes eco-tourism and sustainable agricultural practices, enhancing local livelihoods while conserving biodiversity. By fostering sustainable land use and community engagement in conservation efforts, this project aligns with environmental peace building principles.⁶² Similarly, ‘Jammu & Kashmir Multi-Sector Projects’ focus on infrastructure development and social services, contributing to economic stability and social cohesion, which are vital for maintaining peace in the region.⁶³ Thus, Environmental peace-building integrates sustainable resource management into conflict prevention and recovery efforts, recognizing that over 40% of internal conflicts are linked to natural resource disputes. This approach aims to strengthen environmental governance, prevent resource-related grievances, protect ecosystems during conflict, and promote cooperation through shared environmental interests. Key drivers of conflict, such as unequal resource access and environmental degradation, are addressed through inclusive governance and ecological restoration, offering a pathway to long-term peace.

Multilateral Development Banks (MDBs) like the Asian Development Bank (ADB) contribute to environmental peace-building by financing projects that support environmental sustainability and social stability. In India, ADB’s

⁶¹Asian Development Bank, *North Eastern Region Urban Development Projects (NERUDP-I and NERUDP-II)*, (Manila, Feb. 2009) available at: https://mohua.gov.in/upload/uploadfiles/files/ADB_on_going02.pdf (last visited 8 Mar., 2024).

⁶²*Supra* 50, ADB.

⁶³Asian Development Bank, *Jammu & Kashmir Multi-Sector Projects* (Manila, Sept. 2006), https://mohua.gov.in/upload/uploadfiles/files/ADB_on_going02.pdf (last visited Mar. 8, 2024).

initiatives, such as NERUDP I & II and Jammu & Kashmir, multi-sector investments to promote infrastructure and social services, fostering stability in a post-conflict context, reflect this strategy. These projects contribute to environmental peace building by addressing resource scarcity, reducing environmental degradation, and fostering cooperation among diverse stakeholders. These projects illustrate how ADB integrates environmental governance into broader peace-building efforts across the region.

V

Conclusion

MDBs are essential contributors to global development. They operate under international law as ‘International Institutions’, their broad immunities often limit direct legal challenges. However, they also have a responsibility to uphold international legal principles, ensuring their projects do not harm communities or the environment. Evolving international norms emphasize greater transparency, accountability, and human rights considerations. Strengthening oversight mechanisms and stakeholder engagement can help to balance MDBs’ operational autonomy with their responsibility toward affected communities. As MDBs continue to shape global development, integrating stronger transparency and accountability measures will be essential to ensure that their projects align with sustainability, human rights, and environmental protection goals. MDBs, including the ADB, play an important role in global environmental governance by providing financial and technical support to developing nations. ADB’s Strategy 2030 emphasizes enhancing environmental sustainability, focusing on air quality, natural capital conservation, and ensuring water, energy, and food security. ADB’s Environmental and Social Framework (ESF) strengthens protections for people and the environment, enhancing risk management in projects. In India, ADB supports initiatives like the Swachh Bharat Mission and climate change mitigation projects, promoting sustainable development and environmental sustainability. However, challenges include governance inefficiencies and policy fragmentation, which require improved accountability and inclusive governance structures. Multilateral Development Banks play a crucial role in environmental peace building by providing financial and technical assistance to developing countries. They address environmental factors that contribute to conflicts, protect natural resources during and after conflicts, and foster cooperation through environmental management. The Asian Development Bank (ADB) supports projects in India that align with these goals, such as improving urban infrastructure and promoting eco-tourism and sustainable

agriculture. These initiatives enhance environmental sustainability, reduce resource-related tensions, and promote social cohesion, contributing to long-term stability and peace in the region.

From the analysis done, *firstly*, it is observed that ADB's absolute immunity provisions place its operations beyond the reach of national courts, leaving affected communities without judicial remedies. *Secondly*, even where the Inspection Panel and the Accountability Mechanism allow complaints, their recommendations remain purely advisory and lack enforceable power. *Thirdly*, the Bank's disclosure policy—while comprehensive in design—often results in environmental and social impact assessments being published only after projects are approved, thereby limiting meaningful stakeholder engagement. Although individual projects have experimented with enhanced disclosure and participatory consent frameworks, these remain isolated pilots rather than components of a binding, system-wide accountability regime. To close these gaps, this article recommends several legal reforms. *Firstly*, ADB's Articles of Agreement should be amended to carve out environmental and human rights disputes from its immunity shield, restoring access to domestic courts. *Secondly*, Accountability Mechanism Policy must be revised to grant the Inspection Panel authority to issue binding orders and awards. A mandatory real-time disclosure requirement for all environmental and social impact assessments and safeguard documents should be instituted, ensuring stakeholders have access to critical information before project approval. *Thirdly*, procedural barriers within the Accountability Mechanism must be lowered by simplifying language requirements, extending filing deadlines, and instituting protections against reprisals. Finally, incorporating the International Law Commission's Draft Articles on Responsibility of International Organizations into ADB's legal framework will clarify its obligations and liability for any wrongful acts, aligning its development finance operations with robust rights protection and environmental sustainability. In sum, MDBs including ADB have to adhere only to their legal mandate limited to object, mission and activities relating to financial assistance and development engaged in domestic jurisdiction of member nations. They are required to be more responsible, accountable, and transparent, supporting environmental governance and sustainable development. To truly realize their potential in fostering sustainable development and environmental protection, MDBs must prioritize strengthening internal controls, enhancing transparency, promoting inclusive governance structures, and expanding remedial powers to address complex environmental and social harms. This requires a shift from self-regulation to a

more independent and legally robust framework, ensuring that MDBs are held accountable for their impacts and contribute effectively to a sustainable and peaceful future.