Lessons Learned from Compliance Reviews at the Asian Development Bank (2004–2020)

Sri Lanka Southern Transport Development Project

Lessons Learned from Compliance Reviews at the Asian Development Bank (2004–2020) is a series of publications prepared by the Office of the Compliance Review Panel. It examines compliance reviews for eight projects with Asian Development Bank assistance that were the subjects of complaints to the Compliance Review Panel in 2004–2020. The Sri Lanka Southern Transport Development Project is the fourth in the series that was subject to compliance review under the 2003 Accountability Mechanism Policy. It highlights the importance of understanding the context of potential project implementation risk along with a stronger and transparent stakeholder engagement that builds trust and confidence in the compliance review.

About the Asian Development Bank

ADB is committed to achieving a prosperous, inclusive, resilient, and sustainable Asia and the Pacific, while sustaining its efforts to eradicate extreme poverty. Established in 1966, it is owned by 68 members—49 from the region. Its main instruments for helping its developing member countries are policy dialogue, loans, equity investments, guarantees, grants, and technical assistance.
LESSONS LEARNED FROM COMPLIANCE REVIEWS AT THE ASIAN DEVELOPMENT BANK (2004–2020)

Sri Lanka Southern Transport Development Project
The Lessons Learned from Compliance Reviews of the Asian Development Bank (2004–2020) series endeavors to provide lessons and institutional knowledge for strengthening development effectiveness of ADB. The lessons shared through this series provide opportunities for improved project design and implementation and a strengthened compliance review function. Should discrepancies arise between this document, and ADB operational policies, and the Accountability Mechanism Policies 2003 and 2012, the respective policies will prevail.

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Note:
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Cover page. Many steps, one process. The cover highlights the different processes involved in the compliance review of a project—from field visits, consultations, and discussions which comprise ADB’s Accountability Mechanism, symbolized by the gear, working toward a unified goal.
An expressway between Colombo and Galle is improving trade and commerce between Colombo and the south (photo by Ishara Kodikkara/ADB).
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ACKNOWLEDGMENTS

The Lessons Learned from Compliance Reviews of the Asian Development Bank (2004–2020) series was developed by the ADB Office of the Compliance Review Panel (OCRP), under the leadership of the Compliance Review Panel (CRP) Chair and OCRP Head Elisea Gozun, and with the support of OCRP team members Advisor Irum Ahsan, Senior Compliance Review Officer Josefina Miranda, and Associate Compliance Review Coordinator Julie Anne B. Mapilisan-Villanueva. The OCRP prepared this publication with inputs from CRP Members Halina Ward and Ajay Deshpande. This report was made possible by the generous sharing of insights from ADB Management, current and former ADB staff, project consultants, as well as government officials, complainants’ representatives, previous CRP members, and OCRP staff who were involved in the Sri Lanka Southern Transport Development Project.

ABBREVIATIONS

ADB  Asian Development Bank
AM  Accountability Mechanism
CEA  Central Environmental Authority
CRP  Compliance Review Panel
CT  combined trace
EIA  environmental impact assessment
FT  final trace
GRC  grievance redress committee
GRM  grievance redress mechanism
LARC  Land Acquisition and Resettlement Committee
OT  original trace
RDA  Road Development Authority
SLRM  Sri Lanka Resident Mission
STDP  Southern Transport Development Project
The Sri Lanka Southern Transport Development Project (STDP) was the first Asian Development Bank (ADB)-supported project to be addressed through compliance review under the 2003 Accountability Mechanism (AM) Policy. The compliance review function of the 2003 AM Policy investigates alleged noncompliance by ADB with its operational policies and procedures where these may have directly, materially, and adversely affected the complainants during the formulation, processing, or implementation of an ADB-assisted project.

This is the fourth in the Lessons Learned from Compliance Reviews series of publications prepared by the Office of the Compliance Review Panel. The series examines the completed compliance reviews of eight ADB-assisted projects that were the subject of complaints to the Compliance Review Panel (CRP) over the period of 2004–2020.

The Lessons Learned from Compliance Reviews series explores the challenges, gaps, and good practices in each project as highlighted through the compliance review process. The insights presented in this report were gathered through a comprehensive review of documents, as well as by interviews and a survey which received responses from a former government official, former and current ADB project staff from headquarters and resident missions, and former members of the CRP. Though the Lessons Learned series is prepared by the Office of the Compliance Review Panel, it does not reflect the office’s opinion except where otherwise specified in each report.

This series provides practical insights for development practitioners, safeguard specialists, nongovernment organizations, civil society organizations, government personnel, project beneficiaries, and ADB Management and staff seeking to learn more about project design, implementation, and the process of compliance review. It aims to contribute to capacity development on project management and good institutional governance.

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**SNAPSHOT**

<table>
<thead>
<tr>
<th>Project Title:</th>
<th>Sri Lanka Southern Transport Development Project</th>
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<tbody>
<tr>
<td>Country of Implementation:</td>
<td>Sri Lanka</td>
</tr>
<tr>
<td>ADB Financing:</td>
<td>Loan 1711-SRI: $90 million</td>
</tr>
<tr>
<td>Approval Date:</td>
<td>25 November 1999</td>
</tr>
<tr>
<td>Closing Date:</td>
<td>25 February 2011</td>
</tr>
<tr>
<td>Project Impact Categorization:</td>
<td>A for Environment</td>
</tr>
<tr>
<td>Required Involuntary Resettlement Plan:</td>
<td>No impacts on Indigenous Peoples</td>
</tr>
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**Complaint**

| Date of request for compliance review: | 2 December 2004 |
| Complaint Status: | The CRP concluded the annual monitoring of the project and circulated its fifth and final Annual Monitoring Report to the ADB Board of Directors on 5 August 2011. The complaint was closed. |

* The Sri Lanka Southern Transport Development Project was cofinanced by Japan Bank for International Cooperation as an official development assistance amounting to $180 million.
1 KEY LESSONS

The STDP compliance review generated several important lessons, while also noting various challenges and highlighting opportunities to improve project management and compliance review processes in the future. Below are six significant lessons learned.

1.1 Early assessment of ADB staff and borrower’s implementation capacity is indispensable to seamless project completion.

Complaints arise when errors are made, and risks are not mitigated in a timely manner. To avoid implementation gaps and issues leading to grievances, it is ADB’s responsibility to ensure that projects of this magnitude meet its environmental and social requirements and that robust risk mitigation plans are in place. This is particularly the case when project implementation takes place in a country where deployment of capacities and resources is impacted by long-term armed conflict. In these circumstances, changes or adjustments in project design are inevitable. From the outset, ADB should assess the implementation capacities of both its own staff and of implementing agencies. This can help ensure that all procedural requirements, especially those pertaining to environmental and social safeguards, are met while adjusting to changes. If capacity constraints are found, ADB should put in place plans for capacity strengthening before project implementation. More information can be found in section 4.1.

1.2 Meaningful engagement with project stakeholders creates an enabling environment for compliance.

It is long-established good practice that the planning and implementation of mitigation measures for negative project impacts should be accompanied by stakeholder engagement throughout the project cycle. Project planning should also include sufficient time for stakeholders to translate, disseminate, and formulate their responses to any written documents, and all parties need to be open to feedback. The compliance review process underscored the relevance and significance of these practices, and shed light on the importance of active consultation regarding project changes. It also offered additional insights into the importance of timely communication of project information, including sharing of project documents, and CRP reports to affected people in their local language(s). More information can be found in section 4.2.

1.3 Gender-sensitive project design contributes to the development effectiveness of ADB projects.

ADB projects are required to avoid disproportionate adverse impacts on vulnerable and marginalized community members. The STDP compliance review showed that gender-sensitive project design and management can play a significant role in enhancing project design and interventions as well as addressing and avoiding negative impacts. For instance, in STDP’s infrastructure plans, an underpass which had been designed without sufficient lighting potentially increased security risks for users, particularly women. As one ADB team member reflected, “this should have been a basic feature of the design (since)… it affects the safety and security of all persons who use the underpass.” More information can be found in section 4.6.

1.4 CRP recommendations should distinguish between project-based remedial actions and forward-looking recommendations for systemic changes.

The CRP handled the STDP compliance review under the 2003 AM Policy, which mandated the CRP to provide recommendations to bring projects into compliance. In contrast, under the current 2012 AM Policy, the CRP no longer has this authority. Survey respondents pointed to the distinction between forward-looking recommendations for systemic changes, and those capable of being applied by way of remedial action to the project in question. In the STDP compliance review, for example, the CRP recommended “that all affected persons be fully compensated by actual payment before they are moved” but did not acknowledge explicitly that the recommendation could not be implemented at project level since affected people had already been resettled before the CRP’s recommendations were approved by the ADB Board of Directors (Board). Interview responses pointed to the potential value of separate monitoring and reporting to the Board on implementation of systemic recommendations, as opposed to project-specific remedial actions. These insights are beyond the CRP’s mandate under the current 2012 AM Policy, but may be relevant to future revisions of the policy. More information can be found in section 4.7.
1.5 The STDP compliance review contributed to reforms by both ADB and the Government of Sri Lanka.

At the time that the STDP was being planned and implemented, both ADB and the Government of Sri Lanka were reviewing and updating their respective land acquisition and resettlement policies, laws, and guidelines. In light of lessons learned from the STDP experience and the associated compliance review, changes were initiated by the Government of Sri Lanka which led to improvements in affected peoples’ entitlements. These changes in turn contributed to improvements in the land acquisition and resettlement regulatory framework in Sri Lanka. At ADB, the STDP compliance review helped to inform internal reforms including strengthened resident missions, improved social safeguard procedures, and simplifications in the process of developing resettlement implementation plans alongside local project authorities. More information can be found in section 4.8.

1.6 The STDP compliance review led to the development of knowledge products and improved capacity of ADB to address resettlement in subsequent projects.

Following the compliance review process, ADB knowledge products provided opportunities to document and share lessons from the STDP project for the benefit of both ADB and other project proponents. In addition, Sri Lanka was among other countries included in an ADB technical assistance which aimed to strengthen country capacity to implement involuntary resettlement safeguards. More information can be found in section 4.9.

2 BACKGROUND

2.1 Brief Project Description

In the early 1990s, urbanization along the route of Sri Lanka’s old principal North–South road meant that traffic congestion and road accidents reached a critical point. In 1993, the Government of Sri Lanka commissioned a study that “included examining 4 possible alignments for an expressway.” The construction of a new road was intended to be one of the main catalysts for the development of the country’s southern region. The project aimed to be the first greenfield expressway constructed in Sri Lanka since the country’s independence. It was also the government’s first large-scale infrastructure project.

The primary objectives of the STDP were (i) to spur economic development in the southern region of Sri Lanka and (ii) to significantly reduce the high rate of road accidents. The project’s secondary objective was poverty reduction.

The project consisted of two components:

(i) construction of a new highway linking Colombo with Galle, the capital of the Southern Province of Sri Lanka, and Matara. The highway would be approximately 126 kilometers (km) long, and a 5.6 km Galle access road was also to be constructed.

(ii) a road safety component to address Sri Lanka’s serious road traffic accident situation.

At ADB, the South Asia Department was responsible for the project. Implementation oversight lay with ADB’s Sri Lanka Resident Mission (SLRM).

The sections below summarize the STDP design and planning process.

2.1.1 The Original Trace

In 1994, the government commissioned an environmental impact assessment (EIA) and an economic feasibility study for what came to be known as the original trace (OT). However, the EIA was not approved by Sri Lanka’s Central Environmental Authority (CEA), which “wanted further alternatives to be considered.” A topographic survey was prepared which formed the basis of land acquisition plans.

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2 Footnote 1, p. 7.
5 Footnote 4, para. 32.
6 Footnote 4, para. 11.
7 In the STDP planning process, the alignment of the expressway referred to as the “road trace” or “trace” (ADB Sri Lanka Resettlement Case Study. p. 15, footnote 6). Trace refers to the designated routes of the road that were identified and decided upon.
8 Footnote 4, para. 33.
9 Footnote 4, para. 33.
2.1.2 The Combined Trace

From 1996 to 1999, ADB carried out fact-finding missions and engaged consultants “to determine the viability of the STDP including a study of alternatives.” The consultants recommended changing the classification of the STDP from a “Category B” project for environment to “Category A” and identified a new route called the combined trace (CT), 60% of which was similar to the OT. The ADB consultants prepared an initial social impact assessment and an initial environmental examination, while the government prepared a social impact assessment based on the new CT. The EIA was also updated, at the government’s request, in respect of those sections of the CT which deviated from the OT. Two public hearings were held on the updated EIA. The CEA received 287 comments and held discussions with the Road Development Authority (RDA) and other agencies. During this period, dissatisfaction and opposition to the project began to grow.

In line with ADB’s project processing cycle, ADB carried out fact-finding in April–May 1999. During this period, the RDA and ADB agreed to include a road link to Galle in the project. No further social or environmental assessments were carried out in respect of the proposed new Galle link road.

2.1.3 The Final Trace

The RDA submitted the revised EIA report to the CEA for clearance and approval, which was granted subject to 58 specified terms and conditions including “selecting [a] final trace (FT) which should minimize the relocation of people.” ADB’s Office of Environment and Social Development considered that most of the CEA’s terms and conditions were already addressed by the mitigation measures and management plan proposed by government and bank consultants. ADB’s Board approved the loan on 25 November 1999 and soon after this, ADB conducted an inception mission. This identified further changes to the alignment.

On 24 January 2000, the RDA sought approval of the resulting new FT from the CEA. On 31 May 2004, the CEA issued a letter to the director of the Project Monitoring Unit of the STDP. According to the CRP’s subsequent final compliance review report, this confirmed validity of the original CEA approval for the FT based on the maps submitted by RDA and based on an assurance from RDA that the final alignment was within the band studied in the 1999 EIA, stated that no further approvals were required in order to proceed with the project.

Since November 2011, a new expressway linking Colombo to Galle has trimmed the journey from west to south to around 3 hours (photo by ADB).
2.2 Summary of the Complaint

The STDP project generated a significant number of complaints. The complaint filed with the CRP on 2 December 2004 was lodged by the Gama Surakeema Sanvidhanaya and the United Society for Protection of Akmeemana. Three complainants were individually named: Sarath Athukorale, L.D.L. Pathmasiri, and A.A.D. Sunil Ranjith Dayaratne. Twenty-five other project-affected people were also party to the complaint, but asked that their identities be kept confidential.

The complainants asserted that the harm they had suffered or would suffer included the following: loss of homes; loss of livelihoods; damage to the environment; degradation of wetlands; dispersion of integrated communities; damage to five temples; negative effects of resettlement; and human rights violations, as a result of noncompliance by ADB with its operational policies and procedures.

The complainants sought three kinds of remedies: compensation for resettlement; further assessment of gender, environment, and other social impacts; and adequate consultation with affected persons.

2.3 Compliance Review Process and Results

The CRP determined that the complaint was eligible for compliance review. Its subsequent investigation was conducted through the following methods:

(i) a desk review of documents;
(ii) interviews with ADB Management and staff, consultants;
(iii) meetings with the complainants including other project-affected people; government officials, including those from RDA and the CEA; the Board member representing Sri Lanka and other Board members; and Japan Bank for International Cooperation; and
(iv) a mission to Sri Lanka with site visits along the highway.

The CRP’s final compliance review report was dated 22 June 2005. In it, the CRP concluded that ADB had been noncompliant in relevant operational policies and procedures due to (i) inadequate environmental impact assessment and insufficient public information and participation; (ii) Management’s lack of supervision in ensuring the payment of compensation, resettlement monitoring and income restoration, including benefit monitoring and gender-appropriateness of livelihood restoration interventions; and (iii) non-adherence to internal procedures on project scope change.

To address these noncompliant aspects, the CRP made four general recommendations and 15 specific recommendations to bring the project into compliance. These were approved by the Board on 12 July 2005.

As the first compliance review case, the CRP took the opportunity to include recommendations geared toward institutional strengthening. It recommended the review of selected road projects and cofinancing agreements, with the objective of ensuring safeguards compliance. Most importantly, the CRP called for the provision of additional guidance to staff for ADB to address capacity and resources needs of implementing agencies and ensure compliance with ADB’s policy on involuntary resettlement.

Project-specific recommendations focused on (i) additional environmental assessment and mitigation measures for parts of the road which had not yet been assessed, (ii) gender analysis of social interventions, (iii) provision of adequate compensation, (iv) ensuring adequate facilities at resettlement sites, (v) improved livelihood restoration and benefits monitoring and evaluation, and (vi) ensuring wider project information dissemination among affected persons.

Following Board approval of the CRP recommendations, ADB Management thereafter prepared a course of action to implement the recommendations. Progress with implementation of the recommendations was monitored by the CRP from 2005 to 2011. In its fifth and final annual
monitoring report in August 2011, the CRP found that 18 of the 19 Board-approved recommendations had been complied with.\(^{28}\) The remaining recommendation “that all affected persons be fully compensated by actual payment before they are moved” could not be fully implemented at project level as the affected people concerned had already been resettled prior to Board approval of the recommendation. This was noted in the CRP’s first annual monitoring report, which concluded that “Any attempt to achieve compliance on this issue has been overtaken by events.”\(^{29}\)

### 3 KEY SUCCESSES AND CHALLENGES

The table below summarizes significant successes, gaps, and challenges revealed or triggered through the compliance review of the Sri Lanka Southern Transport Development Project. Each point is discussed further in section 4.

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<td>• Within the Government of Sri Lanka, the compliance review and its recommendations</td>
<td>• Internal conflict in Sri Lanka coupled with shortcomings in ADB and executing agency capacities to implement safeguards exacerbated challenges. More information can be found in section 4.1.</td>
</tr>
<tr>
<td>- contributed to the National Policy on Compensation Payment of 2008,</td>
<td>• Inadequate engagement with stakeholders, especially on changes of traces. More information can be found in section 4.2.</td>
</tr>
<tr>
<td>- were the primary document used by the Parliament to ratify the Land Acquisition Regulations in 2009,</td>
<td>• Lack of understanding by ADB staff and the government of the compliance review process and mandate of the CRP. More information can be found in section 4.3.</td>
</tr>
<tr>
<td>- contributed to the establishment of the Environmental and Social Division of the Road Development Authority of Sri Lanka,</td>
<td>• Ineffective grievance redress mechanism. More information can be found in section 4.4.</td>
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<tr>
<td>- triggered the creation of a management information system, and</td>
<td>• Inadequate grievance redress mechanism. More information can be found in section 4.5.</td>
</tr>
<tr>
<td>- triggered the formulation of the National Involuntary Resettlement Policy (2001). More information can be found in section 4.8.</td>
<td>• Incomplete reflection of gender impacts and concerns in project design. More information can be found in section 4.6.</td>
</tr>
<tr>
<td>• Compliance review strengthened Sri Lanka’s capacity to implement involuntary resettlement safeguards. More information can be found in section 4.9.</td>
<td></td>
</tr>
<tr>
<td>• The Southern Transport Development Project compliance review gave rise to knowledge products aimed to improve development effectiveness. More information can be found in section 4.9.</td>
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</table>

ADB = Asian Development Bank.


4 LESSONS LEARNED AND RECOMMENDATIONS

The compliance review process of ADB’s Accountability Mechanism Policy follows a number of sequential steps: (1) eligibility determination, (2) compliance review, (3) remedial action plan or management action plan [which at the time of the STDP compliance review was referred to as a “course of action”] and (4) monitoring. This section identifies lessons from the compliance review process and highlights their implications for ADB’s processes of project design and implementation, and their potential contribution to future compliance reviews.

4.1 Early assessment of ADB staff and borrower’s implementation capacity is indispensable to seamless project completion.

The STDP was the first greenfield expressway to be constructed in Sri Lanka and it was implemented at a time when the country was still in a state of civil war. This latter condition prioritized deployment of government resources to recovery efforts, which in turn exacerbated the inherent challenges presented by a mega project like STDP.

ADB had a heightened responsibility to ensure and strengthen the project implementer’s capacity to comply with safeguard requirements and to put in place robust risk mitigation plans.

The report and recommendation of the President (RRP) to the Board on the STDP, identified the RDA’s inadequate “capacity to manage the project’s preconstruction and construction activities” as a potential project implementation risk. In this context, ADB had a heightened responsibility to ensure and strengthen the project implementer’s capacity to comply with safeguard requirements and to put in place robust risk mitigation plans.

The CRP’s final compliance review report suggested that the project had also suffered from being rushed to approval before the final trace was set and preliminary and detailed engineering work carried out. Following loan approval, the CRP’s final compliance review report highlighted stark noncompliance. For example, families were removed from their lands before resettlement sites had access to utilities and before payment of full compensation. In interviews for this learning report, a former ADB staff observed that STDP had done “nothing in income restoration and improvement, although the project was already into its fourth year.” This was reiterated by another ADB staff at SLRM at the time. Another interviewee recalled that “the project had numerous safeguard issues” and that these should have been resolved before project implementation. As a result, following Board approval in 1999, the project team had been “unduly occupied with filling the gaps in the environmental and social provisions of the EIA (Environmental Impact Assessment) as affected by the new trace.”

According to an ADB senior social development officer for gender at the time of project implementation, the project’s income restoration program was implemented very late, and long after affected people had relocated. This respondent also recalled that there were affected people who had lost their incomes and who were not able to acquire new skills and identify new income-generation avenues.

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30 Eligibility determination is steps 1–3 of the compliance review process under the 2012 AM Policy including: requesting management’s response, determining eligibility, and Board authorization of compliance review.
31 Compliance review (fact-finding) is steps 4–7 of the compliance review process under the 2012 AM Policy including: conducting compliance review, Compliance Review Panel’s draft report, Compliance Review Panel’s final report, and Board consideration of the Compliance Review Panel Report.
32 Development and approval of a remedial action plan are steps 8–9 of the compliance review process under the 2012 AM Policy including Management’s remedial actions and Board’s decision.
33 The compliance review steps under the 2003 Accountability Mechanism Policy did not include monitoring as one of the steps, but referred to it as a separate stage. In comparison, the 2012 Accountability Mechanism Policy provides 10 compliance review steps, which include monitoring.
34 Footnote 4, para. 32.
35 Footnote 1, p. 227.
37 Footnote 4, para. 184.
38 Footnote 4, para. 184.
39 Footnote 4, para. 134.
In large and complex projects like STDP, changes or adjustments in design are inevitable. ADB has a responsibility to ensure that both ADB and implementing agencies are prepared for such changes. And when changes occur, ADB should make certain that neither it nor the implementing agency misses any procedural requirements, especially those that relate to ADB’s safeguards.

4.2 Meaningful engagement with project stakeholders creates an enabling environment for compliance.

It is long-established good practice that the process of planning and implementation of mitigation measures for negative project impacts should be accompanied throughout by stakeholder engagement. It is part of the enabling environment for compliance. Stakeholder engagement is also essential for the process of compliance review. However, for projects such as the STDP, it is important to recognize that each stakeholder group may have different needs. The following subsections provide insights into this lesson for ADB and the CRP when coordinating with (i) project-affected people, (ii) the borrower and project implementing agencies, and (iii) ADB Management and staff.

4.2.1 Consultation with project-affected people

Several traces for the STDP were considered during the planning stage: (i) the original trace (OT), (ii) the combined trace (CT), and eventually, (iii) the final trace (FT). According to a former government official, “this gave rise to confusion and conflict among [the] public with allegations [that] the Implementation Agency [was] partial and biased towards some affluent groups.” The changes in alignment, coupled with a lack of public consultation and participation, gave rise to suspicion that designers and project staff had “bent to external pressure,” according to a survey respondent who was a former government official implementing the project.

ADB policies require that both its staff and the implementing agencies consult with affected people in a transparent, clear, and meaningful manner prior to considering any project changes, as well as actively engaging them in designing measures to mitigate negative project impacts. This lack of consultation in the STDP was a complaint raised by affected people in their request for compliance review. The CRP’s final compliance review report noted that the STDP became noncompliant at the time of “adoption of the FT,” when the project failed to “meet the broader goals of an EIA process, such as public consultation.” Negative project impacts on the livelihoods of affected people can be distressing and unsettling. A former ADB staff who responded to the survey highlighted the emotional stress brought about by land acquisition and physical displacement, and vividly recalled one affected person’s anger, humiliation, and frustration. This, all the more, necessitates constant communication and effective consultation with project affected people.

The CRP aimed to address the project’s noncompliance through the following specific recommendation 1: “assess the environmental impacts of the Galle access road and any stretch of the ADB section on the Final Trace (FT) different from the Combined Trace (CT) including consulting project-affected people.” This recommendation was considered complied with through the actions of ADB Management by the time the CRP’s second annual monitoring report was published.

A former ADB Country Director reflected that thorough consultation demands patience because local communities act and “interact at a very different pace than ADB.” It is important to allow for adequate response times when engaging and communicating with project affected people. Early consultations and continuous engagement with project stakeholders can then enable both smooth implementation and compliance with ADB policies.

CRP’s engagement with affected people should itself be transparent and meaningful, too. One ADB staff...
member observed that “a small group of complainants had tried to keep the observations and discussions they had with CRP to themselves, triggering an information gap.” The same survey respondent reflected on the value of the CRP sharing information about the process and its findings with affected people and complainants in their local languages as early as possible, to mitigate against the risk that language issues could, in effect, privilege some affected people or complainants over others.

Lessons learned through the STDP compliance review regarding meaningful stakeholder engagement were acted upon in the succeeding ADB programs in Sri Lanka. An ADB senior project officer felt that in the subsequent Integrated Road Investment program (iRoad), “information sharing, early engagement and consultations with community members ... significantly contributed to prevent[ing] or minimiz[ing] any issues escalating to complaints and grievances.”

4.2.2 Consultation with Project Implementing Agency—the Borrower

The STDP was the first project to undergo compliance review under the 2003 AM Policy. The 2003 AM Policy set out principles, such as transparency and independence, to guide the CRP. But a reflection from an ADB staff member implied that it was hard sometimes to link the compliance review process to these principles, due to a perception that the CRP was “high handed” in not reflecting the implementing agency’s comments in its eventual report. Some respondents recalled tension between the CRP and the government arising from this.

The CRP’s mandate is to assess whether ADB has complied with its operational policies and procedures. The CRP is not an adjudicating body. However, while investigating ADB’s compliance, the CRP has to regularly engage with the borrower and the implementing agencies and, at times, ask difficult questions. These can sometimes be seen as unnecessary interference. According to the CRP’s own final monitoring report, “CRP could have avoided some of the initial apprehension and lack of support by assuring GOSL (Government of Sri Lanka) of its impartiality and neutrality.”

4.2.3 Consultation with ADB Management and staff

The process of compliance review is facilitated when the CRP is able to build mutual trust with ADB Management and staff and resident missions during the course of its review. A former CRP member reflected that “[We wasted much time and missed important signals of staff misunderstanding of] the CRP among the key people who [then] did not cooperate for unnecessary and false reasons.” This suggests that the CRP should not only engage with ADB Management and staff, but also potentially that it could usefully convey that it shares with them the overall goal of improving ADB’s processes.

4.3 Outreach is needed to foster understanding of CRP’s mandate and role.

A survey respondent from ADB Management recalled that with the large number of complaints received about the STDP, and multiple efforts to address them, both the government and ADB Management felt frustrated that different sets of people (the ADB project team, Board Inspection Committee, special project facilitator, and CRP) were going through what appeared to be largely the same motions. This respondent also recalled their impression that the government found it unseemly that ADB utilized so much time and effort for a complaint from a
small number of affected people. This perception itself highlights a gap in understanding, since the CRP’s mandate required it to entertain a complaint even if it was filed by just two individuals. Another misperception, according to a former CRP member, was that civil society, ADB Management, and staff “believed the CRP processes intended to punish individual staff members.” As a result, key people deliberately missed the opportunity to cooperate in the compliance review. Thus, a former CRP member recommended “a separate staff briefing to walk through the purposes and processes of the Accountability Mechanism” particularly, prior to staff interviews or start of the compliance review investigation itself.

These reflections suggest that stakeholders had different levels of understanding of the compliance review process and of the CRP’s mandate. Effective outreach with both internal and external stakeholders offers opportunities to address this.

4.4 Effective and accessible grievance redress mechanism decreases the likelihood of a compliance review.

The primary activities of STDP’s grievance redress mechanism (GRM) were performed by the (i) Grievance Redress Committees (GRCs) and (ii) Land Acquisition and Resettlement Committee (LARC) and Super LARC. At this time, the 1995 Involuntary Resettlement Policy was applicable to the STDP. But it did not provide detailed guidance on the best practices for an effective GRM.

GRCs were meant to be the primary method to resolve disputes at the grassroots level prescribed by the Government of Sri Lanka’s resettlement implementation plan. In the STDP, five GRCs were established by the project to cover the project area of 22 secretariat divisions. This was inadequate because (i) according to a former ADB staff, it took more than 4 years to establish the GRCs, (ii) the GRCs were maintained at a district rather than at a division level, and (iii) there was a lack of awareness among affected people about the existence of the GRCs and their role.

A senior compliance specialist recalled that at one point, project contractors directly handled and resolved most of the grievances about project-related environmental matters without reporting this to the project management team. In 2005, almost 5 years after project approval and prior to the CRP’s first annual monitoring report, the implementing agency established an additional 22 GRCs in the divisional secretariat, to better reach project-affected people. LARC and Super LARC on the other hand, dealt with compensation payments to affected people. This was also found to be lacking as incomplete payment of full compensation was one of the main grievances of affected people. Based on this, the CRP provided recommendation to ADB Management that “required all affected persons be fully compensated by actual payment before they are moved.” CRP’s recommendation resulted in the payment of statutory compensation by September 2005. In addition, prior to the CRP’s first annual monitoring report, the “LARC...
payments were made for all except 5 land lots fixed for Super LARC inquiries. Interest payments were 90% completed.55 The government also committed to provide “sufficient funds to complete compensation for land acquisition and resettlement.”56

A review of the STDP GRM (commissioned by the Office of the Special Project Facilitator) done by the Centre for Poverty Analysis (CEPA) stated that the STDP was “Originally delayed by almost two years due to AP grievances regarding the trace which had no formal entry point into the STDP GRM and therefore entered the lengthy legal and donor systems.”57

These insights underscore the importance of providing project-affected people with access to legitimate, reliable, transparent, and efficient GRMs for their complaints.58 With an effective GRM in place, the likelihood of a compliance review is reduced.

ADB’s current Safeguard Policy Statement (2009) provides detailed information on the establishment of effective GRMs. A former ADB senior project officer suggested that the SLRM now pays greater attention to consultation processes and the establishment of GRMs. For example, for a subsequent iRoad program in Sri Lanka, the South Asia Regional Department’s Transport and Communication Division (SATC) and SLRM developed and implemented a three-tiered GRC system that endeavored to build a sense of ownership and proactive participation among rural communities for road improvement projects that affected them.

### 4.5 Comprehensive baseline data is important.

Comprehensive baseline socioeconomic data must be done in the project design stage as a foundation for sound project implementation and monitoring. It provides a basis for adjustments that may have to be made for a project, as well as a reference for the analysis of subsequent project impact. Detailed baseline data can also guide relevant analysis during compliance review and inform any remedial action plan.

In the STDP, [the CRP found that] baseline data was inadequate, particularly in those areas of the alignment where the CT differed from the FT.59 Additionally, according to ADB’s 2016 resettlement case study on the project, “Household income data and types of livelihoods were collected as a part of the IOL (inventory of loss) surveys that focused on land plots acquired instead of on persons or households who owned them.”60 The absence of detailed information meant that numerous difficulties were encountered in “paying compensation and resettlement assistance, identifying the poor and vulnerable households, and monitoring the (income restoration program).”61

Similarly, the establishment of a comprehensive and gender-sensitive database is fundamental to successful project implementation. Baseline data needs to be sex-disaggregated, so that responses and/or remedial actions are designed accordingly. However, in the STDP, the gender sensitivity of the database was also questionable. For example, many women listed as “housewives” worked as unskilled labor on construction sites or were involved in home-based, informal livelihood activities which were not recorded.

Baseline information provides an effective benchmark for results or outcomes of project implementation and comprises quantitative and qualitative information about important social and economic characteristics of individuals and groups affected by the proposed project.62 Solid baseline data makes efficient monitoring and evaluation possible. A former ADB staff noted that it is necessary to appoint qualified data specialists to maintain the databases, adding that the longer the delay in finalizing these key tools, “the weaker ... the room for project implementation supervision becomes.”

### 4.6 Gender-sensitive project design improves the development effectiveness of ADB projects.

Gender equity, aside from being a fundamental human right, is crucial to sustainable development. ADB recognizes and notes that “Economic analyses recognize that low levels of education and training, poor health and nutritional status, and limited access to resources not only depress women’s quality of life, but also limit productivity and hinder economic efficiency and growth. Hence, promoting
and improving the status of women need to be pursued, for reasons of equity and social justice and also because it makes economic sense and is good development practice.\textsuperscript{63}

In the STDP, the CRP’s compliance review concluded that gender issues that were identified in the project planning stage were “not studied during project preparation and were also not incorporated in the project log frame and RRP elements in the project design, implementation arrangements and monitoring.”\textsuperscript{64} According to a former ADB senior social development officer for gender, the STDP “lacked an integrated gender perspective overall and even after it came under the purview of the CRP and gender concerns were being addressed, the general lack of awareness on the subject—of ADB staff, PMU staff, government officials etc. — made it difficult to address such concerns in a systematic manner.”

Infrastructure projects such as the STDP require gender sensitivity. Without gender-sensitive project design, unintended impacts which may affect women disproportionately can cause harm and adversely affect project implementation. For example, in STDP’s infrastructure plans, an underpass was designed without sufficient lighting. This potentially increased security risks for all users, but particularly women. “This should have been a basic feature of the design—as it affects the safety and security of all persons who use the underpasses,” explained a former ADB senior social development officer for gender, who stressed that strategic and practical short- and medium-term gender objectives must be incorporated in projects from the concept stage.

The Board-approved recommendations adopted following the STDP compliance review required that gender concerns be addressed. Consequently, increased attention to project gender concerns were done through the conduct of a gender study on the project; assignment of an ADB staff and/or consultant to look at gender concerns in STDP up to project completion; gender-related trainings for project implementers; inclusion of sex-disaggregated data in the project management information system; and incorporation of gender aspect in the design and execution of income restoration program through measures such as establishment and strengthening of housing societies within the resettlement sites, vocational and technical skills development training, and improvements to home gardens.\textsuperscript{65}

The CRP’s final compliance review report also found that ADB had not ensured that the project’s implementation was accompanied by monitoring and evaluation of project benefits. ADB is required to conduct gender analysis to identify and mitigate or remove the obstacles faced by women in benefiting from ADB-supported development activities in line with its operational policies and procedures on Gender and Development in Bank Operations and Incorporation of Social Dimensions in Bank Operations.\textsuperscript{66} Benefit monitoring and evaluation provides information about the benefits and impacts of projects to assist both ADB and borrowers in improving the effectiveness of development and related investment policies in line with ADB’s operational policies and procedures on benefit monitoring and evaluation.\textsuperscript{67} ADB is required to ensure that project design and implementation arrangements include a framework matrix to monitor and evaluate the project benefits. In the CRP’s final compliance review report, it was noted in this project that the framework in the RRP did not include outputs, indicators of achievements or specify means of verification to be adopted on social issues.\textsuperscript{68}

4.7 CRP recommendations should distinguish between project-based remedial actions and forward-looking recommendations for systemic changes.

The CRP handled the STDP compliance review under the 2003 AM Policy, which mandated the CRP to provide recommendations to bring projects into compliance. In contrast, under the current 2012 AM Policy, the CRP no longer has this authority. It is now the responsibility of the Management to prepare remedial actions and seek feedback from the CRP.

At the same time, survey respondents’ reflections on the CRP’s recommendations offer interesting insights into the evolution of the AM policy and may be relevant to future policy revisions.

\textsuperscript{64} Footnote 4, para. 237.
\textsuperscript{68} Footnote 4, para. 228.
In the CRP's final compliance review report for the STDP, two categories of remedial actions were recommended. The first consisted of four general or systemic recommendations with a scope broader than the project itself. The second category was made up of 15 specific recommendations to bring the project into compliance.  

According to an ADB resettlement officer, by December 2004, when the compliance review was ongoing, about “90% of land acquisition activities were completed, about 30% of ADB loan was disbursed, and about 80% of contract works were completed” in the ADB-financed section of the road. In this context, when the CRP made recommendations to Management to bring the project back into compliance, some project-specific recommendations proved to offer little tangible added value for the project itself. Furthermore, a former ADB staff observed that the CRP’s recommendations on preparation of environmental and social impact studies for the final trace, and on independent external monitoring, gender analysis, and income restoration, were not especially relevant after 5 years of project implementation. In a more challenging comment given the CRP’s mandate under the 2003 AM Policy to make recommendations to bring the project back into compliance, a survey respondent from ADB Management recommended that the CRP pay close attention to the broad cultural, social, political, and economic background of the project; the affected people; the affected communities; and the general economic and political situation in the country and verify whether affected people’s demands exceed what ADB Management and staff, the Board of Directors, and project authorities can deliver.

Survey respondents picked up on the distinction between forward-looking recommendations for systemic changes, and those capable of being applied by way of remedial action to the project. In the STDP compliance review for example, the CRP recommended “that all affected persons be fully compensated by actual payment before they are moved” but did not acknowledge explicitly that the recommendation could not be implemented at project level since affected people had already resettled before the CRP’s recommendations were approved by the Board.

A former CRP member suggested that recommendations that are systemic in nature should not be categorized as remedial actions, but should instead be reported separately to the Board or the ADB President as policy recommendations to enhance ADB’s development effectiveness. The policy evolution of CRP’s involvement in preparation of the remedial actions is worth noting here. One of the weaknesses of the 2003 AM Policy that was identified during the AM Policy update was that CRP’s recommendations were either too specific, blurring the mandates between compliance review and project design and implementation, or too broad, touching upon adequacy of the ADB policies. As a result, the 2012 AM Policy does not mandate the CRP to provide recommendations, but rather provides for it to comment on remedial action plans prepared by ADB Management.

4.8 Lessons from the STDP compliance review contributed to policy and program reforms in ADB and the government.

Survey respondents from the government and ADB Management offered insights into several institutional reforms that took place in Sri Lanka in light of the STDP compliance review experience:

(i) The compliance review informed the development of the 2008 National Policy on Payment of Compensation which established a uniform land compensation system in Sri Lanka.

(ii) In 2009, using the CRP’s recommendations as a primary source document, Sri Lanka’s Parliament ratified new Land Acquisition Regulations. These significantly revised the Land Acquisition Act implementation procedures and provided a comprehensive framework for determining the market value of acquired land.

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69 Footnote 4, paras. 60–62.
(iii) A separate Environmental and Social Division (ESD) was established in the RDA, supported through an ADB technical assistance project and strengthened through the CRP’s recommendation70 to monitor and improve “implementation of infrastructure development projects that have complex and sensitive safeguard issues.”71

(iv) A management information system was created and later strengthened after the compliance review72 with the establishment of a “project performance management system implemented by ESD.”73

Survey respondents from ADB Management additionally noted that the STDP contributed to reforms within ADB that strengthened resident missions, improved social safeguard procedures, and simplified the process to develop resettlement implementation plans alongside local project authorities.

The reflections of respondents on the STDP compliance review show how the work of ADB’s CRP and the compliance review function of ADB’s Accountability Mechanism can not only benefit from continual learning, but also make a tangible contribution to provision of remedies for affected people and to the development of systems and capacities needed for ADB to realize its mission.

4.9 The STDP compliance review informed the development of knowledge products and improved the capacity of ADB to address resettlement in subsequent projects.

One of the Board-approved recommendations of the STDP compliance review was that “Management should develop additional guidance for ADB’s Handbook for Resettlement: A Guide to Good Practice dated 1998 for staff to develop major infrastructure projects with borrowers with little or no comparable project experience, especially in Category A projects.”74 Consequently, ADB Management contributed to the development75 of “Involuntary Resettlement Safeguards: A Planning and Implementation Good Practice Sourcebook (Draft Working Document).”76 ADB Management also addressed the recommendation through a technical assistance by the Environment and Safeguards Division of the Regional and Sustainable Development Department of ADB which aimed to strengthen the use of country safeguard systems. Under this technical assistance, 569 trainees participated in the 10 training workshops in Sri Lanka to support and strengthen national-level capacity for country involuntary resettlement safeguards.77

According to the CRP’s fifth and final annual monitoring report following the STDP compliance review, this and other safeguards-related technical assistance triggered by the compliance review “contributed substantially to improve the institutional capacity in resettlement monitoring and evaluation of (the) ESD of RDA (government).”78

More widely, the STDP experience also generated insights and lessons that were shared and documented through other knowledge products including the 2010 publication Designing and Implementing Grievance Redress Mechanisms: A Guide for Implementors of Transport Projects in Sri Lanka (ADB 2010); and later, in 2016, Challenges in Implementing Best Practices in Involuntary Resettlement: A Case Study in Sri Lanka (ADB 2016).

In the survey responses, a former government official from the RDA and an ADB project officer both reflected that the government found it easier to implement subsequent expressway projects in Sri Lanka such as the Colombo Katunayake Expressway, Outer Circular Highway Project, Southern Extension Highway Project, and Central Expressway Project. Compliance review of complex mega projects such as STDP can generate insights and wider lessons to guide the implementation of succeeding projects and improve their development outcomes.

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71 Footnote 4, p. 7.
72 Footnote 4, p. 64.
73 Footnote 28, para. 37.
75 Footnote 75.
77 Footnote 3.
78 Footnote 28, Appendix 2, p. 22.
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Lessons Learned from Compliance Reviews at the Asian Development Bank (2004–2020)
Sri Lanka Southern Transport Development Project

Lessons Learned from Compliance Reviews at the Asian Development Bank (2004–2020) is a series of publications prepared by the Office of the Compliance Review Panel. It examines compliance reviews for eight projects with Asian Development Bank assistance that were the subjects of complaints to the Compliance Review Panel in 2004–2020. The Sri Lanka Southern Transport Development Project is the fourth in the series that was subject to compliance review under the 2003 Accountability Mechanism Policy. It highlights the importance of understanding the context of potential project implementation risk along with a stronger and transparent stakeholder engagement that builds trust and confidence in the compliance review.

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