

Mandates of the Special Rapporteur on the rights of persons with disabilities; and the Special Rapporteur on extreme poverty and human rights

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Dear Mr. Jin Liqun,

We have the honour to address you in our capacities as Special Rapporteur on the rights of persons with disabilities; and Special Rapporteur on extreme poverty and human rights, pursuant to Human Rights Council resolutions 35/6 and 35/19.

We are sending this letter under the communications procedure of the Special Procedures of the United Nations Human Rights Council. Special Procedures mechanisms can intervene directly with governments and other stakeholders (including companies) on human rights issues of concern that come within their mandates by means of letters, which include urgent appeals, allegation letters, and other communications. The process involves sending a letter to the concerned actors identifying the human rights issues of concern, applicable international human rights norms and standards, the concerns and questions of the mandate-holder(s), and a request for follow-up action. Communications may deal with individual cases, general patterns and trends of human rights violations, cases affecting a particular group or community, or the content of draft or existing legislation, policy or practice considered not to be fully compatible with international human rights standards.

In this connection, we would like to bring to your kind attention, in your capacity as the President of the Asian Infrastructure Investment Bank (AIIB), the importance of better promoting and protecting the rights of persons with disabilities in the Environmental and Social Framework (ESF) of this Bank, which aims at improving social and economic outcomes in Asia.

Persons with disabilities are often among the most affected by poverty and most excluded in societies, including in countries where the AIIB funds projects. They experience great inequalities worldwide and are less likely to be employed, receive an education, or gain access to public services (see A/71/314, para. 6).

While many studies recognize the link between poverty and disability, too often they do not consider the direct and indirect extra costs of living with a disability. Direct costs include the extra expenses for disability-specific items, such as assistive devices and personal assistance, and greater expenditure for general services, such as medical care and transportation. Indirect costs include lost benefits or opportunity costs, such as the loss of income of persons with disabilities or of their family members who cannot work, or work less, if the household includes one or more persons with disabilities (see A/71/314, para. 13, and A/70/297, para. 29-33). In addition, studies using multidimensional indices of poverty show a greater poverty gap between persons with

and without disabilities.¹ All those considerations need to be taken into account to achieve the goal of ending poverty for all. I would like to highlight the AIIB's commitments to the SDGs is particularly important in light of the AIIB's mandate.

The cost of exclusion is significant not only for persons with disabilities and their families, but also for a country's economy. Persons with disabilities are less likely to be able to work and thus contribute less to the economy. Even when they do work, they tend to earn less than their non-disabled peers because of their more limited access to education, good quality jobs and loans to start businesses (see A/71/314, para. 15). A study by the International Labour Organization in 2009 estimated that the cost of excluding persons with disabilities could amount to between 1 and 7 percent of a country's gross domestic product.²

As the AIIB moves towards a more inclusive model of sustainable development, it must ensure that a disability perspective is systematically integrated into all its operations, addressing project risks and impacts on persons with disabilities and including benefits to extend to this population during the development of AIIB's strategies for investing in sustainable infrastructure and other productive sectors.

The AIIB's Environmental and Social Framework underscores the social development and inclusion, which "encompasses policies to promote equity of opportunity and non-discrimination, by improving the access of poor, disadvantaged and persons with disabilities to education, health, social protection, housing, environmental quality, infrastructure, affordable energy, water and sanitation, employment, financial services and productive assets."³ The ESF also refers to the consultation with persons with disabilities in a meaningful and accessible manner.⁴ Furthermore, the ESF requires clients to address the risks and impacts of projects on vulnerable groups, and also makes specific reference to persons with disabilities.⁵ I welcome these commitments. Nevertheless, there are still gaps and challenges to overcome to implement a coherent disability perspective in the AIIB's ESF and projects.⁶

¹ See, for example, Sophie Mitra, Aleksandra Posarac and Brandon Vick, "Disability and poverty in developing countries: a multidimensional study", *World Development*, vol. 41 (January 2013).

² Sebastian Buckup, "The price of exclusion: the economic consequences of excluding people with disabilities from the world of work", International Labour Organization Employment Working Paper No. 43 (2009).

³ The Asian Infrastructure Investment Bank, Environmental and Social Framework, February 2016 (amended February 2019), para. 8, p. 3, <https://www.aiib.org/en/policies-strategies/download/environment-framework/Final-ESF-Mar-14-2019-Final-P.pdf>

⁴ Id., at ESS 1, section A, para. 15.

⁵ Id., at ESS 1, section C, para. 33.

⁶ Bank Information Center, Disability Rights and the Asian Infrastructure Investment Bank, January 2019, pp. 2-8, available at https://bankinformationcenter.cdn.prismic.io/bankinformationcenter%2Ffc820fc74-1933-48f0-9828-89333e9018ee_bic+briefing+note+on+inclusion+of+people+with+disabilities+january+2019+final.pdf

One significant gap is the lack of recognition of the importance of the disability perspective in the ESF, as it is recognized in relation to gender equality.⁷ Likewise, the ESF should explicitly define the groups considered to be “vulnerable and disadvantaged”, and the definition should include persons with disabilities. At the same time, the ESF requires to reinforce the principle of universal access in the construction of all new buildings and structures as it currently only mentions “where technically and financially feasible, apply the principles of universal access to the design and construction of such new buildings and structures”.⁸ Although the ESF points out that the disclosure of information should be in an understandable and accessible form to those affected by the project,⁹ it would be relevant to mention specifically accessible information for persons with disabilities, as well as to design grievance redress mechanisms that are accessible to all.¹⁰

In this framework, we would like to present two examples to highlight some of the gaps and challenges to include the disability perspective in the AIIB’s projects. Regarding the Bangladesh Distribution System Upgrade and Expansion Project, which has initiated to upgrade the two existing power grids to increase availability and sustainability of the power supply, research documents describe the lack of inclusion of persons with disabilities in project design, planning, and implementation; lack of inclusion of persons with disabilities in consultation processes; lack of references to the unique risks to persons with disabilities in procedures designed for ensuring community health and safety during the construction process, and inaccessibility of systems for grievance redress.¹¹

With respect to the Metro Manila Flood Management Project, which aims to improve Metro Manila’s resilience to floods by upgrading water pumping infrastructure in rivers and reducing impediments to water flow, there is still a lack of identification of measures to ensure accessibility in the design of resettlement sites and housing, and to guarantee that the needs of persons with disabilities are included during the process of resettlement.¹²

⁷ The Asian Infrastructure Investment Bank, Environmental and Social Framework, February 2016 (amended February 2019), Vision para. 14, p. 4, available at <https://www.aiib.org/en/policies-strategies/download/environment-framework/Final-ESF-Mar-14-2019-Final-P.pdf>

⁸ Id., at ESS 1, section D, para. 41.

⁹ Id., at ESS 1, section A, para. 14.

¹⁰ Id., at ESS 1, section A, para. 16.

¹¹ Access Foundation Bangladesh, Risks and Impacts on Persons with Disabilities: Bangladesh Distribution System Upgrade and Expansion Project, August 2017, available at https://bankinformationcenter.cdn.prismic.io/bankinformationcenter%2F6c20e0cb-7827-438a-824a-75aa7d4c67a9_case-study-bangladesh+distribution++system+%281%29.pdf. See also, Bank Information Center, Research highlights the gap between AIIB’s disability rights commitments and actions in the first project in Bangladesh, September 22, 2017, available at <https://bankinformationcenter.org/en-us/update/first-case-study-aiib-disability>

¹² Bank Information Center, Metro Manila Flood Management Project, available at <https://bic-field.netlify.com/en-us/project/metro-manila-flood-management-project/>

We have been informed that the AIIB will review its ESF, which is a significant opportunity to emphasize the implementation of the disability perspective at the AIIB, improve its internal due diligence practices and establish its reputation as a social and human rights responsible development bank. In this regard, we would strongly encourage the AIIB to:

- a) Explicitly recognize the importance of the disability perspective in the ESF;
- b) Mainstream disability inclusion throughout the entire cycle of projects, including in the design, planning, and implementation processes;
- c) Guarantee accessible information for persons with disabilities in all projects (as per art. 9 of the Convention on the Rights of Persons with Disabilities);
- d) Consult with and actively involve affected persons with disabilities in the development and implementation of projects of their concern, in an accessible and inclusive way (as per art. 4(3) of the CRPD);
- e) Identify affected persons with disabilities, including disaggregated data about this population in the project area, and assess potential project risks and impact on persons with disabilities and how they will be mitigated;
- f) Specifically mention in the ESF that the benefits generated by projects are extended to persons with disabilities, not only referring to “vulnerable groups”;
- g) Produce mandatory guidance for staff and clients on the disability inclusion of AIIB's ESF and AIIB-financed projects, and develop capacity-building with the AIIB staff on this topic;
- h) Reinforce the principle of universal design in all projects to ensure the full and equal participation by all persons, including those with disabilities; and
- i) Implement an audit of the accessibility of project construction sites, and incorporate an accessible system for grievance redress, including the accessibility of information about the mechanism and its procedures.

Furthermore, we would like to remind you that most members of the AIIB have acceded to, or ratified, several binding international human rights treaties, including the Convention on the Rights of Persons with Disabilities (CRPD).¹³ The international

¹³ Currently 177 States have ratified the Convention on the Rights of Persons with Disabilities, see: .
https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-15&chapter=4&clang=_en

human rights obligations provided for in the Convention are binding for States that have ratified it. These obligations remain equally binding on States when they act jointly with others in international institutions. There should, therefore, be no question that international human rights standards apply to the AIIB.¹⁴

Accessibility is one of the core principles of the Convention. Article 3 recalls that States Parties shall ensure access to persons with disabilities, on an equal basis with others, to the physical environment, to transportation, to information and communications, and to other facilities and services open or provided to the public (see art. 9). It is also an essential condition for the exercise of civil, political, economic, social and cultural rights of persons with disabilities, including their right to living independently and being included in the community (art.19). In addition, accessibility should be considered as an investment and an important part of the Agenda 2030, whose main message, “no one will be left behind”.

Indeed, the AIIB has the potential to make an important contribution to the realization of economic, social and cultural rights and the right to development of persons with disabilities, as well as to advance the Sustainable Development Goals (Agenda 2030), in particular, SDG 1 (ending poverty), 10 (reduction of inequalities), and 11 (sustainable cities and communities). It is fundamental to remark that the ESF states an intention to invest in a manner consistent with the SDGs, which are particularly important in light of the AIIB's mandate.

We would also like to recall a joint submission signed by eleven Special Procedures of the United Nations Human Rights Council, in relation to the ESF's draft of the AIIB.¹⁵ I also would like to recall that different Special Procedures have engaged with other multilateral development banks, including in relation to the World Bank's Safeguard Policies, or the Environmental and Social Policy of the European Bank for Reconstruction of Development.¹⁶ Considering these precedents, the purpose of the present letter is to strengthen safeguards across the AIIB to better promote and protect the rights of persons with disabilities.

We would appreciate if you can provide more information related to steps the Bank has taken to address disability issues in its investment projects (and in Bank

¹⁴ See also the UN Guiding Principles on Business and Human Rights, UN doc. A/HRC/17/31, Annex, http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

¹⁵ See the joint letter to the President of the AIIB relating to the draft ESF from 26 October 2015, available at https://www.ohchr.org/Documents/Issues/IEDebt/261015_Letter_AIIB.pdf

¹⁶ See letter to the Committee on Development Effectiveness of the World Bank recommending the inclusion of a number of references to persons with disabilities and a disability perspective in the World Bank's Safeguard Policies and in its draft “Environmental and Social Standards” from 23 June 2015, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=17175>; the joint letter to the President of the World Bank relating to the World Bank's safeguards review from 12 December 2014, available at <http://www.ohchr.org/Documents/Issues/EPoverty/WorldBank.pdf>, and the letter to the President of the European Bank for Reconstruction and Development from 5 May 2014, available at https://spdb.ohchr.org/hrdb/27th/public_OL_EBRD_05.05.14_4.2014.pdf.

operations, including in sector strategies). We stand available to engage further with the Bank in this process under a constructive dialogue.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received will be made public via the communications reporting [website](#) within 48 hours. It will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, Mr. Jin Liqun, the assurances of our highest consideration.

Catalina Devandas-Aguilar
Special Rapporteur on the rights of persons with disabilities

Philip Alston
Special Rapporteur on extreme poverty and human rights