

The Boğaziçi Law Review

ISSN: 3023-4611
Journal homepage: https://dergipark.org.tr/tr/pub/blr

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Devlet Merkezli Kalkınma mı, Sivil Toplum Direnişi mi: Kuşak ve Yol Girişimi'nin Çatışma Sonrası Yeniden Yapılanmadaki Tartışmalı Rolü

Yi Lu

To cite this article: Yi Lu, 'State-Centric Development v. Civil Society Resistance: The Belt and Road Initiative's Contested Role in Post-Conflict Reconstruction' (2026) 4(1) The Boğaziçi Law Review 58.

Submission Date: 3 March 2026

Acceptance Date: 28 June 2026

Article Type: Research Article

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Published online: June 2026

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The Boğaziçi Law Review | 2026, Vol. 4, No. 1, 58-88 DOI: 10.69800/blr.1901727

STATE-CENTRIC DEVELOPMENT V. CIVIL SOCIETY RESISTANCE: THE BELT AND ROAD INITIATIVE'S CONTESTED ROLE IN POST-CONFLICT RECONSTRUCTION

DEVLET MERKEZLİ KALKINMA MI, SİVİL TOPLUM DİRENİŞİ Mİ: KUŞAK VE YOL GİRİŞİMİ'NİN ÇATIŞMA SONRASI YENİDEN YAPILANMADAKİ TARTIŞMALI ROLÜ

Yi Lu

Dr., Senior Lecturer, Peking University School of Transnational Law; Fellow, Max Planck Institute for Comparative Public Law and International Law; Assistant Professor (part-time), Boğaziçi University Faculty of Law.

ABSTRACT

The development of infrastructure under the Belt and Road Initiative has had a significant impact on post-conflict reconstruction in Asia and Africa. However, the Initiative's reliance on bilateral government-to-government agreements has had the effect of marginalising affected communities from project governance. This paper explores how a state-centric model engenders governance distortions in fragile institutional environments. It draws evidence from the Thar coalfield development in Pakistan, the Kyaukpyu port project in Myanmar, the Standard Gauge Railway in Kenya, and Hambantota port in Sri Lanka to support this investigation. Each case demonstrates that rapid infrastructure deployment without meaningful community consultation produces displacement, environmental degradation, and erosion of citizen trust in state institutions. It also examines civil society responses across three areas: domestic litigation that challenges procedural deficiencies in environmental and land acquisition processes; transnational advocacy campaigns that link local grievances to international human rights discourse; and mobilisation strategies rooted in culturally specific claims to territory and belonging. An analysis of the African Union and the Association of Southeast Asian Nations reveals that neither organisation has successfully transitioned from facilitating dialogue among member states to establishing enforceable standards governing infrastructure investment. Four reforms are proposed: the institutionalisation of community voice through tripartite project committees, the mandating of cultural heritage assessments alongside environmental review, the development of regional investment protocols with accessible grievance mechanisms, and the embedding of conflict sensitivity into project design where historical injustices shape contemporary land tenure.

Keywords: belt and road initiative, post-conflict reconstruction, civil society, participatory governance, international development law, infrastructure investment; cultural impact assessment, transitional justice

ÖZET

Kuşak ve Yol Girişimi kapsamında altyapı geliştirme çalışmaları, Asya ve Afrika'daki çatışma sonrası yeniden yapılanma üzerinde önemli bir etki yaratmıştır. Bununla birlikte, Girişimin ikili hükümetler arası anlaşmalara dayanması, etkilenen toplulukları proje yönetiminden dışlamıştır. Bu makale, devlet merkezli bir modelin kırılgan kurumsal ortamlarda nasıl yönetim bozulmalarına yol açtığını incelemektedir. Bu araştırmayı desteklemek için Pakistan'daki Thar kömür madeni geliştirme projesi, Myanmar'daki Kyaukpyu liman projesi, Kenya'daki Standart Hatlı Demiryolu ve Sri Lanka'daki

CONTACT *Yi Lu* *yi.lu@pku.edu.cn; luyiclaudia@gmail.com*

Submission Date: 3 March 2026; Acceptance Date: 28 June 2026; Article Type: Research Article

Hambantota limanından kanıtlar sunmaktadır. Her bir örnek, anlamlı topluluk istişaresi olmadan hızlı altyapı geliştirmenin yerinden edilmeye, çevresel bozulmaya ve vatandaşların devlet kurumlarına olan güveninin aşınmasına yol açtığını göstermektedir. Ayrıca, sivil toplumun üç alandaki tepkilerini de incelemektedir: çevre ve arazi edinme süreçlerindeki usulsüzlükleri sorgulayan yerel davalar; yerel şikayetleri uluslararası insan hakları söylemine bağlayan uluslararası savunuculuk kampanyaları; ve kültürel olarak özgün toprak ve aidiyet iddialarına dayanan seferberlik stratejileri. Afrika Birliği ve Güneydoğu Asya Ülkeleri Birliği'nin (ASEAN) analizi, her iki örgütün de üye devletler arasında diyaloğu kolaylaştırmaktan, altyapı yatırımlarını düzenleyen uygulanabilir standartlar oluşturmaya başarılı bir şekilde geçiş yapamadığını ortaya koymaktadır. Dört reform önerilmektedir: üçlü proje komiteleri aracılığıyla topluluk sesinin kurumsallaştırılması, çevresel incelemenin yanı sıra kültürel miras değerlendirmelerinin zorunlu hale getirilmesi, erişilebilir şikayet mekanizmalarına sahip bölgesel yatırım protokollerinin geliştirilmesi ve tarihsel adaletsizliklerin çağdaş arazi mülkiyetini şekillendirdiği proje tasarımına çatışma duyarlılığının entegre edilmesi.

Anahtar kelimeler: Kuşak ve Yol Girişimi, çatışma sonrası yeniden yapılanma, sivil toplum, katılımcı yönetişim, uluslararası kalkınma hukuku, altyapı yatırımı, kültürel etki değerlendirmesi, geçiş dönemi adaleti

1. INTRODUCTION

When Chinese President Xi Jinping announced the Silk Road Economic Belt in September 2013, few observers anticipated what would follow. Speaking to an audience of students and faculty in Kazakhstan's capital, President Xi invoked the ancient trade routes connecting China to Central Asia and beyond, proposing their revival through modern infrastructure. One month later, addressing Indonesia's parliament in Jakarta, he unveiled the companion 21st Century Maritime Silk Road. Together, these two announcements launched what would become the Belt and Road Initiative, a development programme of unprecedented ambition.[1]

A decade later, more than 150 countries have signed cooperation agreements under the BRI, with cumulative investments surpassing one trillion US dollars across transportation, energy, and telecommunications.[2] The Initiative pursues overland connectivity through Central Asia toward Europe alongside maritime routes linking Chinese ports to Southeast Asia, the Indian Ocean, and the Mediterranean. Projects range from the China-Laos Railway traversing 75 tunnels through mountainous terrain to Pakistan's Gwadar port on the Arabian Sea, from coal plants in Bangladesh addressing chronic electricity shortages to fibre-optic cables crossing Central Asian steppes.[3] No previous development initiative has attempted simultaneous intervention at a comparable scale. The Marshall Plan, the closest Western parallel to the BRI in ambition and scale, concentrated on sixteen Western European economies over four years. Yet the BRI has no defined endpoint, no unified institutional structure, and no geographical boundaries limiting its reach.[4]

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1 Huang Y, 'Understanding China's Belt & Road Initiative' (2016) 40 China Economic Review 314.

2 State Council Information Office of China, 'The Belt and Road Initiative: Progress, Contributions and Prospects' (2019) <http://english.scio.gov.cn/beltandroad/2019-04/22/content_76329624.htm> accessed 28 June 2026.

3 Hillman JE, *The Emperor's New Road: China and the Project of the Century* (Yale University Press 2020) 15-42.

4 ibid 43-78.

Such ambition has sparked intense debate over whether the BRI represents a genuine alternative to Western-dominated development models. The World Bank and International Monetary Fund built lending practices around policy conditionality, requiring borrowers to liberalise markets, privatise state enterprises, or reform governance institutions before receiving funds.[5] Generations of developing country policymakers chafed under these requirements, viewing them as neo-colonial impositions that undermined domestic policy autonomy. Chinese development finance operates differently. Invoking the Five Principles of Peaceful Coexistence, first articulated in the 1954 Sino-Indian Agreement, Beijing emphasises non-interference in internal affairs and mutual benefit rather than donor-imposed reform.[6] This resonates with governments resenting external prescriptions or wanting infrastructure built without protracted negotiations over governance benchmarks.[7] Financing terms also diverge from multilateral practice. Where the World Bank extends concessional loans repayable over twenty to forty years at below-market interest rates, Chinese policy banks such as the China Development Bank and the Export-Import Bank of China typically charge two to six percent interest with shorter maturities.[8] Such terms have unlocked unprecedented capital flows into regions long starved of infrastructure investment, but have simultaneously raised concerns about debt sustainability and the leverage that creditor status confers.[9]

What happens when BRI projects land in societies marked by violent conflict[10] or its lasting governance consequences? This question has received surprisingly little sustained analytical attention despite its significance for both development practice and international law. Post-conflict environments are characterised by a set of recognisable features that influence the course of external interventions. These features include, but are not limited to, the following: the presence of weak governance institutions, which lack the capacity to evaluate complex proposals or monitor their implementation; contested political legitimacy along ethnic, regional, or factional lines; the struggle of civil society to rebuild after years of repression or displacement; and the presence of populations that have experienced or

5 Alden C and Large D, 'China's Exceptionalism and the Challenges of Delivering Difference in Africa' (2011) 20 Journal of Contemporary China 21.

6 The Five Principles were first articulated in the 1954 Agreement on Trade and Intercourse between Tibet Region of China and India.

7 Grimm S, 'China–Africa Cooperation: Promises, Practice and Prospects' in Zhao S (ed), *China in Africa: Strategic Motives and Economic Interests* (Routledge 2015).

8 Malik A and others, *Banking on the Belt and Road: Insights from a New Global Dataset of 13,427 Chinese Development Projects* (AidData 2021) <https://www.aiddata.org/publications/banking-on-the-belt-and-road> accessed 28 June 2026.

9 Horn S, Reinhart CM and Trebesch C, 'China's Overseas Lending' (2021) 133 Journal of International Economics 103539.

10 The term 'post-conflict' is used here to include regions within conflict-affected states where securitised governance frameworks extend beyond the immediate theatre of violence. Pakistan's Thar coalfield illustrates this dynamic. Samoon H, 'Deployment Planned to Ensure Security at Thar Coal, CPEC Projects' (*Dawn*, 14 October 2017) <https://www.dawn.com/news/1363619> accessed 28 June 2026; International Crisis Group, 'China-Pakistan Economic Corridor: Opportunities and Risks' (Asia Report No 297, 29 June 2018) 25–26 <https://www.crisisgroup.org/asia/south-asia/pakistan/297-china-pakistan-economic-corridor-opportunities-and-risks> accessed 28 June 2026.

endured trauma resulting from violence.[11] Large-scale infrastructure can accelerate recovery by generating employment for demobilised combatants, reconnecting territories divided by conflict, and signalling that peace delivers material dividends.[12] However, the same projects can deepen fault lines if benefits flow disproportionately to favoured ethnic groups or political allies, if land acquisition displaces communities without adequate compensation, or if implementation proceeds without consulting those whose livelihoods hang in the balance.[13]

Three characteristics of BRI engagement intensify these dynamics. Investment scale often exceeds fragile state budgetary capacities by orders of magnitude, conferring substantial leverage on external actors and creating dependencies that outlast any particular project. Implementation timelines emphasise speed, potentially bypassing environmental and social assessments that weakened regulatory agencies cannot conduct rigorously. And because Chinese lenders generally eschew the conditionality frameworks that Western institutions have developed, safeguards depend almost entirely on host government commitment, which may be weakest precisely where governance is most fragile and the need for oversight most acute.[14]

This paper weaves together three scholarly threads that have grown apart. Participatory development literature, emerging from critiques of top-down modernisation programmes in the 1980s and 1990s, insists that sustainability requires meaningful involvement of affected populations in decisions shaping their lives.[15] Transitional justice scholarship examines how societies emerging from mass violence navigate tensions between imperatives of economic development and demands for accountability, truth, and reconciliation.[16] Research on transnational advocacy networks traces how local actors denied voice in domestic arenas forge international connections, enabling them to exert pressure from outside.[17] The paper casts BRI governance as a battleground: state logic stressing scale and speed clashes with community logic insisting on voice and fairness.

Three questions organise the inquiry. How does the bilateral architecture of BRI create governance gaps in post-conflict settings where institutions are weakest? Through what

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[11] Paris R and Sisk T (eds), *The Dilemmas of Statebuilding: Confronting the Contradictions of Postwar Peace Operations* (Routledge 2009).

[12] World Bank, *World Development Report 2011: Conflict, Security, and Development* (World Bank 2011) <https://documents1.worldbank.org/curated/en/806531468161369474/pdf/622550PUB0WDR0000public00BOX361476B.pdf> accessed 28 June 2026.

[13] Autesserre S, 'Hobbes and the Congo: Frames, Local Violence, and International Intervention' (2009) 63 International Organization 249.

[14] Brinkerhoff DW, 'Rebuilding Governance in Failed States and Post-Conflict Societies: Core Concepts and Cross-Cutting Themes' (2005) 25 Public Administration and Development 3.

[15] Cornwall A and Nyamu-Musembi C, 'Putting the 'Rights-Based Approach' to Development into Perspective' (2004) 25 Third World Quarterly 1415.

[16] De Greiff P, 'Articulating the Links between Transitional Justice and Development' in De Greiff P and Duthie R (eds), *Transitional Justice and Development* (Social Science Research Council 2009).

[17] Keck ME and Sikkink K, *Activists beyond Borders: Advocacy Networks in International Politics* (Cornell University Press 1998).

strategies have civil society actors contested exclusionary practices and asserted community interests? What legal and institutional innovations might address identified deficits without forfeiting the infrastructure benefits that post-conflict societies genuinely need? Evidence comes from four cases selected to represent geographical diversity, variation in conflict dynamics, and different stages of BRI project implementation: Myanmar, where the China-Myanmar Economic Corridor passes through territories contested among ethnic armed organisations, the Tatmadaw, and civilian authorities; Pakistan, where the China-Pakistan Economic Corridor traverses Balochistan amid ongoing insurgency and enforced disappearances; Kenya, where the Standard Gauge Railway sparked disputes over land acquisition and environmental impact near Nairobi National Park; and Sri Lanka, where Hambantota port became global shorthand for anxieties about debt-trap diplomacy. The methodology combines doctrinal legal analysis of relevant domestic and international frameworks with examination of primary sources, including government documents, project agreements, civil society reports, and media coverage.

Section 2 examines the structural characteristics of the state-centric development model, analysing how its institutional design creates governance distortions through case studies of Pakistan's Thar coalfield, Myanmar's Kyaukpyu port, and Sri Lanka's Hambantota. Section 3 explores civil society resistance strategies, documenting how affected communities have employed domestic legal challenges, transnational advocacy networks, and dual discourse strategies blending international human rights language with culturally specific narratives of belonging. Section 4 assesses the African Union and ASEAN as potential sources of regional governance standards, finding that neither has successfully transitioned from a coordination platform to a standard-setter. Section 5 proposes legal framework innovations centred on participatory sovereignty, including tripartite cooperation mechanisms incorporating civil society, cultural impact assessments extending beyond conventional environmental review, regional coordination frameworks, and conflict-sensitive approaches integrating transitional justice considerations. Section 6 concludes with reflections on the conditions under which participatory governance and infrastructure development might prove mutually reinforcing rather than inherently antagonistic.

2. INSTITUTIONAL PATHOLOGIES OF STATE-CENTRIC DEVELOPMENT

How does a development model premised on government-to-government negotiation perform when transplanted into societies where government authority itself remains fragile, contested, or complicit in the grievances driving conflict? This section traces the governance distortions that follow when BRI's bilateral architecture encounters post-conflict realities in Pakistan, Myanmar, and Sri Lanka before situating these findings within the structural limitations of international investment law.

2.1. THEORETICAL FOUNDATIONS

Beijing negotiates infrastructure deals with sovereign governments, not with the communities whose land those projects will occupy. This bilateral orientation reflects

diplomatic traditions stretching back to the Five Principles of Peaceful Coexistence, which prioritised mutual respect for sovereignty and territorial integrity, mutual non-aggression, non-interference in internal affairs, equality and mutual benefit, and peaceful coexistence.[18] It also reflects practical calculation: negotiating with a single governmental counterpart is faster and simpler than navigating the competing demands of multiple stakeholders with divergent interests and unequal power.[19]

Three features define how this model operates across BRI's post-conflict footprint. Sovereign states serve as exclusive legitimate partners, with agreements concluded at the ministerial level and projects rolled into comprehensive bilateral frameworks such as the China-Myanmar Economic Corridor and the China-Pakistan Economic Corridor (CPEC).[20] Local governments, traditional authorities, and civil society organisations find no formal seat at the negotiating table; they learn of outcomes rather than shaping them. Decision-making flows downward from technical bureaux and corporate executives. Engineers employed by state-owned enterprises assess feasibility according to geological and logistical parameters. Officials at policy banks evaluate returns according to interest rates and repayment schedules. Communities discover what has been decided after key parameters have been fixed.[21] This technocratic orientation treats infrastructure as an engineering problem amenable to technical solutions rather than as a political negotiation over who bears costs, who captures benefits, and whose knowledge counts in determining what development means.[22]

Success metrics centre on what can be readily quantified: kilometres of track laid, megawatts of generating capacity installed, and container throughput achieved. The "soft reconstruction" approach, as employed by scholars, involves the gradual process of rebuilding trust between citizens and state institutions, restoring social networks that have been fractured by displacement, and fostering reconciliation across lines of conflict. This approach, which eschews quantification, consequently, receives less attention in project design and evaluation.[23]

The intellectual roots of this approach lie in China's own historical experience. A century of unequal treaties, territorial concessions, extraterritorial jurisdiction, and foreign military intervention left deep imprints on how Beijing conceptualises sovereignty. Non-interference represents not merely diplomatic courtesy but principled rejection of the

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[18] Alden and Large (n 5) 180.

[19] Small A, *The China-Pakistan Axis: Asia's New Geopolitics* (Oxford University Press 2015).

[20] International Crisis Group, 'Fire and Ice: Conflict and Drugs in Myanmar's Shan State' (2019) Asia Report No 299 <https://www.crisisgroup.org/rpt/asia-pacific/myanmar/299-fire-and-ice-conflict-and-drugs-myanmars-shan-state> accessed 28 June 2026.

[21] Downs ES, 'Business Interest Groups in Chinese Politics: The Case of the Oil Companies' in Cheng Li (ed), *China's Changing Political Landscape: Prospects for Democracy* (Brookings Institution Press 2009) 121.

[22] Ferguson J, *The Anti-Politics Machine: Development, Depoliticization, and Bureaucratic Power in Lesotho* (Cambridge University Press 1990).

[23] Mac Ginty R, 'Indicators+: A Proposal for Everyday Peace Indicators' (2013) 36 Evaluation and Program Planning 56.

conditionality regimes that Western financial institutions imposed on borrowers during the structural adjustment era of the 1980s and 1990s.[24] Nevertheless, the same principle that shields governments from external dictation can also shield them from accountability to their own citizens. When a government marginalises vulnerable communities in pursuit of infrastructure targets, Beijing's non-interference doctrine offers no corrective mechanism.

Table 1: Comparative Analysis of Four BRI Case Studies

Case	Project Type	Investment	Interest Rate	Affected Communities	Key Governance Deficits
Pakistan Thar	Coal Mining	$2+ billion	—	10 villages (3 consulted)	Colonial-era land law; Security restrictions
Myanmar Kyaukpyu	Deep-water Port & SEZ	—	—	~40 villages (incomplete info)	Perfunctory EIA; Weak institutions
Kenya SGR	Standard Gauge Railway	$3.8 billion	—	Nairobi National Park vicinity	Court ruling ignored; Opaque compensation
Sri Lanka Hambantota	Deep-water Port	$1.4 billion	6.3%	Industrial zone farmers	Patronage politics; Inadequate compensation

Note: *"—" indicates data not publicly disclosed or not applicable to analysis.*

Source: *Pakistan investment: Nafees S, 'CPEC an Unlikely Boon for Thar Coal Project?' (Dawn, 17 November 2015). Pakistan village data: Khan and Das (n 26). Myanmar village estimates: Arakan Oil Watch, Danger Zone (2012). Kenya investment: 'Mombasa-Nairobi Standard Gauge Railway Project' (Railway Technology, 11 May 2020). Sri Lanka figures: Moramudali and Panduwawala (n 46).*

Table 1 summarises the four cases examined below, highlighting variations in investment scale, affected communities, and governance deficits across Pakistan, Myanmar, Kenya, and Sri Lanka.

2.2. THE PAKISTAN CASE

Thar, in Sindh Province's eastern desert, sits atop one of the world's largest lignite coal deposits, with estimated reserves exceeding 175 billion tonnes.[25] Under CPEC, Engro Powergen, Chinese partners, and the Sindh provincial government developed Block II of the coalfield at a cost exceeding two billion dollars, promising to address Pakistan's chronic electricity shortages.[26] What the development agreement lacked were mechanisms to ensure that farming and herding families living above the coal seams would retain their land, receive fair compensation when displaced, or participate in decisions that reshape

[24] Anghie A, *Imperialism, Sovereignty and the Making of International Law* (Cambridge University Press 2012).

[25] Siddiqui FI and others, 'Lignite Resource Estimations and Seam Modeling of Thar Field, Pakistan' (2015) 140 International Journal of Coal Geology 84, 85.

[26] Khan M and Das V, 'After Displacement: Coal Mining, Development, and Inequality in the Thar Desert of Pakistan' (2024) 182 World Development 106624.

the landscapes their ancestors had inhabited for generations. Thar has not experienced the armed insurgency afflicting Balochistan, yet it is subject to the same governance distortions that CPEC produces across the country. Military and paramilitary personnel guard project sites in the coalfield area. The federal government treats coal extraction as a matter of national economic strategy, foreclosing community objection. Land acquisition proceeds under a legal framework that has not been substantially revised since the colonial period. Thar is analytically valuable precisely because the absence of armed conflict isolates the governance mechanism from the violence itself, showing that the distortions documented in this paper are structural features of the development model rather than by-products of ongoing hostilities.

Pakistan's legal framework offered scant protection. The Land Acquisition Act of 1894, drafted by British colonial administrators to facilitate railway construction and never substantially revised in the century since independence, permits compulsory acquisition for "public purpose" and allows the transfer of acquired land to private corporations.[27] An objection procedure exists on paper, theoretically allowing affected persons to raise concerns before acquisition is finalised. In practice, the procedure is administrative rather than participatory, with affected communities serving as objects of state decisions rather than as subjects with genuine agency over outcomes that affect their lives and livelihoods.[28] Section 17's "urgency clause" empowers authorities to bypass even these modest procedural safeguards when projects are deemed pressing, and CPEC projects routinely qualify as matters of urgent national interest.[29]

Field researchers visiting ten villages in the Block II area found that public hearings had been held in only three. In one of those three, the "hearing" amounted to company officials driving through without stopping to take questions.[30] The compensation offered fell significantly below market value for agricultural land. Resettlement assistance promised in official documents failed to materialise. Families who had farmed the same plots for generations found themselves landless, with inadequate resources to rebuild livelihoods elsewhere.

Material losses, the goats sold at distress prices, the wells abandoned, and the crops left unharvested tell only part of the story. Surveys among displaced households documented elevated levels of anxiety and depression, fraying of kinship networks that had provided mutual insurance across generations, and deepening cynicism toward government promises.[31] The framing of CPEC projects as matters of "national economic strategy" further insulated them from substantive challenge, creating what critics describe as a governance vacuum in which affected communities lack effective legal recourse.[32] In a

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27 Land Acquisition Act 1894 (Pakistan) s 4.

28 ibid s 5A.

29 ibid s 17.

30 Khan and Das (n 26).

31 Khan and Das (n 26).

32 Siddiqi F, 'The China-Pakistan Economic Corridor: The Politics of Development' (2025) Critical Pakistan Studies 1.

country where citizen-state mistrust already runs high after decades of military intervention in politics and uneven development across provinces and classes, such outcomes compound rather than repair the social fractures that large infrastructure investments are supposed to help heal.

Compounding these difficulties, Islamabad stationed roughly 15,000 soldiers and paramilitary personnel along the CPEC corridor to protect Chinese workers from militant threats.[33] Whatever the security rationale, this military presence restricted journalist access to project sites, constrained civil society monitoring, and created an environment in which affected villagers thought twice before voicing grievances. Human rights organisations documented patterns of intimidation, surveillance, and, in Balochistan's insurgency-affected areas, enforced disappearance of activists whose objections to land acquisition and resource extraction overlapped with, and were rendered indistinguishable from, broader separatist agitation in the eyes of security forces.[34] The intersection of development and security agendas thus produced a governance environment particularly hostile to the participatory engagement that sustainable reconstruction requires.

2.3. THE MYANMAR CASE

Ethnic conflict in Rakhine State long predates Chinese infrastructure investment. Decades of military repression, communal violence between Rakhine Buddhist and Rohingya Muslim populations, and economic marginalisation generated the fragility into which the Kyaukpyu project was inserted.[35] The BRI did not cause these conflicts, nor was it designed as a post-conflict recovery instrument in the manner of internationally sponsored reconstruction programmes. Rather, Chinese investment arrived in a context shaped by ongoing and unresolved conflict, and proceeded through bilateral channels that treated the central government as the sole legitimate interlocutor despite that government's contested authority over the territory in question.[36] This paper does not argue that the BRI caused conflict in Rakhine. It argues that the Initiative's state-centric governance model,

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[33] Siddiqa A, 'Pakistan's Modernity: Between the Military and Militancy' (2011) 46(51) Economic and Political Weekly 61.

[34] Human Rights Watch, 'We Can Torture, Kill, or Keep You for Years: Enforced Disappearances by Pakistan Security Forces in Balochistan' (HRW 2011) <https://www.hrw.org/report/2011/07/28/we-can-torture-kill-or-keep-you-years/enforced-disappearances-pakistan-security> accessed 28 June 2026; Amnesty International, 'Pakistan: The disappeared of Balochistan' (Public Statement, Index ASA 33/3334/2020, 12 November 2020) <https://www.amnesty.org/en/documents/asa33/3334/2020/en/> accessed 28 June 2026; Working Group on Enforced or Involuntary Disappearances, 'Report of the Working Group on Enforced or Involuntary Disappearances: Addendum: Mission to Pakistan' (26 February 2013) UN Doc A/HRC/22/45/Add.2 <https://www.refworld.org/reference/countryrep/unhrc/2013/87871> accessed 28 June 2026.

[35] Smith M, *Ethnic Groups in Burma: Development, Democracy and Human Rights* (Anti-Slavery International 1994); International Crisis Group, 'Buddhism and State Power in Myanmar' (Asia Report No 290, 5 September 2017) <https://www.crisisgroup.org/asia/south-east-asia/myanmar/290-buddhism-and-state-power-myanmar> accessed 28 June 2026.

[36] EarthRights International, 'The Burma-China Pipelines: Human Rights Violations, Applicable Law, and Revenue Secrecy' (March 2011) <https://earthrights.org/wp-content/uploads/the-burma-china-pipelines.pdf> accessed 28 June 2026.

when applied in settings where state authority is itself a source of grievance, risks deepening fractures that predate the investment. The governance architecture, not Chinese intent, is the mechanism through which harm occurs.

The Kyaukpyu port project illustrates this dynamic. Kyaukpyu, a fishing town on Rakhine State's Bay of Bengal coast, occupies a location of immense strategic significance. Oil and gas from the Middle East and Africa currently reach Chinese refineries via tanker through the Strait of Malacca, a narrow chokepoint between Malaysia and Indonesia, subject to potential interdiction in any future conflict. Approximately eighty per cent of China's oil imports transit this single passage.[37] A deep-water port at Kyaukpyu, linked by pipeline across Myanmar to Yunnan Province, would provide an alternative route, reducing this vulnerability. The China-Myanmar Economic Corridor accordingly designated Kyaukpyu for port construction, a special economic zone, and associated industrial facilities, promising to transform one of Myanmar's poorest states.[38]

Environmental impact assessment for the project failed to address what local fishing communities knew intimately: that the mangrove forests fringing the Kyaukpyu estuary sustained the prawns, crabs, and fish upon which their livelihoods depended, and that dredging and land reclamation would destroy those ecosystems irreversibly.[39] Assessors produced documents satisfying formal requirements established under Myanmar's nascent regulatory framework, but never presented comprehensive project plans to the roughly forty villages facing displacement. Villagers learned piecemeal what was coming, too late to influence design parameters and too poorly informed to evaluate mitigation proposals whose technical details exceeded their expertise.[40] Mangrove clearing proceeded. Fishing yields declined. Protests followed.

Rakhine State's volatile ethnic politics magnified these governance failures. Decades of military rule had left regulatory agencies starved of expertise, politically subordinate to ministries promoting investment, and lacking institutional independence to challenge projects backed by powerful interests in Naypyidaw and Beijing.[41] In a region where the conflicts described above have claimed thousands of lives and displaced hundreds of thousands more, the imposition of large-scale infrastructure projects without meaningful community consultation risked reigniting dormant tensions and undermining whatever fragile accommodations the peace process had achieved.[42]

Myanmar adopted a new Environmental Impact Assessment Procedure in 2015, part of the reform package accompanying the country's partial political opening under President Thein Sein.[43] On paper, the regulation mandates public consultation for major development

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37 Zhang ZX, 'China's Energy Security, the Malacca Dilemma and Responses' (2011) 39 Energy Policy 7612.

38 EarthRights International (n 38).

39 ibid.

40 ibid.

41 International Crisis Group (n 37).

42 Smith (n 37).

43 Environmental Impact Assessment Procedure 2015 (Myanmar).

projects. In practice, consultation often amounts to a box-ticking exercise: a meeting convened in a district capital distant from affected villages; a sign-in sheet circulated to establish that "stakeholders" attended, a report filed with the relevant ministry, but no substantive incorporation of community concerns into project design or implementation. The gap between law on the books and law in action reflects a broader pattern in post-conflict states, where formal legal frameworks may satisfy international expectations while institutional capacity to implement them remains woefully inadequate.[44]

2.4. THE SRI LANKA CASE

Hambantota, a small port city in Sri Lanka's rural southern coast, became the centrepiece of former President Mahinda Rajapaksa's infrastructure push in his home district. Chinese loans exceeding 1.4 billion dollars financed the construction of a deep-water port despite feasibility studies questioning whether traffic volumes would ever justify the investment.[45] Interest rates on China Exim Bank financing approached 6.3 percent, substantially higher than concessional rates available from the Asian Development Bank or World Bank.[46] When global commodity prices collapsed, and Sri Lanka's broader fiscal position deteriorated following the end of the civil war against Tamil separatists, Colombo struggled to service debts across multiple creditors. In 2017, the government agreed to lease the port to China Merchants Port Holdings for 99 years in exchange for debt relief, a transaction that critics framed as a cautionary tale of debt-trap diplomacy.[47]

Later work has complicated this narrative. Sri Lanka's debt crisis reflected years of fiscal mismanagement, borrowing from multiple creditors, including Western commercial lenders charging comparable rates, wartime military expenditure, and macroeconomic shocks affecting commodity-dependent economies globally.[48] Chinese lending represented a minority of Sri Lanka's external debt, and the port lease freed resources for servicing obligations to other creditors rather than surrendering strategic assets to a predatory lender. The debt-trap framing served geopolitical purposes for those seeking to discredit BRI, but it obscured more than it illuminated about Hambantota's actual governance failures.

Those failures, at the project level rather than the macroeconomic level, remain significant for this paper's purposes. The industrial zone adjacent to the port displaced farming families from land their ancestors had cultivated for generations. Compensation offered fell short of replacement value for agricultural plots in the region. Promised

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[44] Simpson A, Farrelly N and Holliday I (eds), *Routledge Handbook of Contemporary Myanmar* (Routledge 2018).

[45] Moramudali U, 'The Hambantota Port Deal: Myths and Realities' (*The Diplomat*, 1 January 2020) <https://thediplomat.com/2020/01/the-hambantota-port-deal-myths-and-realities/> accessed 28 June 2026.

[46] Moramudali U and Panduwawala T, 'Evolution of Chinese Lending to Sri Lanka Since the Mid-2000s: Separating Myth from Reality' (SAIS-CARI Briefing Paper No 8, November 2022) <https://www.sais-cari.org/s/Briefing-Paper-Sri-Lanka-Debt-V5-ewjg.pdf> accessed 28 June 2026.

[47] Jones L and Hameiri S, *Debunking the Myth of "Debt-Trap Diplomacy": How Recipient Countries Shape China's Belt and Road Initiative* (Chatham House Research Paper, August 2020) <https://www.chathamhouse.org/2020/08/debunking-myth-debt-trap-diplomacy> accessed 28 June 2026.

[48] Brautigam D, 'A Critical Look at Chinese "Debt-Trap Diplomacy": The Rise of a Meme' (2020) 5 Area Development and Policy 1.

employment in the zone materialised slowly, if at all, with skilled positions going to workers from elsewhere while locals found themselves competing for casual labour.[49] When households recounted acquisition procedures that ignored their formal objections, compensation calculations they could not verify or challenge, and resettlement assistance that never arrived, they were describing governance failures with causes distinct from sovereign debt dynamics.[50]

Hambantota shows how governance cracks widen when development projects serve patronage purposes in addition to or instead of developmental ones. Rajapaksa channelled resources to his home district for political benefit, rewarding supporters and demonstrating that voting correctly delivered material dividends. Parliament, auditors, courts, and other oversight institutions lacked either the independence or capacity to restrain a president consolidating power after military victory. The subsequent change of government in 2015 enabled partial recalibration of project terms but left fundamental governance weaknesses largely unaddressed.

2.5. DEFICIENCIES IN INTERNATIONAL INVESTMENT LAW

Across Pakistan, Myanmar, and Sri Lanka, a common pattern emerges: communities displaced or otherwise harmed by BRI projects lack effective legal remedies. Domestic courts are often inaccessible due to costs, distance, or procedural complexity; under-resourced due to post-conflict budgetary constraints; or subject to political pressure from executives promoting the projects in question.[51] International investment arbitration offers no alternative, because the system's architecture was designed to protect investors against host states, not communities against investors or against their own governments acting in concert with investors. Moreover, even if procedural standing before investment tribunals were extended to affected communities, the costs of investor-state arbitration, which regularly run into millions of dollars, would render the mechanism inaccessible to displaced farmers and fishing families lacking institutional or financial support.

Bilateral investment treaties governing most foreign investment, including many BRI projects, follow templates developed in the 1960s and 1970s when newly independent states nationalised foreign assets and Western capitals sought legal mechanisms protecting their corporations.[52] These first-generation treaties grant investors substantive rights to fair and equitable treatment, protection against direct and indirect expropriation, and full protection and security for their investments. They provide procedural access to international arbitration tribunals, bypassing domestic courts that host states might

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[49] Aneez S, 'China "Silk Road" Project in Sri Lanka Delayed as Beijing Toughens Stance' (*Reuters*, 16 February 2017) <https://www.reuters.com/article/world/china-silk-road-project-in-sri-lanka-delayed-as-beijing-toughens-stance-idUSKBN15U2VV/> accessed 28 June 2026.

[50] Wijedasa N, 'Hambantota: Haven for Projects' (*The Sunday Times, Sri Lanka*, 30 November 2014) <https://www.sundaytimes.lk/141130/news/hambantota-haven-for-projects-130139.html> accessed 28 June 2026.

[51] Sornarajah M, *The International Law on Foreign Investment* (4th edn, Cambridge University Press 2017) 234-267.

[52] UNCTAD, 'World Investment Report 2020: International Production Beyond the Pandemic' (2020) <https://unctad.org/system/files/official-document/wir2020_en.pdf> accessed 28 June 2026.

influence. They impose no corresponding obligations on investors to consult affected communities, conduct rigorous environmental or social review, comply with international human rights standards, or contribute to host country development beyond what commercial interest dictates.[53] Although newer model treaties have begun incorporating investor obligations, the majority of treaties governing BRI projects remain rooted in this earlier template.

Critically, affected villagers cannot initiate arbitration proceedings. This exclusion is not peculiar to vulnerable communities. No national of the host state, however powerful, holds standing before an investment tribunal. The system was built to make host state commitments to foreign capital credible, not to privilege foreign investors over local populations. Bilateral investment treaty frameworks accordingly recognise only states and qualifying investors as parties with the capacity to bring or defend claims. Under this architecture, a farmer displaced without adequate compensation by a BRI project has no access to the investor-state dispute settlement system, regardless of how egregious the violation of domestic or international law. This gap is not a deficiency of investment law alone but a feature of international law more broadly, which does not accept affected communities as subjects bearing independent procedural capacity. The result is that the harms documented above occur and recur without effective international remedy.

3. CIVIL SOCIETY CONTESTATION: LEGAL MOBILISATION AND TRANSNATIONAL ADVOCACY

Communities excluded from decisions about projects reshaping their lands and livelihoods rarely remain passive. Across the BRI's footprint, affected populations have pushed back through courtrooms, international advocacy networks, and hybrid strategies blending global human rights language with local narratives of belonging. Some campaigns have won stunning victories; others have been suppressed through violence and intimidation. Understanding what distinguishes successful from unsuccessful campaigns matters for anyone seeking to institutionalise participatory governance.[54]

3.1. DOMESTIC LEGAL CHALLENGES

When fishing communities along Kenya's Lamu archipelago learned that a massive transport corridor would cut through their waters and wetlands, they did not simply protest in the streets. They sued. The Lamu Port-South Sudan-Ethiopia Transport Corridor (LAPSSET) ranks among Africa's most ambitious infrastructure schemes: a deep-water port on the Indian Ocean coast, an oil pipeline connecting South Sudan's fields to export facilities, a railway and highway linking Kenya to landlocked neighbours, and associated development corridors projected to transform the region's economy. Price estimates exceed twenty billion dollars.[55]

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[53] Van Harten G, *Investment Treaty Arbitration and Public Law* (Oxford University Press 2007) 121-152.

[54] Tarrow S, *The New Transnational Activism* (Cambridge University Press 2005).

[55] Browne AJ, 'LAPSSET: The History and Politics of an Eastern African Megaproject' (Rift Valley Institute Briefing Paper 2015) <https://www.refworld.org/reference/countryrep/rvi/2015/en/108834> accessed 28 June 2026.

Civil society resistance to exclusionary development practices serves functions extending beyond immediate material objectives. Such litigation documents governance failures that may inform future reform, establishes precedents and legal arguments that communities elsewhere can adapt, builds solidarity networks connecting affected populations across borders, and contributes to normative debates shaping international standards.[56]

In 2016, a coalition calling itself Save Lamu filed an appeal before Kenya's National Environmental Tribunal, arguing that the environmental impact assessment for the port and associated facilities had ignored community concerns about fishing grounds that sustained local livelihoods, mangrove forests providing coastal protection and biodiversity habitat, and sacred sites carrying spiritual significance for communities whose ancestors had inhabited the archipelago for centuries.[57]

Two years later, the Tribunal agreed. Assessors had failed to consult affected fishing communities meaningfully. Cumulative impacts from multiple project components, each assessed in isolation, went unexamined. Alternative designs that might reduce environmental harm received no serious consideration.[58] The ruling ordered a fresh assessment incorporating community input, establishing precedents regarding consultation requirements and cumulative impact methodology that lawyers across East Africa have cited in subsequent cases. Still, the LAPSSET building rolled on. Nairobi invoked overriding national interest and proceeded regardless of the Tribunal's requirements.[59]

The Lamu case spotlights a pattern running through this study: legal victories matter, but they rarely suffice alone. Courts can compel disclosure of information that governments and investors prefer to keep confidential. They can create public records documenting governance failures that might otherwise remain invisible. They can signal to both domestic and international audiences that civil society possesses teeth and will use them. What courts cannot do is substitute for political commitment to participatory governance, absent from the executive and legislative branches. The effectiveness of domestic legal strategies depends critically on judicial independence and capacity, conditions frequently lacking in post-conflict societies where judicial systems have been compromised by executive interference, corruption, or simple resource constraints.[60]

3.2. TRANSNATIONAL ADVOCACY NETWORKS

What happens when domestic channels are blocked? Keck and Sikkink's foundational research on transnational advocacy networks described a "boomerang" pattern through

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[56] McCann M, *Rights at Work: Pay Equity Reform and the Politics of Legal Mobilization* (University of Chicago Press 1994).

[57] *Save Lamu & 5 Others v National Environmental Management Authority & Another*, Tribunal Appeal No NET 196 of 2016 (National Environmental Tribunal, Kenya).

[58] ibid.

[59] Sang B, 'Tending Towards Greater Eco-Protection in Kenya: Public Interest Environmental Litigation and Its Prospects Within the New Constitutional Order' (2013) 57 Journal of African Law 29.

[60] Gloppen S, 'Courts and Social Transformation: An Analytical Framework' in Gargarella R, Domingo P and Roux T (eds), *Courts and Social Transformation in New Democracies* (Ashgate 2006).

which local groups denied voice at home reach outward to international allies who then exert pressure from outside.[61] Domestic actors bypass unresponsive or repressive national authorities by connecting with international non-governmental organisations, sympathetic foreign governments, or multilateral institutions possessing leverage that local communities lack. International partners amplify local concerns through media coverage, diplomatic pressure, and conditioning of aid or investment on governance reforms. The resulting external pressure complements and reinforces domestic mobilisation, creating multiple channels through which demands reach decision-makers.[62]

In Myanmar, civil society organisations opposing the Kyaukpyu port and special economic zone could not rely on domestic institutions compromised by decades of military rule. They turned instead to international environmental networks such as Earth Rights International, human rights organisations including Human Rights Watch and Amnesty International, and sympathetic academics at universities researching BRI governance. These transnational partners offered what local activists lacked: technical expertise in environmental assessment methodologies, fluency in English necessary for communicating with global audiences, funding for community organising and documentation efforts, and access to forums such as the UN Human Rights Council, where Myanmar's government faced periodic scrutiny. When international media picked up stories of mangrove destruction and displaced fishing families, reputational costs mounted for both Naypyidaw and Beijing. Project timelines slowed. Some design parameters changed in response to documented concerns.

Affected communities navigating these transnational spaces often employ what scholars have termed dual discourse strategies. When addressing international audiences responsive to global normative frameworks, they invoke established legal standards: the right to adequate housing under the International Covenant on Economic, Social and Cultural Rights, the principle of free, prior, and informed consent elaborated in the UN Declaration on the Rights of Indigenous Peoples, procedural environmental rights recognised in the Aarhus Convention and its progeny.[63] When mobilising locally, they speak in registers that resonate with cultural meaning and lived experience: ancestral lands where grandparents are buried, sacred groves where spirits dwell, fishing grounds where fathers taught sons the craft, sustaining families through generations.[64]

In Myanmar's Rakhine State, resistance to Chinese-backed infrastructure connects to grievances over resource revenue distribution under the 2008 Constitution, which assigns ownership of natural resources to the Union government and denies states and regions

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61 Keck and Sikkink (n 17) 12-13.

62 Bob C, *The Marketing of Rebellion: Insurgents, Media, and International Activism* (Cambridge University Press 2010).

63 Merry SE, *Human Rights and Gender Violence: Translating International Law into Local Justice* (University of Chicago Press 2005).

64 Goodale M and Merry SE (eds), *The Practice of Human Rights: Tracking Law between the Global and the Local* (Cambridge University Press 2011).

shares in extraction proceeds.[65] These grievances intertwine with ethnic autonomy struggles predating both the BRI and the current constitutional order. Understanding this embedding of project-specific opposition within longer historical trajectories is essential for comprehending why resistance proves so persistent even when immediate material stakes appear manageable.

3.3. RESISTANCE OUTCOMES

Why did the campaign against Myanmar's Myitsone Dam succeed where so many others have failed? The dam, a 6,000-megawatt hydroelectric project at the confluence of rivers forming the Irrawaddy, was to be constructed by China Power Investment Corporation and would have exported approximately ninety percent of its electricity to Yunnan Province.[66] The project site held immense cultural and spiritual significance: the place where the Mali and N'Mai rivers merge to form Myanmar's most important waterway, flowing south through the country's heartland to the sea.[67]

Opposition came from an unlikely coalition spanning Myanmar's fractured political landscape. Kachin ethnic organisations defended their homeland against what they framed as internal colonialism, extracting resources for foreign benefit while leaving environmental devastation behind. Bamar nationalists, normally hostile to ethnic minority claims, joined in opposing a project that seemed to epitomise Chinese exploitation of Myanmar's weakness. Buddhist monks invoked the Irrawaddy's spiritual significance for a nation whose identity intertwines with the river's flow. International environmentalists documented the reservoir's projected footprint, displacement of tens of thousands of villagers, and destruction of biodiverse ecosystems found nowhere else.[68]

Several factors aligned to produce success. The Irrawaddy holds cultural meaning transcending ethnic and political divisions, enabling organisers to frame opposition in terms that resonated across cleavages usually fragmenting Myanmar society. The campaign coincided with the country's tentative political opening under President Thein Sein, who sought international rehabilitation after decades of sanctions and pariah status. Foreign governments, international financial institutions, and multinational corporations were watching how Naypyidaw handled dissent, creating reputational stakes that would not have existed under the preceding military junta. In September 2011, Thein Sein announced the dam's suspension for the duration of his term, citing the will of the people, a remarkable concession in a country where popular will had counted for little in living memory.

Contrast Balochistan. Pakistan's southwestern province hosts critical CPEC infrastructure, including Gwadar Port, highways connecting the coast to interior

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[65] Constitution of the Republic of the Union of Myanmar 2008, sch 1.

[66] Kirchherr J, 'Strategies of Successful Anti-Dam Movements: Evidence from Myanmar and Thailand' (2018) 31 Society & Natural Resources 166.

[67] International Rivers, 'The Myitsone Dam on the Irrawaddy River: A Briefing' (*International Rivers*, 2011) <https://riverresourcehub.org/resources/the-myitsone-dam-on-the-irrawaddy-river-a-briefing-3931/> accessed 28 June 2026.

[68] Simpson A, 'Challenging Hydropower Development in Myanmar' (2013) 26 Pacific Review 129.

provinces, and associated facilities. It also hosts a long-running separatist insurgency, a military presence viewing any dissent through counterinsurgency lenses, and one of the world's most dangerous environments for journalists and human rights defenders.[69] Reporters attempting to document project impacts have been denied access, placed under surveillance, threatened, and in some cases forcibly disappeared. Civil society organisations struggle to determine what is happening in project areas, let alone mount legal challenges or international advocacy campaigns. Formal requirements for environmental assessment, community consultation, and compensation exist in Pakistani law but mean little when security forces treat oversight as subversion.[70]

The contrast thus highlights a more comprehensive lesson. Legal frameworks and transnational networks provide tools, but tools require civic space in which to operate. Where governments tolerate civil society activity, value international reputation, and face electoral or other accountability mechanisms, those tools can achieve meaningful results. Where securitisation closes political space, frames development as a national security priority immune from civilian oversight, and treats documentation of harms as enemy action, even well-documented grievances find no effective outlet. Participatory governance requires not only reformed procedures but protected space for communities to use them.

4. REGIONAL GOVERNANCE INSTITUTIONS: FROM COORDINATION TO STANDARD-SETTING

Could regional organisations fill the governance vacuum that bilateral deal-making creates? The African Union and ASEAN occupy intermediate positions in the architecture linking Chinese capital to local communities, positioned between individual member states negotiating with Beijing and the populations whose land those negotiations place at stake. In principle, both bodies could aggregate bargaining power, establish common standards, and offer grievance mechanisms extending beyond bilateral state-investor arbitration. In practice, neither has managed the transition from talk shop to standard-setter.[71]

4.1. REGIONAL ORGANISATIONS AS GOVERNANCE ACTORS

Picture the negotiating table. On one side sits a Chinese delegation backed by policy banks commanding trillion-dollar balance sheets, state-owned enterprises with decades of experience constructing infrastructure across difficult terrain, and a foreign ministry practised in the diplomacy of development finance. On the other side sits a finance minister from a country of twenty million people, recently emerged from civil war, desperate for roads and power plants that might consolidate fragile peace, and lacking technical staff to evaluate complex financial terms or environmental provisions in the documents placed

[69] Reporters Without Borders, 'RSF 2020 World Press Freedom Index' (2020) <https://rsf.org/en/2020-world-press-freedom-index-entering-decisive-decade-journalism-exacerbated-coronavirus> accessed 28 June 2026.

[70] Carothers T and Brechenmacher S, *Closing Space: Democracy and Human Rights Support under Fire* (Carnegie Endowment for International Peace 2014).

[71] Söderbaum F, *Rethinking Regionalism* (Red Globe Press, 2015).

before him. The asymmetry is structural, rooted in decades of divergent development trajectories. No amount of goodwill eliminates it.[72]

Regional organisations could, in theory, tilt this balance. They could pool technical expertise so that Laos benefits from the hard lessons Malaysia learned through costly experience. They could establish minimum standards for community consultation, compensation adequacy, and environmental review, preventing a race to the bottom among governments competing for Chinese capital by offering weaker protections than their neighbours. They could create arbitration tribunals or ombudsman offices where displaced farmers might seek redress when domestic courts prove inaccessible or captured. The African Union's African Charter on Human and Peoples' Rights and ASEAN's human rights declaration gesture toward such protective ambitions. Neither document has yet generated enforceable investment standards addressing the governance gaps this paper has documented.

4.2. THE AFRICAN UNION AND ASEAN

At the 2018 Forum on China-Africa Cooperation summit in Beijing, the African Union formalised alignment between its Agenda 2063 development framework and the Belt and Road Initiative.[73] The decision reflected a pragmatic assessment of available options. African states need infrastructure on a scale that post-colonial decades have failed to deliver. Western donors and multilateral development banks have not mobilised resources matching continental requirements. Between 2000 and 2022, Chinese development finance institutions committed roughly 170 billion dollars to African borrowers, the substantial majority directed toward transportation infrastructure, energy generation, and telecommunications.[74] The results are tangible: the Addis Ababa-Djibouti Railway linking landlocked Ethiopia to the sea, the Mombasa-Nairobi Standard Gauge Railway cutting travel times along Kenya's busiest corridor, and port upgrades enhancing connectivity from Djibouti to Dar es Salaam.[75]

What alignment has not produced is a continental framework ensuring that communities along these corridors have a voice in decisions affecting their land. Kenya's Standard Gauge Railway offers an instructive illustration. In September 2016, civil society organisations persuaded the National Environmental Tribunal to issue a stop order halting Phase IIA construction on grounds that environmental assessors had ignored concerns of communities near Nairobi National Park regarding wildlife corridors, noise pollution,

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[72] Börzel TA and Risse T, 'Governance without a State: Can It Work?' (2010) 4 Regulation and Governance 113.

[73] Forum on China-Africa Cooperation, 'Beijing Declaration: Toward an Even Stronger China-Africa Community with a Shared Future' (4 September 2018) <http://www.focac.org/eng/zywx_1/zywj/201809/t20180912_8079765.htm> accessed 28 June 2026.

[74] Boston University Global Development Policy Center, 'Chinese Loans to Africa Database' <https://www.bu.edu/gdp/chinese-loans-to-africa-database/> accessed 28 June 2026.

[75] Brautigam D and Hwang J, 'Great Walls over African Rivers: Chinese Engagement in African Hydropower Projects' (2019) 37 Development Policy Review 313.

and visual intrusion.[76] The Tribunal ordered a fresh assessment incorporating community concerns meaningfully rather than perfunctorily. The Kenyan government ignored the order, invoked overriding national interest, and resumed construction. Subsequent research documented displaced communities struggling to secure compensation, land acquisition managed through opaque procedures, and affected households left worse off than before the railway they could see from their diminished plots.[77] The AU's African Charter commits member states to participatory governance principles. It does not compel them to honour those principles when flagship infrastructure projects are at stake.

ASEAN faces parallel difficulties compounded by an institutional culture built around consensus and non-interference. The Master Plan on ASEAN Connectivity 2025 identifies sustainable infrastructure as a priority strategic area and acknowledges, with unusual candour, that governance gaps impede achievement of connectivity objectives.[78] The implementation of infrastructure connectivity initiatives involves multiple layers of institutional actors, including Lead Implementing Bodies, National Coordinators, National Focal Points, and various ASEAN sectoral bodies. However, such initiatives may be impeded by coordination challenges and unclear accountability mechanisms, thereby hindering effective project delivery.[79]

Malaysia's renegotiation of the East Coast Rail Link demonstrates what determined governments can achieve through bilateral channels. After Mahathir Mohamad's coalition unexpectedly won the 2018 general election on a platform criticising the predecessor administration's deal with China, his government reopened negotiations on the China-backed railway linking the peninsula's east coast to the Klang Valley. Ultimately, the renegotiated agreement reduced the project's cost from sixteen billion dollars to approximately 10.7 billion, a substantial achievement.[80] However, the renegotiation addressed fiscal terms at the governmental level rather than community-level governance. Land acquisition procedures, environmental safeguards, local employment requirements, and grievance mechanisms remained largely as before.[81] A regional framework establishing minimum standards in these areas might have expanded the conversation beyond headline costs toward the concerns this paper has documented across multiple jurisdictions.

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[76] Save Lamu (n 59).

[77] Kimari W, Melchiorre L and Rasmussen J, 'Youth, the Kenyan State and a Politics of Contestation' (2020) 14 Journal of Eastern African Studies 690.

[78] ASEAN Secretariat, Master Plan on ASEAN Connectivity 2025 (ASEAN Secretariat 2016) <https://asean.org/wp-content/uploads/2021/08/8_compressed.pdf> accessed 28 June 2026.

[79] ibid, 10-11.

[80] Tan CK, 'Malaysia Spares $14bn China-Led Rail Project from Budget Ax' (*Nikkei Asian Review*, 1 June 2018) <https://asia.nikkei.com/politics/malaysia-in-transition/malaysia-spares-14bn-china-led-rail-project-from-budget-ax> accessed 28 June 2026.

[81] Liu H and Lim G, 'The Political Economy of a Rising China in Southeast Asia: Malaysia's Response to the Belt and Road Initiative' (2019) 28 Journal of Contemporary China 216.

4.3. TOWARD REGIONAL STANDARD-SETTING

Moving from coordination to standard-setting would require institutional transformations that member states have thus far resisted. Regional organisations would need to develop investment protocols converting aspirational language about participation and sustainability into legally operative provisions applicable to all infrastructure projects within member territories, regardless of financing source. They would need monitoring mechanisms, perhaps regional ombudsman offices or specialised tribunals, genuinely accessible to affected communities rather than only to states and qualifying investors. They would need collective negotiating positions enabling smaller members to cite binding regional obligations when bilateral pressure mounts for concessions they would prefer not to make.[82]

None of this comes easy. Regional bodies depend on member state support, and governments jealous of sovereign prerogatives see scant advantage in constraints limiting room for manoeuvre. States that have already secured deals on favourable terms may actively oppose frameworks requiring them to meet standards their neighbours failed to negotiate. However, the collective-action complexity documented throughout this paper creates pressures of its own. When individual bargaining consistently produces inadequate safeguards, when displaced communities generate protests and litigation delaying projects and damaging reputations, and when environmental degradation imposes long-term costs exceeding short-term savings from bypassed assessments, the calculus may shift. Regional standard-setting remains a distant prospect, but the costs of its absence are becoming harder for anyone to ignore.

5. LEGAL FRAMEWORK INNOVATIONS FOR PARTICIPATORY GOVERNANCE

While earlier sections traced governance lapses, this one asks what fixes might work. Four reforms deserve serious consideration: tripartite cooperation frameworks giving communities formal standing at the negotiating table, cultural impact assessments extending beyond conventional environmental review, regional coordination mechanisms enabling collective bargaining with external partners, and conflict-sensitive approaches drawing on transitional justice scholarship. None is a cure-all. Together, they sketch a path toward what might be termed participatory sovereignty.

5.1. CONCEPTUAL FOUNDATIONS: PARTICIPATORY SOVEREIGNTY

Sovereignty, as Beijing articulates it, means that governments decide what happens within their borders without interference from outside powers. This conception has deep roots in China's own experience of unequal treaties, extraterritorial jurisdiction, and foreign military occupation during the century of humiliation preceding Communist victory in

[82] Acharya A, *Constructing a Security Community in Southeast Asia: ASEAN and the Problem of Regional Order* (3rd edn, Routledge 2014).

1949. It resonates with post-colonial states whose founders fought against imperial rule and whose citizens remember conditionalities imposed by Washington and Brussels as a continuation of subordination by other means.[83]

Nevertheless, sovereignty as currently understood addresses only relations between states, not relations between governments and the populations they claim to represent. A regime that bulldozes villages without consultation exercises sovereign power in the international legal sense; whether it exercises legitimate authority in any normative sense is another question entirely. Participatory sovereignty offers a different framing. It holds that sovereign legitimacy rests not merely on territorial control and international recognition but on accountability to affected populations whose lives governmental decisions shape. A government negotiating infrastructure deals without consulting communities whose land will be taken exercises power but hollows out its own claim to represent those communities. Participation is not a constraint imposed on sovereignty from outside; it is a condition of sovereignty worth the name.

This is not merely abstract philosophy for seminar rooms. Projects designed without community input generate the resistance documented in Section 3: litigation consuming years and resources, protests blocking construction sites, transnational advocacy campaigns imposing reputational costs, and the delays and overruns that accompany all of the above. Projects designed with genuine participation are more likely to stay on schedule, deliver intended benefits to intended beneficiaries, and avoid conflicts that drain resources while damaging reputations.[84] Evidence from development practice across institutional contexts suggests that meaningful community participation correlates with project success across multiple metrics.[85] Investors seeking predictable returns, host governments seeking development without backlash, and affected communities seeking protection of their interests share common ground that adversarial framings obscure. Figure 1 presents the four reform pillars elaborated in the following subsections.

[83] Reus-Smit C, 'Human Rights and the Social Construction of Sovereignty' (2001) 27 Review of International Studies 519.

[84] Mansuri G and Rao V, *Localizing Development: Does Participation Work?* (World Bank 2013) <https://openknowledge.worldbank.org/handle/10986/11859> accessed 28 June 2026.

[85] World Bank, *World Development Report 2017: Governance and the Law* (World Bank 2017) <https://www.worldbank.org/en/publication/wdr2017> accessed 28 June 2026.

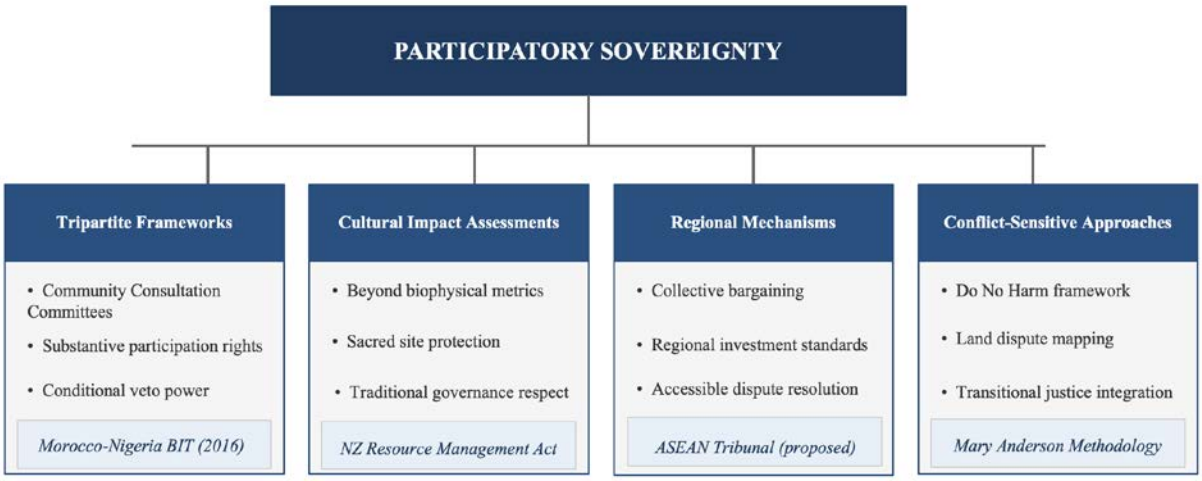

Figure 1: Proposed Participatory Sovereignty Framework

5.2. TRIPARTITE FRAMEWORKS

BRI deals as now written involve two parties: a Chinese outfit supplying finance, mechanisms, and building skills; and a host government supplying territory, permits, and whatever policy backing the project needs. Communities enter the frame only as obstacles to be cleared through seizure steps or beneficiaries to be tallied in project write-ups. A tripartite model would bring them in from the outset as parties holding standing, not objects of choices made elsewhere. Project contracts could mandate Community Consultation Committees, including local NGOs close to affected populations, traditional chiefs whose standing springs from customary governance older than the state,[86] women's groups voicing constituencies often side-lined in infrastructure calls, and other civil society actors placed to speak community concerns. Such committees would hold real participation rights over matters bearing directly on community stakes[87]: land-use decisions determining who stays and who goes, environmental mitigation shaping whether livelihoods survive project impacts, cultural heritage protections preserving what communities hold sacred, and benefit-sharing terms settling who gains from development's proceeds. In extreme cases where proposed project pieces pose unbearable risks to community well-being, committees might wield genuine veto power, forcing project change, not token consultation rights, followed by building regardless of concerns raised.

The 2016 Morocco-Nigeria Bilateral Investment Treaty marks an emerging model pairing investor duty with investor rights. The treaty includes clauses on human rights, environmental care, and community engagement that older investment deals ignored,[88]

[86] Ubink J, *In the Land of the Chiefs: Customary Law, Land Conflicts, and the Role of the State in Peri-Urban Ghana* (Leiden University Press 2008), 135-164.

[87] Donais T, *Peacebuilding and Local Ownership: Post-Conflict Consensus-Building* (Routledge 2012) 58-77.

[88] Ejims O, 'The 2016 Morocco-Nigeria Bilateral Investment Treaty: More Practical Reality in Providing a Balanced Investment Treaty?' (2019) 34 ICSID Review 62.

and the 2019 Netherlands Model BIT pushes further in these directions.[89] Neither text has won broad take-up, yet both show that investment frames can evolve past the investor-protection orthodoxy dominant since the 1960s. Rolling out such reforms raises practical hurdles reformers must tackle: making sure committee make-up mirrors real community variety, including marginalised groups, setting procedures for decision-making when committee members clash, and steering resources to communities lacking technical skill so they can participate meaningfully. These are design challenges, not bars of principle.

5.3. CULTURAL IMPACT ASSESSMENTS

Standard environmental review measures biophysical harm: air quality, water flow, and species count. It misses the cultural ground that post-conflict societies often find most sensitive. Such societies frequently hold sacred sites whose disturbance sparks opposition far outstripping what material sums would predict, traditional governance bodies that development may unwittingly undercut by empowering rival authorities, and symbolic landscapes bearing memory of atrocity or defiance invisible to outside assessors reading only technical papers. New Zealand offers a useful model: under the Resource Management Act 1991, Māori iwi conduct cultural impact reviews gauging how proposed works touch wāhi tapu, sacred sites, and other taonga, treasured things, guarded under principles drawn from the Treaty of Waitangi.[90] Those reviews draw on knowledge communities themselves hold, bringing angles outside consultants cannot match, regardless of credentials. Canada's James Bay and Northern Quebec Agreement, signed in 1975, grants Cree and Inuit communities formal roles in vetting projects touching traditional territories across a vast area of northern Quebec, planting participatory precedents that have shaped later arrangements across the country's extraction and building sectors.[91] Fitting such a mechanism into BRI settings in Asia and Africa calls for sensitivity to local governance habits differing sharply from North American indigenous rights frames, yet the core rule still travels: communities hold legitimate stakes in shielding cultural heritage from harms standard environmental review does not probe, and projects brushing past those stakes court resistance, costing everyone.[92]

5.4. REGIONAL MECHANISMS

Section 4 argued that regional bodies have stalled on the leap from a dialogue platform to a standard-setter able to set binding frames. What would that leap demand? Regional bodies could draft Post-Conflict Reconstruction Investment Guidelines, converting aspirational pledges into working rules: clear procedural frames for civil society involvement at each project stage, accessible dispute paths that let communities raise concerns without

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89 Duggal KAN and van de Ven LH, 'The 2019 Netherlands Model BIT: Riding the New Investment Treaty Waves' (2019) 35 Arbitration International 347.

90 Ruru J, 'Indigenous Peoples' Ownership and Management of Mountains: The Aotearoa/New Zealand Experience' (2004) 3 Indigenous Law Journal 111.

91 Craik N, *The International Law of Environmental Impact Assessment: Process, Substance and Integration* (Cambridge University Press 2008), 23-53.

92 Partal A and Dunphy K, 'Cultural Impact Assessment: A Systematic Literature Review of Current Methods and Practice around the World' (2016) 34 Impact Assessment and Project Appraisal 1.

prohibitive costs or entanglement, and real remedies for harms caused by project rollout. ASEAN could set up a specialist tribunal under an annex to the ASEAN Comprehensive Investment Agreement,[93] where community groups, not just states and investors, could start cases over projects moving ahead without proper consultations or causing harm meriting compensation. Such a panel would break the lock states, and investors have held over investment dispute handling since the system began, and regional rules would also unlock joint bargaining, tackling the bilateral mismatches this paper has traced. When Laos, Cambodia, and Myanmar each bargain solo with Beijing, capacity gaps all but ensure results favouring the stronger party,[94] but when they bargain as a bloc, citing duties under binding texts that domestic voters and foreign partners will hold them to, leverage shifts. Collective stances also provide political cover: a government pressed to swallow bad terms can point to regional rules it lacks the power to waive on its own.

5.5. CONFLICT-SENSITIVE APPROACHES

Post-conflict societies bear wounds that infrastructure work can reopen by accident. Development tilting toward one ethnic community over another can derail reconciliation and sow seeds of fresh violence. So too can projects built on land from which populations were violently pushed during strife, or projects pressing ahead without acknowledging past grievances over resource stripping. Conflict-sensitive vetting asks how proposed projects might shift ties between communities whose recent past includes violence against each other, probes whether projects interact with unresolved land disputes underpinning or worsened by conflict, traces how infrastructure might reshape access to resources that have long fed violent competition, and asks whether project gains and burdens fall fairly across groups, with special attention to communities that conflict side-lined or targeted.[95] Mary Anderson's Do No Harm frame, built through the Collaborative for Development Action on experience across many conflict-torn settings, offers working methods for such vetting: mapping conflict dynamics before stepping in, spotting how development steps may worsen or ease them, and reshaping projects to shrink harmful effects while strengthening peace backers.[96] In societies where current land patterns reflect colonial grab, wartime displacement, or discriminatory policies, projects rolling on existing property lines without noting contested pasts may lock in injustice and close off restitution chances, peace deals promised. Conflict-aware design calls for mechanisms to tackle those legacies: community land mapping, rebuilding ownership patterns before displacement, consultations with truth bodies and reparations schemes where they exist, and benefit-sharing terms offering

[93] ASEAN Comprehensive Investment Agreement (signed 26 February 2009, Cha-am).

[94] Acharya (n 84).

[95] International Alert, *Conflict-Sensitive Business Practice: Guidance for Extractive Industries* (International Alert 2005) <https://www.iisd.org/system/files/publications/security_conflict_sensitive_business.pdf> accessed 28 June 2026.

[96] Anderson MB, *Do No Harm: How Aid Can Support Peace, or War* (Lynne Rienner Publishers 1999).

some redress where full restitution cannot work.[97] None of this is simple. All of it is needed if BRI engagement is to feed lasting peace rather than plant seeds of fresh strife.[98]

6. CONCLUSION

Chinese capital has built railways, ports, and power plants across post-conflict Asia and Africa at a pace and scale that Western donors and multilateral development banks never achieved and show no prospect of matching. That matters. Countries emerging from decades of war need roads reconnecting territories that conflict divided and electricity enabling factories to operate and households to refrigerate medicine. The BRI has delivered infrastructure that might otherwise have remained on planning ministry wish lists for another generation.[99]

However, the cases examined throughout this paper, Thar and Balochistan in Pakistan, Kyaukpyu in Myanmar, Lamu and the Standard Gauge Railway in Kenya, Hambantota in Sri Lanka, suggest that delivery alone does not guarantee developmental success. Projects imposed without meaningful consultation generate displacement grievances that fester for years, environmental damage that degrades livelihoods long after construction crews depart, and erosion of the citizen-state trust that post-conflict societies desperately need to rebuild if peace is to prove durable. Resistance follows in forms this paper has documented: litigation tying projects up in courts, protests blocking construction sites, transnational advocacy campaigns raising reputational costs, and the delays and overruns accompanying all of the above. Governance failures harm not only affected communities but also investors seeking predictable returns on capital deployed and governments seeking infrastructure dividends without political backlash.

The reforms proposed in this paper, tripartite cooperation frameworks giving communities formal voice in project design, cultural impact assessments extending review beyond biophysical parameters to dimensions that post-conflict societies find most sensitive, regional mechanisms enabling collective bargaining with development partners, and conflict-sensitive approaches drawing on transitional justice scholarship, are not constraints on infrastructure development that post-conflict societies need. They are conditions for infrastructure development that lasts. The cases examined in this paper illustrate this point. A railway that displaced farmers will be blocked, a port whose associated industrial zone sparked protests halting construction, and a dam suspended after

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[97] Williams RC, 'Post-Conflict Property Restitution and Refugee Return in Bosnia and Herzegovina: Implications for International Standard-Setting and Practice' (2006) 37 New York University Journal of International Law and Politics 441.

[98] Duthie R, 'Toward a Development-sensitive Approach to Transitional Justice' (2008) 2 International Journal of Transitional Justice 292.

[99] World Bank, *Belt and Road Economics: Opportunities and Risks of Transport Corridors* (World Bank 2019) <https://openknowledge.worldbank.org/entities/publication/59486f09-600d-579e-b252-b2d5d06b88d6> accessed 28 June 2026.

domestic and international opposition converged around cultural heritage claims. These outcomes serve no one's interests and waste resources that scarcity makes precious.[100]

The scope of this proposal requires clarification. The tripartite framework proposed here might be read as implying that host governments cannot represent their own citizens, thereby setting an international minimum standard of representative democracy by other means. However, the proposal does not rest on that interpretation. Post-conflict governments face institutional capacity gaps that weaken the link between state decisions and citizen welfare, regardless of their formal democratic credentials. Tripartite mechanisms do not replace democratic representation. Instead, they fill the space left while governance institutions rebuild the trust and capacity that effective representation requires.

Post-conflict reconstruction is not a technical exercise amenable to engineering solutions. It is a political negotiation over who bears costs, who captures benefits, and whose voice counts in decisions shaping the future. The path forward requires sustained engagement by multiple actors whose interests partially converge despite differences in perspective and power. Chinese policymakers and enterprises must recognise that sustainable development outcomes serve long-term interests in stable partnerships and bankable projects, even if participatory processes impose short-term costs in time and complexity. Host governments must commit to meaningful community participation, resisting temptations to use development projects as vehicles for patronage or instruments for displacing populations they find inconvenient. Regional organisations must embrace enhanced governance roles, developing standards and mechanisms that protect community interests across member territories. Civil society must continue documenting governance failures, advocating for reform, and building capacity to engage constructively when participatory opportunities arise. International development institutions must support these efforts through technical assistance, facilitated dialogue, and the dissemination of best practices emerging from experience. The BRI can contribute to sustainable peace or plant seeds of renewed conflict. Which outcome materialises depends on the choices that actors across this landscape make in the years ahead.

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