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Spatial administration and legal aspects of the Belt and Road Initiative: Innovative solutions for Armenia

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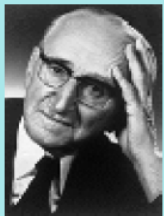
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Ordnungspolitische Diskurse

Discourses in Social Market Economy



**Sos Khachikyan
Jiang Hongzhen**

**Spatial Administration and Legal Aspects
of the Belt and Road Initiative:
Innovative Solutions for Armenia**

Diskurs 2022 - 7

Spatial Administration and Legal Aspects of the Belt and Road Initiative:

Innovative Solutions for Armenia

Sos Khachikyan
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Abstract

The architecture of public policy through spatial principles has important features in the age of globalization. In this context, the Belt and Road Initiative can be considered as a worldwide public policy project, where conceptual thinking and legal understanding should be discussed. Soft and hard laws - as political and legal aspects, have important features on the BRI implementation. Flexibility, openness, and inclusiveness are the main soft tools for Belt and Road Initiative participating countries. Based on these, networking and spatial particularities may generate new administrative principles for the BRI project. In this sense, the spatial administration definition was formulated, through which is possible to integrate spatial components of countries that have different social, national, ethnic or religious dimensions, and various geo-economics dimensions. Important to note that Armenia has specific economic and political status in the South Caucasus because of two circumstances. We consider that Belt and Road project is possible to integrate with the Armenian North-South Road Corridor program and free economic zone in Meghri, in order to introduce structural reforms and diversification of economy.

Keywords

Spatial administration, North-South Road Corridor, Belt and Road Initiative, BRI legal aspects, digitalization.

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Spatial Administration and Legal Aspects of the Belt and Road Initiative: Innovative Solutions for Armenia

1. Introduction

The convergence based on social integration, political culture, as well as internationalization through digital solutions brings the public policy into new level of cohesion. In the result, these trends could get optimal solutions in the spatial spaces. Communicative actions in spatial spaces of a large region should be based on innovative tools, methods and principles. The worldwide projects - where could meet social-economic integration, innovative solutions, regional cohesion and new communication channels, - could be implemented through new transnational governance principles that we define in this paper spatial administration.

The significance of these features could be reflecting especially for integration processes and transnational projects. The Chinese Belt and Road Initiative is a global project where spatial dimensions and legal aspects could be discussed in the context of convergence. In this sense, Armenia could play an important role as a cross-regional country between Europe and Asia. The borders of Armenia have specific communication infrastructure: North-South direction between Georgia and Iran, and East-West direction between Azerbaijan and Turkey. The North-South direction plays an important role now, because the main trade turnover is provided through Georgia (North) and Iran (South). The East-West direction could link Azerbaijan (East) and Turkey (West). However, since Armenia's borders with these countries are closed, the main beneficiary direction remains North-South, linking Armenia with the European Union, Russia, Georgia, Iran, China, the Arab Gulf States and other countries. This means that North-South direction is viable to be part of global communication network. Obviously, there are advantages for many countries within the North-South Road through Armenia because of the following reasons:

1. The North-South is an alternative for China through Iran and Armenia, because the Armenia is the only country that has economic relations with both transnational unions: Eurasian¹ and European Union².

¹ The Treaty on the Eurasian Economic Union (EEU) was signed on May 29, 2014 in Astana.

² Armenia-EU Comprehensive and Enhanced Partnership Agreement (CEPA) entered in force in March 1, 2021.

2. The new agreement between China and Iran signed on March 2021³ has economic and infrastructure “expansion components” towards West, that will meet opposite effect by Turkish economic interests. In this circumstance, the Armenian North-South communication corridor could be alternative for China’s and Iran’s economic interests.
3. Armenia has free economic zones in the different regions, including the border of Iran: Meghri Free Economic zone⁴, is a strong economic factor for the integration of Chinese, Iranian, Russian and EU companies.

2. North-South Road Corridor of Armenia

The North-South communication direction could play a pivotal role not only for Armenia, but also for the regional countries. The transport infrastructure can be crucial in helping Armenia sustain its economic situation and diversify its foreign trade. Important to note, that the project objectives are related to facilitating communication with neighboring countries, expanding and facilitating access to foreign market towards Central Asia and Europe, developing major economic spheres and export expansion (industry, agriculture, mining industry, construction, tourism, etc).⁵ The Government of the Republic of Armenia has initiated the North-South Road Corridor strategic program about a decade ago, however some issues preventing the full implementation of the project. The program aims to support the government’s objectives of regional cooperation and economic sustainable growth by rehabilitating its road network and improving logistics, thereby introducing a new economic policy. As mentioned in the project description, the “North-South Road Corridor Investment Program” is a major infrastructure project that aims to connect the country's southern border with its northern tip through a highway to be built or renewed to the highest international standards and to provide access to international markets. The project will be implemented in tranches so that from Bavra (Georgian border) to Meghri (Iranian border) there will be a highway that meets all international standards and has modern border and customs infrastructure and an efficient system for managing the road corridor. The importance of the project is justified more broadly in the Asian Development Bank report.

³ <https://www.nytimes.com/2021/03/27/world/middleeast/china-iran-deal.html> (Last access: 26 Nov 2021)

⁴ “Meghri” free economic zone was established in Meghri town, Syunik province by the decree N1595-A of the Government of the Republic of Armenia of December 7, 2017.

⁵ <https://armroad.am/en/projects/north-south-road-corridor-investment-program> (Last access: 16 Aug 2022)

The rationale is based on three factors that lead to high transaction costs in trade for Armenia⁶:

1. The legacy of a transport network developed under the former Soviet Union;
2. Being landlocked;
3. Two of its four international borders are closed, restricting cross-border transport. This means that the economic, political and social dimensions play a role in the decision on the financing of the North-South Road Corridor Program.

In this context it is important to note, that in the age of new technologies, the economic, political, and social components can include spatial features. Therefore, networking and spatial particularities generate new administrative principles. This is typical for transnational level, where administrative borders of countries may prevent effective governance of specific projects. Obviously, The Belt and Road Initiative is a specific project that has potential to cross administrative borders of 142 countries, including Armenia, that had signed a cooperation agreement with China by the end of 2021, to work under the framework of the Belt and Road Initiative (Nedopil, 2021, p. 6). In general, public peaceful spaces used by citizens, interconnected organizations, or collaborating governments tend to eliminate the administrative borders. It means that the tools and regulations used to be interacted between these actors should not be scoped by administrative borders in decision-making processes and could establish relations based on spatial peculiarities, including administrative principles. In this sense, the spatial administration is proposed to define as a systemic process of planning, developing and policymaking in country (internal) or transnational (external) levels based on scale, flexibility, and value chain, without deep integration. The Belt and Road Initiative is a typical project, through which is possible to integrate spatial components of countries that have various social, national, ethnic, or religious dimensions and are involved in different economic or political platforms. We consider that Chinas Belt and Road project is possible to integrate with the Armenian North-South Road Corridor program, which aims to provide resilience of the Southern region of Armenia after the Nagorno Karabach 44-day war. Besides, this project will enable to implement economic diversification reforms, which is crucial for Armenian economy.

⁶ ADB Technical Assistance Report. “Armenia: Transport and Trade Facilitation Strategy, 2020–2040”, section 2, point 3

Armenia has specific economic status within South Caucasus countries because of two reasons:

1. Membership with the Eurasian Economic Union (EEU),
2. Signed Comprehensive and Enhanced Partnership Agreement with the European Union (CEPA).

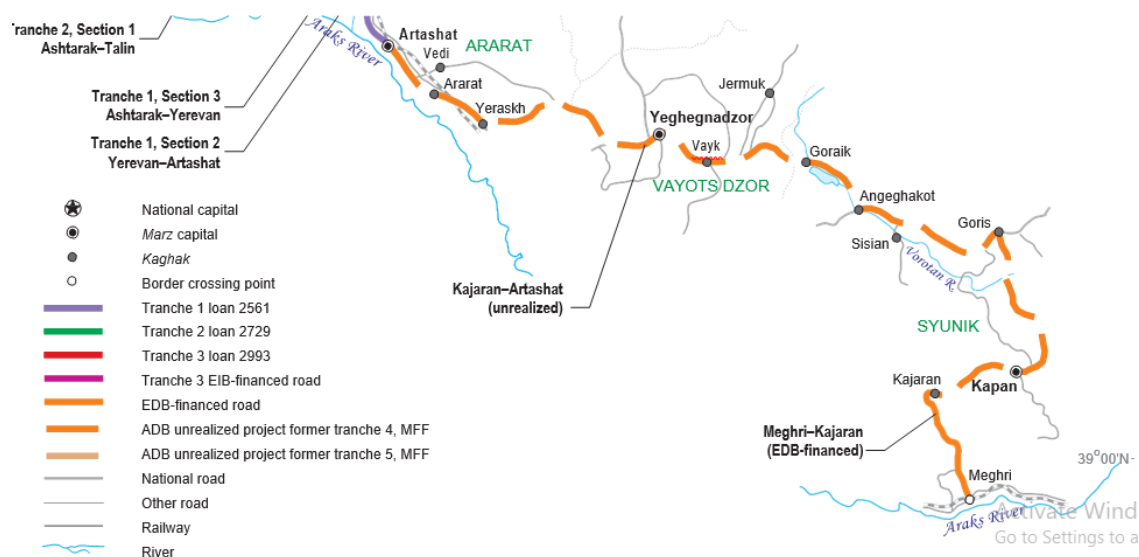
Based on this dimension, Armenia has potential to become a transit route for crude oil exports, to provide logistics, and establish sustain businesses. Nevertheless, to hence these goals, it is important to expand and improve its transport network, business environment and legal framework on internationalization. In this sense, the North-South Project Completion Report (PCR) rated the project relevant, - as it was consistent with the government's Transport Sector Development Strategy 2020 and the North–South Road Corridor Investment Program under it, - with a priority to rehabilitate, reconstruct and expand international transport corridors. Besides, the project was also aligned with ADB's Strategy 2020 and the regional economic cooperation for Central Asia and the Caucasus (Project Performance, 2020). It is important that the nationwide and regionally significant projects meet the criteria for internationally recognized requirements. In general, the requirements are defined by the 17 UN Sustainable Development Goals (SDGs) and their 169 targets (UN 2030 Agenda). They are intended to balance the economic, social, and environmental dimensions of sustainable development, stimulating action over the next years in these areas, which include two targets that relate to road safety (Global Status Report on Road Safety 2015, p. 3):

- Sustainable Development Goal 3: Ensure healthy lives and promote well-being for all at all ages (3.6 – Traffic incidence).
- Sustainable Development Goal 11: Make cities and human settlements inclusive, safe, resilient and sustainable (11.2 – Sustainable transport system).

The arguments in the framework of SDG should be considered also within the environmental context. As mentioned in the Chatom House report, “Infrastructure projects in which environmental issues are not adequately considered are also at risk of becoming stranded assets, either from regulatory change or from the impacts of climate change itself. Governments around the world increasingly legislate to ensure that development is aligned with global objectives to tackle climate change and achieve the SDGs, through, for example, tighter regulations on greenhouse gas (GHG) emissions and other environmental impacts. Projects that do not comply with such legislation or with best international practice could be at risk of losing support from the host government or from some investors” (Alison and others, 2018, p. 8). These means that the social wellbeing of big projects like the North-South Road Corridor should be developed parallel with the economic benefits.

As notified in the documents related to this project, the major economic benefits are savings on vehicle operating costs and travel time because of improved road conditions, which were calculated using the Highway Design and Maintenance (HDM-4) Model⁷. The Highway Development and Management Model (HDM-4) is a software system for evaluating options for investing in road transport infrastructure⁸. Worldwide, the HDM-4 model is most commonly used as a basis for feasibility studies, in which a road project is evaluated in terms of its economic viability that is an important point for calculation of costs for Syunik and Vayots Dzor regions of Armenia. A more comprehensive type of evaluation based on HDM-4 is a network evaluation, which assesses an entire road network to help decision makers in their strategic planning of road investments and/or the definition of a rational road works program, with or without budget constraints (Rodrigo, 2008, p.1). As we see in the figure 1, the Meghri-Kajaran part of the North-South Road corridor is approved for financing by EDB (Eurasian Development Bank), which means the interest of Eurasian Economic Union countries' decision-makers for this initiative. The Kajaran-Artashat part of this corridor is under the Asian Development Bank financial and monitoring responsibilities.

Fig. 1: Syunik and Vayots Dzor (southern provinces of Armenia) part of the North–South Road Corridor Investment Program



⁷ http://www.traceca-org.org/en/investments/investment-projects/detail/?tx_tracecainvprojectstable_pi3%5Buid%5D=1&cHash=0776f1698968ba9c6392623545b63b9f (Last access: 20 Aug 2022. For cited information see at Economic Description / Assessment section of the website.)

⁸ See detailed description on the Highway Development and Management Model (HDM-4) at: <http://hdmglobal.com>

In this context, it is important to study the decision-makers motivation outside of Armenia, as the North-South Road Corridor shapes the economic interests of EU, China, Iran, Russia, Georgia and other countries. According to this and taking into account the close cooperation between the countries of the region and China it is obvious that if Armenia does not rethink the importance of the Armenian-Chinese relations and does not take practical steps in this direction, it is possible that it will be excluded from the global initiative (Hovsepyan, 2021, p.126). Another expert argument also indicates the necessity of actions by the Armenian side: “The Belt and Road Initiative provides a wide range of opportunities for bilateral relations. The Eurasian Economic Union (EEU) and China have signed a trade and economic partnership agreement. Yerevan should study the agreement and find points which can be useful for the improvement of Armenian-Chinese relations”⁹. Although Armenia has signed the cooperation agreement with China in the framework of BRI, however, as it is indicated in the World Bank report, “Armenia is not on the BRI corridors and as a result there are no BRI transport projects in the country. However, the note assesses the ability of the domestic infrastructure network and the required investments to provide an efficient link to the identified corridors through its two open borders with Georgia and Iran. Armenia is the only exception to COC countries (Central Asia and Caucasus) because of the closed Armenia-Azerbaijan border and so Armenian cities could connect to China overland by rail through Russia, which is probably not competitive, and to Europe through Armenia-Georgia border” (World Bank, 2020, p.6). In the same report, another provision is prescribed indicating the role of Armenian policymakers in the relations with Iran and Georgia: “Armenia can benefit from an improved global network as a result of BRI transport projects, even though none of the BRI corridors pass through it. The time and money cost of its cross-border shipments depend on the quality of Georgian and Iranian roads, rail and seaports. If ongoing and planned BRI transport projects enhance their infrastructure, as well as those of the global transport network, Armenia benefits. The full benefit of lower international shipment time will also depend on the quality of Armenia’s own transport network” (World Bank, 2020, p.3).

These arguments mean, that there is a need to understand the main concepts of multilateral relations defined by agreements. The relations with Iran, Georgia, China, Russia and other neighbor countries are important to develop new value chain based on bilateral and multilateral cohesion.

⁹ Expert opinion by Mher Sahakyan. See at: http://www.xinhuanet.com/english/2019-05/01/c_138027336.htm (Last access: 23 Nov 2021)

3. BRI Legal Aspects

There are multilayered documents on BRI regulating relations on state or private sector levels. Exploring the legal aspects of existing agreements and economic policy features, we highlighted the following peculiarities.

1. Georgia and China officially signed Free Trade Agreement indicating international transportation and logistics cooperation. They agreed on the establishment of a transportation coordination mechanism, increase connectivity of international multi-modal transport, and gradually formulate compatible and standard transport rules, to realize international transportation facilitation¹⁰. They shall fully utilize this bilateral Agreement to explore new opportunities of international transportation and logistics cooperation.
2. In 2017, the Government of Georgia signed a contract with the Chinese “China Energy Company Limited” (CEFC) and transferred the Poti FIZ management rights to the company. According to the contract, the Chinese conglomerate acquired 75% of the government-owned Poti FIZ¹¹. This indicates the high interest of China in this region that could be capitalized through BRI. In this context the researchers note that “The strategic function of Poti is of the utmost importance for the country and is important on an interregional (Azerbaijan and Armenia) and outer regional level (Kazakhstan, Turkmenistan and Tajikistan), and is now also key within the framework of the Belt and Road Initiative (Danelia, 2018, p.2).
3. Iran and China signed an agreement on strategic cooperation according to which China is going to invest 400 billion USD in Iran over 25 years in exchange for a steady supply of oil to fuel its growing economy (Reid, 2021, p.1). Another notable point of view on Iran-China relations within this context is: “Connection between China and Iran will also be useful once the long-awaited North-South highway meant to link Armenia with Iran, Georgia and the rest of Europe is completed”¹².

These facts should be considered with the Belt and Road project initiated by the Chinas government. Taking into account that China is a multi-traditional, historical and legally complex country, the establishing legal relationship should be discussed deeply. A notable view in this

¹⁰ Free Trade Agreement between the Government of Georgia and the Government of the People’s Republic of China, signed in Beijing, on May 13, 2017. Annex 8-C, Articles 1, 4

¹¹ <https://factcheck.ge/en/story/39858--the-chinese-company-you-prime-minister-worked-for-was-supposed-to-make-usd-150-million-investment-in-the-poti-industrial-zone-although-this-commitment-has-not-been-implemented>

¹² Expert opinion by Sofia Bergmann. See at: <https://www.evnreport.com/economy/armenia-in-the-belt-and-road-initiative> (Last access: 23 Nov 2021)

context is the following: “The concept of informal administrative action has been confused and misused in the academic circles of China, and it urgently needs to be clarified in the sense of comparative law” (Jiang, 2008, p.53).

The content of the action plan of BRI indicates the ambiguous goals and objectives of this project: “The development of the Belt and Road should mainly be conducted through policy communication and objectives coordination. It is a pluralistic and open process of cooperation, which can be highly flexible, and does not seek conformity. China will join other countries along the Belt and Road to substantiate and improve the content and mode of the Belt and Road cooperation, work out relevant timetables and road maps, and align national development programs and regional cooperation plans.”¹³ The broad goal of BRI is to improve connectivity between China and the rest of the world by land (the ‘belt’) and sea (the ‘road’). The connectivity could be reflected through various means, including legal – that was discussed above, and technological aspects, where spatial approaches could be more effective.

4. BRI Spatial Administration Approaches

Technological solutions and data-driven intervention in the geo-economic space of China’s Belt and Road Initiative and Armenian North-South Road Corridor could bring into new approaches of public policy that could be summarized as spatial administration principles. Multi-level relations in spatial environment including people, communication infrastructure, information, entrepreneurial resources, and transnational regulations, brings into convergence in spatial administration.

BRI spatial space should prioritize common regulation on communication, exchange of information and transfer of technologies. Dynamic innovation ecosystems across the BRI through technologies, knowledge and human capital based on cooperation and partnership is the guaranty of strategic stability. In this case, the large-scale players like EU and EEU member countries, South Caucasus and regional countries will determine its social, economic, and political interests. The international relation updates taking place in many countries, - including Armenia and the whole region in the sense of communication infrastructure, - tends to form “project-based spaces” where new principles of transnational administration will be created. That is the spatial administration within worldwide project scale like BRI, where digital solutions provide modernization on public policy administration systems within many countries. New communication

¹³ Full text: Action plan on the Belt and Road Initiative. See at http://english.www.gov.cn/archive/publications/2015/03/30/content_281475080249035.htm (Last access was on 22 November 2021)

systems, project-based spatial administration principles, and technology-driven solutions will transform existing relations into a new value chain. Although, we face the situation, where spatial governance is effective, however democratization tools like public discourses and “live” contacts are weak in this case (Khachikyan, 2020, p.67). Based on the factors discussed, it is possible to formulate the scopes of actions in spatial space of Belt and Road Initiative, in which modernization could come true.

1. Identifying the optimal space of BRI that complies with the North-South Road Corridor of Armenia in the framework of the legislations of EU-Comprehensive and Enhanced Partnership Agreement and Eurasian Economic Union. For example, the optimal scale of spatial administration could be: Armenia, Georgia, Russia, Iran, India, EU, China.
2. Introducing spatial administration concepts including planning, evaluating, monitoring and supervising, as well as transfer/change of people, technologies and information that should be carried out according to the approximation of public administration principles within the optimal space countries' territory.
3. Processing digital administration platform for defined optimal spatial space including data on geography, communication and logistic infrastructure, information systems' network, spatial space commonly standardized regulations, as well as appropriate human resource management system that will be involved in spatial administration.

Based on the OECD report, “The BRI-participating economies represent more than one-third of global GDP, and over half of the world's population. While infrastructure investment is a key aspect of the BRI, China states that it is much broader in its objectives, encompassing all aspects of the sustainable growth for itself and including more balanced regional growth, the upgrading of its industry and greener economic growth at home” (OECD 2018, p.9). That is way safe, diversified and digitalized implementation of the Belt and Road Initiative policy is crucial for all spatial spaces and important to emphasize these opportunities with the junction of the North-South Road Corridor of Armenian and correlating countries.

In this context, it is important to refer to the two points prescribed in the World Bank Group report on the Belt and Road initiative for Armenia. Summarizing the study, we can suggest that the Armenian North-South Road Corridor is a project that could be integrated in the Belt and Road Initiative. For this propose spatial solutions based on new administrative concepts, as well as legal aspects of spatial space public policy are the main components.

5. Conclusion

The paper shows that the new forms of public policy through increasing resilience and providing internationalization is possible to implement based on digital solutions by means of spatial principles. For this propose, it is necessary to define spatial optimal scale within transnational level. The Belt and Road Initiative is a worldwide project that could be “divided” into several spatial scale. Around the Armenian North-South Road Corridor axis it is possible to create spatial scale and implement spatial administration, where project-related communication infrastructures, geo-economic indicators, information flows, human resource management systems and spatial-scale-countries’ approximated regulations on public policy, can be consolidated into data-driven platform. In this sense, the spatial administration is defined as a systemic process of resource management in order to create value chain and provide policymaking in optimal scale within country (internal) or transnational (external) levels. Project-based spatial administration through digital solutions and data-driven systems will be effective in terms of crisis management (pandemic, regional conflicts, and other restrictions) and difficult geographical locations. Important to note that integration processes within spatial administration could be provided in the framework of information flows, digital solutions, data management, electronic platforms, and other technological components.

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