Case Study

Nepal Power Development Project (P043311) – Khimti-Dhalkebar 220 kV Transmission Line Project

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<td>Alternative Energy Promotion Centre</td>
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<td>Abbreviated Resettlement Action Plan</td>
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<td>Board</td>
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<td>BP</td>
<td>Bank Procedures</td>
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<td>Chief District Officer</td>
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<td>DAO</td>
<td>District Administration Office</td>
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<td>Department for Electricity Development</td>
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<td>Environmental Impact Assessment</td>
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<td>EMF</td>
<td>Electromagnetic fields</td>
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<td>ESCR-Net</td>
<td>International Network for Economic, Social &amp; Cultural Rights</td>
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<td>ESSD</td>
<td>Environmental Social Study Department</td>
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<td>ICCPR</td>
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<td>ICESCR</td>
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<td>International Development Association</td>
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<td>IPDP</td>
<td>Indigenous Peoples Plan</td>
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<td>KDTL</td>
<td>Khimti-Dhalkebar 220 kV Transmission Line Project</td>
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<td>kv</td>
<td>Kilovolt</td>
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<td>LAHURNIP</td>
<td>Lawyers’ Association for the Human Rights of Nepalese Indigenous Peoples</td>
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<td>MOWR</td>
<td>Ministry of Water Resources</td>
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<td>NEA</td>
<td>Nepal Electricity Agency</td>
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<td>NEFIN</td>
<td>Nepal Federation of Indigenous Nationalities</td>
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<td>Non-Governmental Organisation</td>
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<td>NHRC</td>
<td>Nepal Human Rights Commission</td>
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<td>PDP</td>
<td>Nepal Power Development Project</td>
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<td>PSRSHDP</td>
<td>Power Sector Reform and Sustainable Hydropower Development Project</td>
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<td>OD</td>
<td>Operational Directive</td>
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<td>OP</td>
<td>Operation Policy</td>
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<td>OPN</td>
<td>Operational Policy Note</td>
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<td>Acronym</td>
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<td>R&amp;R</td>
<td>Resettlement and Rehabilitation</td>
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<td>RoW</td>
<td>Right of Way</td>
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<td>SIA</td>
<td>Social Impact Assessment</td>
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<td>VCDP</td>
<td>Vulnerable Communities Development Plan</td>
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1. Project Description

The World Bank’s Board of Executive Directors (Board) approved the Nepal Power Development Project (PDP) on May 22\textsuperscript{nd}, 2003. At that time, a completion of the project was scheduled for June 2009. Due to three restructurings in 2008, 2009 (additional funding) and 2012, a new completion date of the PDP was set for December 2013 (World Bank 2012a: i / World Bank 2012b: 4-5). This appointment was kept, and the World Bank closed the project on December 31st, 2013. However, the construction work on the project has not been finished, even though the World Bank is still in close collaboration with the Government of Nepal (Inspection Panel 2014a: 29-31).

Initially, the PDP consisted of three components: (a) the erection of a Power Development Fund to finance small to medium-sized hydro systems, (b) a Micro-Hydro Village Electrification to provide up to 30,000 new consumers with electricity and (c) the improvement of grid and power supply with the help of the Khimti-Dhalkebar 220 kV Transmission Line Project\textsuperscript{1} (KDTL), which ranges over 75 km and four districts in Central Nepal (Ramechhap, Sindhuli, Mahottari and Dhanusha) (World Bank 2003: 3-5 / World Bank 2015: 3).

Originally, the PDP was to be financed with 133,400,000 US-Dollars. The International Development Association (IDA) granted a credit of 50,400,000 US-Dollars and an additional grant of 25,200,000 US-Dollars. The remaining 57,800,000 US-Dollars were borne by the borrower, local communities and the UN Development Program (World Bank 2003: 6). Initially, the KDTL assessed financing amounting 31,000,000 US-Dollars (World Bank 2003: 5). The overhauled financing plan from 2012 foresaw a total funding in the amount of 150,150,000 US-Dollars. The borrower is the Kingdom of Nepal (World Bank 2012: i).

Implementing agencies are the Nepal Electricity Agency (NEA), the Department for Electricity Development (DOED), the Alternative Energy Promotion Centre (AEPC) and the Ministry of Water Resources (MOWR) (World Bank 2012a: ii / Inspection Panel 2012a: 2).

At the time of the Request for Inspection on July 10\textsuperscript{th}, 2013, 67.6\% of the original loan and 100\% of the grant, as well as 92.73\% and 97.44\% from the additional funding’s loan and grant, had

\textsuperscript{1} Since the Request for Inspection concentrates almost entirely on the KDTL, the focus of this case study is on the KDTL.
been disbursed (Inspection Panel 2013a: 3). Thus, 85% of the World Bank financing had been disbursed\(^2\) (Inspection Panel 2013a: 7 / Inspection Panel 2013b: 12).

2. **The Request for Inspection**

This chapter aims at illustrating the Request for Inspection from the viewpoints of submission, claims and (alleged) violations of the KDTL according to the affected people.

2.1 **Submission and Claims**

The Request for Inspection was submitted by 103 indigenous and non-indigenous families from Sindhuli District (Nepal) on July 10\(^{th}\), 2013. Shankar Limbu, an advocate from the Lawyer’s Association for the Human Rights of Nepalese Indigenous Peoples (LAHURNIP), represented the affected community. The complainants stated that the KDTL was associated with “violations of World Bank policy, Nepali and International law.” The contested route was 3,85 kilometers long (LAHURNIP 2013: 1).

The complainant’s claims consisted of:

- A credit disbursement stop until the affected people have been informed and consulted about plans, effects, rehabilitation and mitigation measures. Additionally, all relevant documents from the World Bank and NEA have to be disclosed and translated as the circumstances require.
- An independent analysis of alternative designs and routes which focus on the affected people’s wellbeing.
- A transparent implementation of all future assessments and reports in collaboration with the affected people.
- An implementation that is in complete compliance with World Bank policy, Nepali and International law (LAHURNIP 2013: 1-3)

\(^2\) There are requirements for the Inspection Panel to investigate a case. For example, at the time of the Request, less than 95% of the funds have to be disbursed. Otherwise, the Inspection Panel is not authorized to deal with the request. With further interest see [http://ewebapps.worldbank.org/apps/ip/Documents/Guidelines_How%20to%20File_for_web.pdf](http://ewebapps.worldbank.org/apps/ip/Documents/Guidelines_How%20to%20File_for_web.pdf)
2.2 Violations

Regarding the World Bank policies, the supposed violations against were against the following:

- Operational Policy (OP) 4.01 – Environmental Assessment
- Operational Directive (OD) 4.20 – Indigenous People
- Operational Policy (OP) 4.12 – Involuntary Resettlement
- Operational Policy Note (OPN) 11.03 – Management of Cultural Property (LAHURNIP 2013: 12-24)

The PDP is a project of the environmental category A (World Bank 2003: 1). The first allegation focused on OP 4.01 according to which “various Category A requirements have not been fulfilled, nor has the requisite information been made available to the complainants” (LAHURNIP 2013: 13). They claimed that affected people in Sindhuli had “never been consulted” (LAHURNIP 2013: 12). The complainants also indicated that there had been consultations in Dhanusha and Ramechhap. However, they were not informed and were not allowed to participate in those districts. Regarding disclosure of assessments, they stated that they had not received any documents (LAHURNIP 2013: 12-13). For that reason, they determined a “violation [sic!] of World Bank policy” (LAHURNIP 2013: 13).

Regarding OD 4.20, the complainants claimed that project-implementing agencies did not rightfully manage to identify affected, indigenous people as such. NEA conducted the Vulnerable Communities Development Plan (VCDP) without "specialized research and analysis into the issues, concerns, or preferences of indigenous people" (ibid.). This VCDP identified one and the same groups, such as the Tamang, Newar or Magar, in the same breath as “ethnic minorities” and “traditional ruling classes” (LAHURNIP 2013: 14). Due to such misidentifications, it could not have been possible to rightfully determine “the specific needs, preferences and rights of affected indigenous peoples” (ibid). Instead, such effects were adverse on indigenous people’s lives (ibid).

Additionally, they claimed that the World Bank had failed at assessing whether the Government of Nepal held consultations or not. A complete Indigenous Peoples Plan had never been created (LAHURNIP 2013: 15-16).

Subsequently, the complainants call attention to prejudices and discrimination in the Social Impact Assessment (SIA). As it states, the sudden cash flow from a project might be spent “unproductively.” The money might be spent on “gambling and more alcohol consumption.”
Plus, a few hundred laborers might “encourage prostitution, which could encourage the spread of [AIDS]”. Moreover, the SIA blamed truck drivers for “disease transmission” (NEA 2013: 52-53). The complainants state that such discriminating generalizations about ethnic identities show a lack of “understanding and attention to affected indigenous communities” (LAHURNIP 2013: 17).

Sixteen households were resettled. Plus, the project-affected people were told not to enter the Right of Way (RoW) by Kanaiya Kumar Manandhar, NEA’s project manager. However, some properties were located in the middle of the RoW (LAHURNIP 2013: 19).

Regarding OP 4.12, the Government of Nepal was obliged to create a resettlement plan in collaboration with the affected communities that also included an analysis of alternative routes. However, the created plan was not adequately made and did not include an analysis of alternative routes (ibid).

In regards to the situation about the compensations, the complainants stated that according to the Abbreviated Resettlement Action, each household was to receive compensation in the average amount of 2,876,267 Nepalese Rupees (approximately 24,066 Euros). Some compensations were not high enough or were not paid at all (LAHURNIP 2013: 20-21).

Additionally, the Government of Nepal should have created a grievance and redress mechanism. However, the complainants claim that it had never come to this (LAHURNIP 2013: 20).

Following OPN 11.03, the project was never designed in a way to minimize cultural damage. Instead, the towers are near monasteries, temples, cremation sites and historical landmarks such as the Sindhuli Gadhi. The Sindhuli Gadhi is a battlefield on which the Nepali Army fought and won a battle against British Troops in 1767. The complainants state that “[t]he World Bank has failed to assist in the protection and enhancement of cultural property in the Sindhuli District” (LAHURNIP 2013: 24).

The project-affected people were worried because of the electromagnetic fields (EMF). These were defined by the EHS Guidelines as follows: "Electric and magnetic fields [...] are invisible lines of force emitted by and surrounding any electrical device [...]. Electric fields are produced by voltage and increase in strength as the voltage increases" (IFC 2007: 5). The complainants point to various mitigation measures for EMF exposure. In that case, there was need for a study that examined the strength of the EMF exposure of the affected along the project route. The complainants assert that “no documentation of either of these studies has been provided to Complainants in Sindhuli District” (LAHURNIP 2013: 24).
Additionally, they indicate that community members created a protest committee in 2010. Since then, they have been protesting, and police units have consequently hurt and detained them (LAHURNIP 2013: S. 9-12).

3. Management’s Response and Action Plan

The Management’s Response was published on September 11th, 2013 after extending submission (Inspection Panel 2014b: 1). The Action Plan is part of the Management’s Response (see World Bank 2013: 75-77). The Management’s Response enabled the Management to justify their point of view and actions. Management stressed that the Government of Nepal has been dealing with the problems in a very proactive and innovative way. The Government of Nepal is said to have conducted a study for alternative routes and offered higher compensations. In addition, infrastructure and energy distribution in the area had improved. Moreover, Management indicated that the project had been designed in compliance with World Bank policies. However, instabilities and insecurities in Nepal, including its low borrowing capacity, and constant design changes have created an atmosphere with many different challenges (World Bank 2013: 7).

Regarding the analysis of alternative routes, Management seems to believe that the NEA did adequate work. In the course of the Environmental Impact Assessment (EIA), a total of three potential routes were investigated. In the end, they seem to have chosen the best possible route (World Bank 2013: 7-8).

Compensations had also been in compliance with Nepali law. Nepali law provides a 100% value compensation rate for land which is permanently acquired. Land that is not permanently acquired but affected by the project is supposed to be compensated with 10% of its value. However, affected people, whose land was not permanently acquired but affected, demanded a 100% compensation payment of the land’s value. To counteract this, the Government of Nepal has drafted a plan which intended to buy all land affected by the project and the RoW and build a new road. This in effect would mean that everyone would have received a 100% compensation. Additionally, the road would improve infrastructure and energy distribution (World Bank 2013:

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3 As stated in chapter 2.2, the project-affected people were told not to enter the RoW. That was a misinformation. There is no general prohibition on entering the RoW. However, buildings and tree may not be taller than 6.5 meters.
However, the plan to build a new road was not well received by the majority of the affected people. They continued to demand a rerouting of the transmission line (World Bank 2014: 14).

Regarding the confrontation between the affected people and the Nepali police, the Management clarified that it was worried about the situation in Sindhuli. However, they explained that a distinction between World Bank policies and Nepali law enforcement was necessary. Due to the alleged human rights violations by the police, Management was supposedly in collaboration with the Government of Nepal. However, Management was not able to find any „indications that would confirm the Requester’s claims”4 (World Bank 2013: 9).

At the time of the project’s approval, it was regulated by OD 4.20. However, with the restructuring of 2009 and the additional funding, the new OP 4.10 was included. Regarding the lack of the IPDP, Management pointed towards the Safeguards Data Sheet5 and the Project Appraisal Document6. According to these, a VCDP can replace an IPDP. Management also explained that indigenous communities have very well been identified7 by World Bank policies and the Nepal Federation of Indigenous Nationalities (NEFIN) (World Bank 2013: 9-10. Nonetheless, the VCDP should have been stronger and should have been updated to include the people who have migrated to the area after 2004/2005 (World Bank 2013: 11).

Consultations were carried out. In the course of the EIA process, two public hearings were held. In preparation, the SIA, VCDP, and ARAP carried out several focus group discussions (World Bank 2013: 11). Given the Annex 1.1 “Consultations carried out during the Preparation of Environmental and Social Safeguard Documents” it reveals that consultations took place on the following days:

- May 10th – May 19th, 2004 (seven consultations)
- May 24th, 2004
- January 9th, 2009

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4 LAHURNIP, Accountability Counsel and the International Network for Economic, Social & Cultural Rights see this differently, see chapter 6 from this case study.
7 Which at this point is missing is a comment on a flawed classification and not on a general classification of indigenous groups.
- Two consultations between January 11th – January 17th, 2010
- May 29th, 2011 (World Bank 2013: 40-44)

Pertaining to the disclosure of documents, Management indicated that “significant strengthening” was necessary (World Bank 2013: 7). Management also pointed out that no historical or sacred sites were affected by the project and there were no health impacts by the EMF to assume. In this connection, Management relied among others on the International Commission on Non-Ionizing Radiation Protection, the World Health Organization and the International Commission on Radiological Protection. The transmission line was designed in compliance with industry standards (ibid.). However, the grievance and redress mechanism could have been stronger. The Government of Nepal was charged with improving it (World Bank 2013: 13).

According to the Management, the World Bank followed its guidelines. They, however, identified problems regarding consultation and disclosure had been identified (ibid.).

The Action Plan contains a NEA and World Bank component. The former aims at disbursing the remaining compensation payments, hiring a communication specialist and a liaison officer from within the affected community. Besides, the VCDP and ARAP have to be updated and implemented. The grievance and redress mechanism must be improved, and further consultations and communication materials have to be offered. In case the dispute in Sindhuli is solved, the project’s physical work should have been completed by March/April 2014. (World Bank 2013: 75-76). The World Bank component aimed at supporting the NEA, preparing a list of mediators, publishing documents and promoting NEA’s capacity building (World Bank 2014: 77).

4. Inspection Panel’s Assessment

From September 30th 2013 – October 4th, 2013, an Inspection Panel team, consisting of Zeinab Elbakri, Dilek Barlas, and Mishka Zaman, visited the project in Nepal. They were in contact with staff from the World Bank’s office in Kathmandu and government authorities such as the NEA or MOWR. Plus, they were in contact with more than 300 project-affected people and visited the Sindhuli Gadhi, Bhadrakali Temple and Kamalamai Temple (Inspection Panel 2013b: 10-12).
The Inspection Panel team suburb recommended starting the investigations of the case in April 2014. The Board approved this recommendation (Inspection Panel 2014b: 31). The investigations of the Inspection Panel detected four major issues in relation to the KDTL: (a) Analysis of alternatives, environmental assessments and health impacts, (b) resettlement and compensation, (c) indigenous peoples and cultural assets and (d) consultations, disclosure and project supervision (Inspection Panel 2015a: 73).

Regarding point (a) analysis of alternative routes, the Inspection Panel determined non-compliance with World Bank policies (OP/BP 4.01) (Inspection Panel 2015a: 22). Such a study must be conducted in a highly detailed and comprehensive manner. However, the NEA did not possess enough capacities. Also, the Government of Nepal was not able to provide necessary systems to evaluate these studies or to monitor their implementation (ibid.). The same applies to the project’s impact on social and environmental levels because project-relevant documents did not conduct an institutional analysis nor were they able to determine the low capacities of the NEA (OMS 2.20, OD 4.01 and OB/BP 4.01) (Inspection Panel 2015a: 74). However, no health impacts due to the EMF were found, as the distance from the transmission line meets the industry standards⁸. Consequently, the project was found to be in compliance with the World Bank policies (OB/BP 4.01). Nevertheless, it was agreed upon that the affected people should have been informed about this correctly (see Annex 1.1) (Inspection Panel 2015a: 24-27).

On the issue of resettlement and compensation, the Inspection Panel mentioned five decisive findings. Four out of the five findings did not comply with World Bank policies. Since the number of potential households for resettlement did not exceed 200, Management was allowed to continue with the Abbreviated Resettlement Action Plan (ARAP) which complied with World Bank policies (OB/BP 4.12) (Inspection Panel 2015a: 37-38). However, there are non-compliances with World Bank policies regarding ARAP which were not updated. Additionally, it should not have come to delayed compensation payouts as affected people have a right to fast and effective compensations. The same was applied to the delays of the provision of Resettlement and Rehabilitation (R&R) assistance and the inadequate grievance and redress mechanism (all OP/BP 4.12) (see Annex 1.2) (Inspection Panel 2015a: 38-41).

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⁸ With further interest, it is worthwhile checking page 25 from the Investigation Report and the depicted table 1 “Magnet Fields to which People are Commonly Exposed” showing the exposure by EMF from the grid and hair dryers, micro waves and refrigerators. Available under: http://ewebapps.worldbank.org/apps/jp/PanelCases/87-Investigation%20Report-Nepal%20Power%20Development%20Project.pdf
The identification of indigenous groups constituted compliance with World Bank policies (OB/BP 4.10). Working with a *mixed communities approach* was legitimate. According to the World Bank, most groups did not seem to have distinct characteristics, follow the same social and cultural traditions or speak Nepalese and live with other groups. However, Management should have justified working with that approach (Inspection Panel 2015a: 50-51). Moreover, no cultural sites, such as the Sindhuli Gadhi or Bhadrakali Temple are affected by the project. The electricity poles were constructed at least 60 meters away from the temple. As a result of this, there is compliance with World Bank policies (OP/BP 4.11). Again, the Inspection Panel concluded that the project-affected people should have been better informed (see Annex 1.3) (Inspection Panel 2015a: 53-54).

The disclosure of important documents was not satisfactory. At the time of the Investigation Report, the Inspection Panel had not decided whether there was compliance or non-compliance with World Bank policies (Inspection Panel 2015a: 62). The situation around the consultations represents non-compliance with World Bank policies. The consultations held in Sindhuli were not satisfactory (see Annex 1.4). Furthermore, there was the precarious safety situation in Sindhuli and the language barrier (OP/BP 4.01, OP/BP 4.10, OP/BP 4.12) (Inspection Panel 2015a: 62-65).

Even though the complainants did not raise a complaint about the project’s supervision, the Inspection Panel wanted to call attention to the topic. Supervision suffered due to the precarious safety situation. Nevertheless, the Inspection Panel recognizes the efforts by Management. As long as one draws the right conclusions, it is possible to draw lessons from the experience (Inspection Panel 2015a: 65-71).

The Inspection Panel clarified that Nepal’s hydro-electrical potential might play a decisive role in poverty reduction, economic growth and provision of renewable energy (Inspection Panel 2015a: 72).

Regarding the KDTL, the Inspection Panel indicated that it was impossible for World Bank staff to visit the project due to the precarious safety situation. This resulted in “limited engagement with the affected community” (ibid.). Moreover, the Inspection Panel found out

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9 At this point, the Investigation Reports contradicts itself. Regarding the identification of indigenous groups, it says that project-affected, indigenous people spoke Nepalese (see Inspection Panel 2015a: 50). On page 65, the Investigation Report states that “IPs [Indigenous People, author’s note] in that area can understand the Nepali language but are unable to communicate adequately, and need to use their native language for clarity.”
that the NEA, as a project implementing agency, does not possess the necessary capacities. The Inspection Panel also noted that most complaints were affiliated to misinformation and a lack of communication and consultation (ibid.).

5. Management Report and Recommendation and Action Plan

In this chapter, the Management’s Report and Recommendation and their Action Plan will be summarized. However, this chapter only states the implementation of the Action Plan until 2015. From reasons of clarity and structure, the last update on the Action Plan from 2016 will not be part of this chapter. Instead, it is part of chapter 6.3.

5.1 Management Report and Recommendation

Management considered that instabilities and political developments in Nepal have had a negative impact on the project’s implementation and supervision. It also agreed with the Inspection Panel that the EIA was not able to detect the NEA’s low capacities (World Bank 2015: 11). Management explained that public sector capacities, especially in agencies such as the NEA, have deteriorated in recent years. The NEA lacked a “top leadership for many years” (World Bank 2015: 3) and suffered from many personnel changes. Until 2014, the NEA did not have a Managing Director (ibid.).

To counteract this, the World Bank provided the staff from the Environmental Social Study Department (ESSD) with technical training. With the aid of the World Bank’s Power Sector Reform and Sustainable Hydropower Development Project10 (PSRSHDP) in Nepal, which was authorized in September 2015, capacity building is to be promoted (World Bank 2015: 3).

5.2 Update on the Action Plan

The Action Plan was updated on June 2nd, 2014 (see World Bank 2014: 5-11), on March 30th, 2015 (see World Bank 2015a: 8-11) and August 5th, 2016 (see World Bank 2016: 5-7).

At the time of the second last update on the Action Plan, the majority had been implemented. A communication specialist and liaison officer had been appointed. The VCDP and ARAP had

10 PSRSHDP (P150066) is available under: http://www.worldbank.org/projects/P150066?lang=en
been updated and were being implemented, and the grievance and redress mechanism had been strengthened. Further consultations have since been held, and information material published (World Bank 2015a: 27-28).

Construction work on the project is still incomplete. The situation around the compensations has not changed since 2014. 124 of 159 property owners (78%) have accepted the compensation payment. Each of the property owners has received a 100% of the value of the land. The remaining 22% have not yet decided or have turned the compensation payment down. The World Bank has authorized the District Administration Office (DAO) to deal with the compensation payment. Whenever one has accepted the compensation payment, he or she can approach the DAO and receive the compensation payment (World Bank 2015a: 4-5; 27).

6. Further Developments on the Case

This chapter aims at giving an understanding of the events regarding the KDTL after actions from the Inspection Panel and Management.

Before the press release, the Board met on July 9th, 2015. The board decided to consider the Inspection Panel’s findings and to approve the Management’s Report and Recommendation and Action Plan. Moreover, the Board welcomed the continuous collaboration with the Government of Nepal (Inspection Panel 2015b: 32).

6.1 News Release. World Bank Board Discusses Nepal Inspection Panel Case

In the press release dated July 13th, 2015, Sri Mulyani Indrawati, World Bank Managing Director and Chief Operating Officer, as well as Gonzalo Castro de la Mata, Panel Chairman, explain that the World Bank has learnt important lessons from the PDP such as a better collaboration with countries with a conflict-laden history, potential impacts on standards for project-affected people, the importance of an improved environment for the energy sector, capacity building, collaboration with local communities and preparation on a project, as well as an implementation of a resettlement and grievance and redress mechanism and a proactive and continuative support (World Bank 2015b: 1).
Finally, de la Mata was quoted saying the following: “We hope a resolution of the remaining issues will be found in a peaceful and timely manner” (World Bank 2015b: 2). Within a year, another document about the implementation of the Action Plan is supposed to be published (ibid.).

6.2 New Protests and Emerging Police Violence

The situation in Sindhuli has since deteriorated once again. In a document from April 2016, LAHURNIP and the Accountability Counsel claim that the World Bank did nothing to solve the problems (LAHURNIP and Accountability Counsel 2016a: 2). In an open letter from LAHURNIP and the Accountability Counsel at Jim Yong Kim, President of the World Bank, they state that the World Bank tried to facilitate the dialog between the affected communities and the NEA. However, these efforts were not enough (LAHURNIP and Accountability Counsel 2016b: 1).

As the Accountability Counsel indicates, the construction work on the project was suspended until April 2016. At the beginning of April 2016, the Government of Nepal started the construction work on the KDTL (http://www.accountabilitycounsel.org/communities/current-cases/high-voltage-power-line-nepal/).

In response to this, some affected people protested on April 10th, 2016. This protest was crushed by the police. Once again, especially women and elder people were victimized. Police units pulled them from the protest site and hit them with lathis, long bamboo sticks, on their backs, arms, and legs. After clearing the protest site, tents and fences were erected to allow comprehensive surveillance. Plus, at all times, a group of five to six armed police officers were patrolling near the construction site (LAHURNIP and Accountability Counsel 2016: 4-5) few dozen civilians have been injured (http://www.accountabilitycounsel.org/communities/current-cases/high-voltage-power-line-nepal/).

Subsequently, six community leaders, among them Surendraswor Moktan, were held by the police after a meeting with the Chief District Officer (CDO). Officially, they were ‘invited’ to talk about the problems. However, as the Accountability Counsel claims, they were forced to sign a document, which they were not allowed to read. This document obliged them not to protest again. This was enforced by threatening them with a criminal charge and arrest (LAHURNIP und Accountability Counsel 2016a: 5).
On July 2\textsuperscript{nd}, 2016, some of the affected people protested again. 14 people were detained; among them three 15-year old children and a 75-year old woman, who were freed the same day. The remaining ten people were freed two days later (LAHURNIP 2016: 1).

In response to this, LAHURNIP and the Accountability Counsel prepared the aforementioned open letter to Jim Yong Kim on July 7\textsuperscript{th}, 2016. This open letter describes the situation in Sindhuli since April. Moreover, they called on the World Bank to act immediately “to avoid being complicit in the ongoing intimidation and militarization in Sindhuli” (LAHURNIP and Accountability Counsel 2016b: 1).

To ensure a successful finalization of the project and an erection of a role model for future development projects in Nepal, the project-affected communities made new demands in collaboration with LAHURNIP and the Accountability Counsel:

- Retreat of all armed police units,
- Facilitation of a fair dialog about project design, worries, impacts and possible solutions in Sindhuli,
- A stop of credit disbursement until the demands mentioned above have been met (LAHURNIP und Accountability Report 2016b: 2-3).

### 6.3 Progress Report on the Implementation of the Action Plan

In response to the events of April, the open letter to Jim Yong Kim and the promise to report in a year’s time since the press release, the World Bank released the First Progress Report on the Implementation of the Action Plan.

The progress report states that some compensations are still pending even though all land that is needed for the new road had been acquired. 164,2 Nepalese Rupee (72,6\%) had been disbursed to the affected people. Moreover, only 64,7\% of the R&R assistance has been disbursed. Many affected people are absent but they can receive their payment at any time. The implementation of the VCDP is advancing, and consultations were held in March 2016. Management also appointed a consulting firm, the Consensus Building Institute which is supposed to conduct an assessment of recommendations for conflict prevention and management for Nepal’s energy sector. Support for the NEA from the Management is ongoing; the PSRSHDP became effective in June 2016. At the same time, the foundation for the remaining towers has been erected (World Bank 2016: 2-4).
Management reported that the affected people filed a lawsuit with the Nepal Human Rights Commission (NHRC) due to the alleged human rights violations. However, Management stated that, without quoting NHRC\textsuperscript{11}, they did not find any indications of human rights violations (World Bank 2016: 4). Management also states that, even though community leaders ‘agreed’ on not protesting anymore, there have been protests “for reasons that are unclear” (ibid.).

Management seems to ignore the allegations that documents were signed by force. In reaction to this, the Struggle Committee, consisting of Surendraswor Moktan and Ukta Bahadur Thapa, published an open letter to the World Bank on August 10\textsuperscript{th}, 2016 stating that they did not ‘agree’ with but were forced (Moktan and Thapa 2016: 1).

6.4 Intervention by the ESCR-Net

On August 10\textsuperscript{th}, 2016, the International Network for Economic, Social and Political Rights (ESCR-Net) was engaged and reported that it is worried about the reported and threatened human rights violations. The ESCR-Net refers to the police force in the last years, the forced signing of a document and the situation around Nepal’s human rights obligations by the International Covenant on Economic, Social and Cultural Rights (IESCR), the International Covenant on Civil and Political Rights (ICCPR) and the UN Declaration on the Rights of Indigenous Peoples (ESCR-Net 2016: 1-4).

The ESCR-Net demands are:

- Retreat of all armed police units
- An investigation of the alleged suppression by use of force
- Appropriate measures to solve the situation in Sindhuli regarding worries and human rights obligations
- A suspension of construction work (ESCR-Net 2016: 4)

\textsuperscript{11} There is no report on the website of the NHRC regarding the situation in Sindhuli from April 2016, see http://www.nhrcnepal.org/press.php?nstart=1&start=2&num_totrec=326&n=&type=p
7. The Impacts by the Inspection Panel as a “New” Decision Procedure from the World Bank on the Project

This chapter tries to show a connection between the Nepal Power Development Project/Khimti-Dhalkebar 220 kV Transmission Line Project and the impacts by the Inspection Panel as a “new” decision procedure.

In 1944, the World Bank was founded at the Bretton Woods Conference. The World Bank consists of a plenary body, the Executive Board of Directors and the Secretariat. Until the “new” decision procedures were introduced, the World Bank acted through a double-stage decision procedure: The Secretariat was responsible for the project preparation and the Board decided about the funding (Gehring and Kerler 2007: 228).

In succession of the World Bank crisis in the 1970s, two extensive changes were made: the introduction of the safeguards and the Inspection Panel (Gehring and Kerler 2007: 217, 231). The Inspection Panel enabled a third decision procedure. The former two ones stayed “formal unverändert” (Gehring and Kerler 2007: S. 233), projects are being monitored by the Inspection Panel and made a review possible whether the project was designed in compliance with World Bank policies. This potential review was often initiated by Non-Governmental Organizations (NGOs). This review, however, would also be an incentive for the Secretariat to double-check on “umweltbezogene und soziale Belange” (ibid.). Gehring and Kerler (2007) stated that the World Bank as a whole becomes accountable (p. 234).

However, the Inspection Panel is not a “entscheidungsbefugtes Gericht, sondern ein Berichtsorgan im Rahmen eines komplexen Verfahrens” (Gehring and Kerler 2007: 235). In regard to the KDTL this became clear on July 9th, 2015, shortly before the press release. As you can see in chapter 6, the findings from the Inspection Panel were considered.

Ultimately, in the case of the PDP/KDTL, an investigation by the Inspection Panel followed after a request for inspection by LAHURNIP. Plus, this transparent procedure is being critically followed by NGOs such as the Accountability Counsel and the ESCR-Net. Before the investigation by the Inspection Panel, the Management published the Management Response with the Action Plan. After that, they hired the Consensus Building Institute. In addition, the PSRSHD was created to improve capacity building. The investigation by the Inspection Panel showed that a large part of project implementation was not in compliance with World Bank policies (see chapter 4/Annex 1.1 – 1.4). Insightful was also that the Inspection Panel made the project supervision on the topic even though the complainants did not claim about this subject
(see chapter 4). The Inspection Panel also indicated in the Annual Report 2014 – 2015 that supervision has clearly improved after receiving the Request for Inspection (Inspection Panel 2015b: 32).
8. Bibliography


Internet sources:

http://www.accountabilitycounsel.org/communities/current-cases/high-voltage-power-line-nepal/
http://www.nhrcnepal.org/press.php?&nstart=1&start=2&num_totrec=326&n=&type=p
Annex

Annex 1.1: (a) Analysis of Alternatives, Environmental Assessments and Health Impacts

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<th>World Bank policies: non-compliance</th>
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Annex 1.2: (b) Resettlement and Compensation

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Annex 1.3: (c) Indigenous Peoples and Cultural Assets

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Annex 1.4: (d) Consultations, Disclosure and Project Supervision

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