

University of Kassel
The World Bank and the Inspection Panel (MSOC7)
Prof. Aram Ziai
Winter Semester 2017/2018

Case Study: Western Europe-Western China International Transit Corridor Project (CAREC 1B & 6B) (IBRD Loan No. 7681-KZ)



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Tuesday, February 20, 2018

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Introduction and Project Description

This paper aims at examining the Inspection Panel cases No. 66, 74 and 96 on South-West Roads project in Kazakhstan. It will include 3 different requests to inspect the activity of the World Bank in the South-West Roads project. It will provide the response of the Management on the request for inspection from the claimants and the report from the Inspection Panel on the eligibility of the request and the suggestion for further investigation if necessary. The paper ends with the conclusion about the institutional culture of the World Bank based on the cases mentioned above.

The World Bank's Board of Executive Directors (Board) approved the South-West Roads: Western Europe-Western China International Transit Corridor project in Kazakhstan on the 30th of April 2009. The ending of the project is planned on the 31st of December 2021. The South-West Roads: Western Europe-Western China International Transit Corridor is a combined project getting the finance from different stakeholders, but mainly the cost of the project is covered by the loan from the International Bank for Reconstruction and Development (IBRD) in the amount of 2 125 million US dollars and 15% from the Government of Kazakhstan. The planned date of money transfer from the IBRD was on the 31st of December 2013. The total cost of the projects amounts 2 500 million US dollars. The costs associated with the purchase of land from citizens and the payment of compensation for the involuntary resettlement will be covered from the separate state budget, meaning that this amount is not included in the total project cost (World Bank 2017).

The South-West Roads project is a part of the Kazakhstan Government's program aimed at the construction and reconstruction of 2,840 km road, connecting Europe and Russia with China through Kazakhstan. The idea is to improve the efficiency of transport in South of Kazakhstan, Almaty Region and Kyzylorda, besides, to improve the safety of traffic and management of the road. In addition, reconstruction of the road included creation of 85 kilometers from Kurty to Togyz in the Region of Almaty and 96 kilometers from Otar and Uzynagash till the border with Kyrgyzstan. It was accompanied by improving the safety on the road, services, and maintenance of road operation. (World Bank 2017)

The project consists of 5 initial components. The first one includes modernization and reconstruction of road sections in Kyzylorda Region with an estimated cost of 1,344.5 million dollars, excluding the price of unforeseen expenses and the cost of services of consultants to

monitor the construction process. The second component includes modernization and reconstruction of road sections from the border of the Kyzylorda Region to Shymkent, including bypass roads in Kyzylorda and Shymkent. It was planned to modernize and reconstruct 273.4 kilometers of the road with creating 4-line road. Estimated cost of this component is 879.1 million dollars, not taking into account unforeseen expenses and the cost of services of consultants to monitor the construction process. Modernization or reconstruction of road sections with a length of approx. 273.4 km with 4 lane, including the dividing line. The third component includes signing a contract with Project Management Consultants (PMC) with an estimated cost of 6.5 million dollars. This component covers all project activities from oversight of all security policy measures and fiduciary aspects. Additional costs of the PMC services will be covered from the budgets of the other stakeholders of the project – International Financial Institutions (IFIs). The fourth component includes institutional developments and development s of the plan to improve road safety and quality of roadside services, including consultancy services to analyze options for strengthening the Committee for Roads, improve the overall condition of the road network, and advance road safety and quality of roadside services. The estimated cost of this component is 3.5 million dollars. The fifth component includes the services of the consultancy on the road construction mentioned in the first and the second components. The estimated cost is 55 million dollars. This component will also include the conduction of engineering design and overseeing of implementation of Environmental Management Plans that is made for each road part. (Inspection Panel (October 18, 2011); pp.2-3)

While writing this research I consulted the following documents: Inspection Panel Report and Recommendation of 2010 and 2011; World Bank home page; Inspection Panel Website with Case Tracker; Request for investigation from 2010; 2011 and 2014; Bank Management Response to Request for Inspection Panel Review of the Kazakhstan South-West Roads project of 2010 and 2011; Legislation of the Republic of Kazakhstan; Lessons Learned article by Treacle, Fox and Clark and newspaper articles.

Claimants

In this section I will elaborate on the main points the claimants mentioned when requesting for the investigation by the Inspection Panel in the first request. The claimants are four citizens of Kazakhstan from Birlik village through which the South-West road passes. The

project South-West Roads: Western Europe-Western China International Transit Corridor might cause damage to those people due to its deficiencies or omissions. The requesters claim that during the execution of the project there might be the following violations of the World Bank policies: Environmental Assessment (OP/BP 4.01); Physical Cultural Resources (OP/BP 4.11); Involuntary Resettlement (OP/BP 4.12); Project Supervision (OP/BP 13.05) and the World Bank Policy on Disclosure of Information, dated June 2002. (Inspection Panel Website 2010)

In the request it was indicated that the project, in its current form would cause negative consequences to the claimants because their houses are in the vicinity of the South-West Road. This particular part of the road going through Birlik will have the following negative consequences. Above all, soot and exhaust fumes together with air pollution and noise will cause harm to health citizens living close to this part of the road. Secondly, this road will damage the environment, in particular as a result of accidents and the leakage of flammable and explosive liquids from cars. Thirdly, increasing the intensity and speed of traffic will threaten children safety, who use the road every day to cross the highway on their way to and from school; and, finally, the project will probably impact residential buildings, which in its turn will cause involuntary resettlement of residents. (Request for investigation 2010 p.1)

In addition, the requesters claim that in the future the intensity of traffic in the city center of Turkestan will highly increase, which can further turn into ecological catastrophe for residents. Besides, the claimants noted that Muslims of the whole world consider Turkestan the “second Mecca” and negative consequences will potentially threaten safety and health of Muslim pilgrims, which in turn will cause irreparable damage to the city's budget, as well as to the incomes of residents profiting from tourism in the region. (Inspection Panel 2010 p.5)

In one of the letters from the requesters they informed the Panel that local authorities had promised, firstly, to plant trees and hedgerows between houses and the road, secondly, to provide a school bus for transportation of pupils to school and back home, thirdly, to build a new service road outside Turkestan in the period from three to five years. Several local authorities, who promised it, denied it afterwards. So the claimants want the Inspection Panel to control this promise and somehow reflect it in the documents. (Request for investigation 2010 p.1)

Management response:

In Management response it indicates that the agency responsible for the implementation of the Project South-West Roads: Western Europe-Western China International Transit Corridor, the Committee of Roads, is actively discussing with citizens of Birlik all the issues concerning them and the issues that can potentially damage locals. According to the Local Authorities, the Road Committee has already made several changes in the project of the road trying to address the problems that locals raised. Besides, in December 2009 there were several changes made in the design of the road section going through Birlik settlement and in February 2010 public hearings in Turkestan and Birlik took place, based on those changes in the road design. And after all the Management concluded in its Response that the issues raised in the Request have been mainly solved, which was confirmed by the majority of local citizens in Turkestan and Birlik. (Bank Management Response 2010 p.9)

Management response is divided into four sections, based on the questions raised in the Request and after that it is elaborated in details on each section and particularly on the changes that were made.

The first section includes potential negative impact from the road section in Birlik settlement. In this section the following changes are planned. Above all, shifting the alignment of the new road away from the houses to provide the maximum possible distance between houses and a new 4-lane road, the minimum distance became 17 meters from a residential building. (Bank Management Response 2010 p.8) According to the Construction Codes and Regulations of Republic of Kazakhstan, according to the law SNiP RK 3.01-01-2008 "Planning and development of individual housing construction areas", the distance between a building plot and a road in Kazakhstan should be installed along the red lines. Legislation determines that residential house should be build with a margin from the red line of residential streets at least 3 meters and at least 6 m from the red line of the highway road. So we see that according to the legislation, the changes made about the minimal distance from residential building to the highway are as required in the legislation (Urban planning layout and development of urban and rural communities. 2009 p.34-35). Secondly, the construction of a pedestrian underpass near the local school is approved, as well as a pedestrian crossing with a traffic light located 800 m away. There was also another underpass provided for cattle 600 m to the north from the traffic light. Thirdly, the reconstruction of the existing 2-lane

bypass is planned, which will be a local access road for the residents of Birlik. The construction of bus stops is also included in the design for the local access road. Fourthly, the installation of a 3-meter wall between the new 4-lane and 2-lane access road is planned to ensure safety and to serve as a protection against traffic noise and exhaust gases. And, finally, management plan includes planting trees along a 4-lane road for aesthetic purposes and installing streetlights along the existing 2-lane bypass road and in the underground passage to ensure safety. (Bank Management Response 2010 p.16-17)

The second section answers the question regarding the promise of a school bus for the children of Birlik settlement. Based on the Management's response, local administration confirmed that it is going to provide additional bus specifically for the transportation of children from the village of Birlik to the local school for the whole academic year. There is also a written assurance from the Akim (Local Major) provided confirming that the local administration will be arrange additional bus starting from September 2010. (Bank Management Response 2010 p.28)

The third section deals with the impact of road traffic on the Mausoleum located in the city center of Turkestan. Management indicated there that it recognizes the importance of the Khoja Ahmed Yasawi Mausoleum which attracts pilgrims and tourists to the city of Turkestan. But Management believes that widening of the road from 2 lanes to 4 is mainly carried out within the existing bypass road going through Birlik and this bypass stays at least in 2,6 km from Mausoleum. The management adds that after reconstruction of the bypass there will be less negative impacts from traffic passing through the city center. On the contrary, the road will provide a better access to Mausoleum. (Bank Management Response 2010 p.9)

And, finally, the Management responses on the promise to construct a new bypass road outside of Turkestan, which it assumes not to be economically justified. However, the Management knows about the plans of the local administration to build a northern or southern bypass road in the future outside from the city center, but it will be made when it is justified by the intensity of the traffic flow. So the Bank Management comes to the conclusion, that the construction of a new bypass should be considered in the future after a full analysis of the economic, environmental and social impact. The management also notes that although the Bank cannot guarantee financing of future investments to be included in the state program for the development of the road industry, it is ready to consider such requests in the future. In

addition, the Administration notes that the construction of a new, more extensive bypass farther from Khoja Ahmed Yasawi Mausoleum will remain in the state investment program of Kazakhstan until its construction is based by economic growth. (Bank Management Response 2010 p.8)

One other measure that was presented in the Management paper included establishment of a trilateral advisory Coordinating Committee, which would include representatives of the Roads Committee, Project Management Consultant and civil society organizations that will oversee the implementation of the Project. (Bank Management Response 2010 p.14-15) However, this measure disappeared after all from the final report of the Inspection Panel and I assume was either not necessary to mention or to ask the opinion of Coordinating Committee. It can be also removed because citizens were satisfied with the outcome of the case.

Inspection Eligibility Report

From 29th of May to 2nd of June 2010, the Inspection Panel, consisting of Alf Jerve together with Serge Selwan, a Panel Senior Operations Officer, visited the South-West Roads project in Kazakhstan. During the visit, the Panel experts met with government representatives in Astana and local administration in Turkestan. The Panel also visited Birlik, where it met with the requesters and their representatives and after that also with the staff from the World Bank Kazakhstan country office. (Inspection Panel 2010 p.2)

Based on the report from the Panel the request for investigation met all eligibility criteria. The Inspection also notes that there was an important reason for submitting the Request, due to the lack of confidence in the implementation of the promises by the authorities. Appearance of these obligations in official documents has become a valuable assurance for Claimants and residents affected by the Project. However, it states that the activities and decisions undertaken by the Management and authorities in Kazakhstan address the problem and there should not be any further investigation. Local residents expressed their satisfaction with the changes introduced. (Inspection Panel 2010 p.10) On the 9th of June 2010, the Panel received a letter from the Requesters, stating that they "do not require any additional investigations". The applicants thanked the Panel for keeping their names secret. Then, they pointed out that environmental and technical safety issues affecting 23 families living close to the road in Birlik settlement "were finally solved". They added that it would be practically impossible to demand from the Government of Kazakhstan any special conditions for the

construction of a new detour, since it depends on the traffic flow in the future. Finally, they asked the Government of Kazakhstan to convey, even informally, that the construction of a new bypass would be planned if the intensity at the existing detour that would be reconstructed within the framework of the Project would increase to more than 7,000 vehicles per day. (Inspection Panel 2010 p.10)

On the meeting in Astana, government officials accepted that some initial mistakes were made due to uncertainty about how the policies and procedures of the Bank should be applied. They also assured Inspection Panel that the Government will fully meet its obligations stated under the Loan Agreement and will implement them in a timely manner, including measures to protect environment and social security. As for the point of Khoja Ahmed Yasawi Mausoleum, the Deputy of Akim (Mayor) of Turkestan informed the Panel that Turkestan is a city with a population of 250,000 people, which receives more than 650,000 pilgrims a year. They also noted cultural and religious significance of Turkestan for Kazakhstan and several neighboring countries. In Astana, the Government representatives accepted to the Inspection Panel that in case of justification of higher traffic intensity, the Government will build a bypass complying to all relevant social protection measures and without violating human rights.

All in all, the Panel recommended that no investigation is to be conducted based on the Statements of the Requesters. (Inspection Panel 2010 p.10)

2 request

Claimants

On the 15th of June 2011 the Inspection Panel received a second request to conduct investigation of the South-West Roads: Western Europe-Western China International Transit Corridor project in Kazakhstan. This request is not connected with the first one, but also includes local citizens from Turkestan, Sairam, Yntymak and Temirlanovka. Due to the fact that those 4 cases don't have the same problem, they will be described one by one.

According to the request the following polices of the World Bank could be violated in case the project will be conducted without changes: Environmental Assessment polices (OPIBP 4.01); Natural Habitats polices (OPIBP 4.04); Involuntary Resettlement polices (OPIBP

4.12); Project Supervision (OPIBP 13.05) and Project Appraisal (OMS 2.20). (Kazakhstan: South-West Roads 2011)

Above all, the case of Turkestan shows that the claimants sent their request on the 7th of January 2010 and the Inspection Panel replied to contact the Bank Management first and explain the problem to them before submitting the claim. On the 15th of February 2011 the main requester and on the 11th of March 2011 the other requesters submitted a written claim to the Bank Management about their problems. On the 13th of April 2011, the main Requester met with the Bank managers to discuss the problems, but was unsatisfied with the outcome, so he finally submitted the claim to the Inspection Panel asking for investigation. (Inspection Panel 2011 p.16) From their request we see that two family members who signed the document stated the loss of property and income as a result of the implementation of activities related with acquisition of land in order to the implementation of the Project of the World Bank. Affected people built a commercial enterprise on their land plot, which, according to their request, due to reconstruction of the road in Turkestan will bring less income, thereby will negatively impact their life. The Requesters claimed that they received a notice of the development and implementation of the Project, when they had just completed the construction of a commercial enterprise, which they will not be able to exploit. Also in the Request it is stated that the local Administration (Akimat) refused to recognize their rights and to pay any further compensations. The Request states that the victims have significant losses as a result of the South-West Roads Project implementation. (Request for investigation 2011 p.2)

The second sub-case is about Sairam settlement, the requesters of which in March 2011 claimed that constructions begun on their land without their permission. However, after that compensations agreement was signed with all the requesters on the 4th of April 2011 by South Kazakhstan Region. But on the 12th of April 2011 the Department of Roads terminated all the agreements, that is why on the 13th of April 2011 the main Requester met with the Bank Managers and was still unsatisfied with the results, so he also filed the claim. (Inspection Panel 2011 p.16) In their claim it is stated that in the result of the Project launch on their territory, 4 out of 8 families received compensation, the rest 4 didn't, so they request the Inspection Panel to influence local authorities to fulfill their promises to repay the compensations. (Request for investigation 2011 p.5)

The third sub-case is about the requesters from Yntymak. On the 19th of July 2009 there were 84 people trying to make changes in the project of the highway in Yntymak. They raised questions on the meeting with the Bank Management on the 30th of July 2009; later on the 24th of August they filed a written statement to the World Bank. On the 30th of August 2009 the requesters had a discussion of their problems with local authorities and Bank Managers. On the 11th of September there was a claim sent to the Environment Department in South Kazakhstan Region and after that a similar letter to the Bank. On the 13th of April there was a meeting with the Bank staff, but the question was not solved, so they filed the request to the Inspection Panel. (Inspection Panel 2011 p.16) Their request stated that Yntymak, is located along the 5 km of the South-West highway from Shymkent, the distance from the road to the settlement is about 35-40 m. The Request noted that in fact the distance is only 15-20 m, not 35-40 meters as mentioned in the design of the road. The Requesters further claim that as a result of this, noise barriers will be installed only 5 meters from residential buildings, and that the trees that are planted along the roadside of the existing highway in Yntymak will be cut down during the project. In addition, the Requesters stated a question whether the Technical Specifications of the contracts with the construction companies comply with the environmental safety standards adopted by the Bank. So the claimants are concerned about the compliance with Bank document OP / BP 4.01 on environmental assessment (EA). (Request for investigation 2011 p.2-3)

The fourth sub-case is based on the claim from Temirlanovka citizens. On the 19th of October 2010 the claimant sent an email request to check if the highway in Temirlanovka complies with EIA (Environmental Impact Assessment) report and on 29th of October the claimant from NAIR organization gave his concerns to the Natural Resources Department in South Kazakhstan Region. On the 1st of November another member of NAIR sent a similar request. On the 25th November the main claimant asks for reply to his requests from the Natural Resources Department. On the 7th of December the claimant was informed that he will get a response within 3 month. On the 13th of April 2011 the claimant met with the World Bank staff and is informed about compliance of the road project with EIA, but the claimant is still not satisfied. (Inspection Panel 2011 p.16) The request states that the Environmental Impact Assessment (EIA) report on the bypass highway close to Temirlanovka does not meet the requirements for the assessment of the impact of the future road activity on the environment, based on the Bank's policies on the environment. The claimants argue that their right to participate in decision-making processes on environmental issues was violated due to the

restriction to express opinion during the state environmental review. The requesters claim that the EIA report on the bypass of the Temirlanovka village does not contain neither results of the analysis nor an action plan for mitigation of the environmental harm. They say that the EIA report does not take into account the local flora and fauna, including the Tugai forest. They also add that the implementation of this project will have the most direct and irreversible impact on the Tugai forest and the Arys river ecosystem. They also state that the EIA report does not adequately assess possible floods like flooding in February 2009. (Request for investigation 2011 p.2-3) Such alleged violations, based on the Claimants arguments, constitute non-compliance with the Bank's policy on EA polices and raises questions in the context of the "Bank's Policy on Access to Information and the United Nations Economic Commission for Europe's Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the Aarhus Convention)". The applicants attached to the Request for inspection a document containing a statement of problems and proposals related to the conduct of the EIA, which they also sent on October 19, 2010 to the Bank's Management. (Inspection Panel 2011 p.6)

Management response

In the response to the Request, the Management answered to every single sub-case. Concerning the Turkestan sub-case, the Management notes that a Resettlement Action Plan (RAP) has been adopted in which applicants are recognized as "potentially affected by the Project" and adds that the amount of compensation is to be determined based on the size of the property needed from the citizens for implementation of the South-West Roads project. The Management also indicates in its Response that the Road Committee takes an active part trying to solve the problem by involving "high-level officials of the Project and representatives of the local administration. The Management also indicates that the Bank informed the Road Committee that the amount of compensation is need to be re-evaluated based on the actual damage that might be caused to locals, taking into account the inflation that may have occurred since the initial assessment. (Bank Management Response 2011 p.6) As for Sairam case, Bank Management claims that during the site visit in August 2011, Bank's representatives were informed that the contractor placed the equipment and started working on land plots that were still in private ownership, but the conditions for compensation at that time were a matter of dispute and compensation has not been paid yet. The Management claims that the incident continued only for a day and the work consisted

mainly of leveling the site and removing the topsoil. The Claimants do not report any significant damage; therefore, no further action is required regarding this incident. (Bank Management Response 2011 p.7)

In the Yntymak sub-case, the Management stated that the Bank as well as the Road Committee is actively taking part in solving the questions regarding the concerns of the citizens. According to the Management, during a recent visit to the site in August 2011, the Bank's representatives determined that due to the limited space and narrow corridor of the highway route, the likelihood that redesign of the route to ensure compliance with the highway design standards and to meet the expectations of local residents, is very low. The Management is further proposing some possible options for reducing or mitigating environmental risks. However, the Bank cannot say with certainty that the respective project can be done without additional land acquisition and relocation of residents. Therefore, the Management confirms that it will provide consultation as soon as a revised version of the design is ready. (Bank Management Response 2011 p.6)

Coming to the last sub-case in Tamerlanovka, the Management agrees with the statement of the Requester that in given EIA document several environmental problems directly related to the construction of a bypass road in the area are not covered. Bank Management indicates that the current version of the EIA is predominantly general; lacking a description and analysis of local conditions and features. The Management considers the need for effective and timely discussion with local population, but in order to conduct such consultations there should be a good quality document. The Management also claims that the Bank did not approve this version of the EIA, but after finalizing and improving the quality of the Environmental Impact Assessment to a level acceptable by the World Bank, this document should be publicly discussed with local population. Management believes that the norms of document OP 4.04 can only be applied if Temirlanovka highway project assumes a potential impact on natural habitats. However, since the proposed construction place is located in close proximity to the settlement center, the state of the river and the adjoining land has been already significantly deteriorated as a result of human activities. (Bank Management Response 2011 p.7)

Inspection Eligibility Report

The Board studied the Request and Response of the Management and the member of the Panel Alf Jerve and Senior Operations Officer Serge Selwan visited Kazakhstan from

September 26 to October 1, 2011. During the field trip, Inspection Panel representatives visited the city of Turkestan, the settlements of Sairam, Yntymak and Temirlanovka and met with various claimants. Representatives of the Panel also met with Government officials in Astana and Shymkent and officials of the local Administration (Akimat) in Turkestan. In addition, representatives of the Panel met with the staff of the World Bank office in the country. And the Inspection Panel confirms that the Bank was aware of the Requesters concerns about the impact of the Project on them and their community and that, at the time of the Request, the Applicants were not satisfied with the response of the Guide. The Inspection Panel also made its own observations based on each sub-case. (Inspection Panel 2011 p.9)

As for the sub-case in Turkestan, the Inspection Panel had meetings with both the Requester and local Administration. During the meeting with the Claimant representatives of the Panel received information that the Requester did not have the necessary technical passport for the building, which could not be issued due to the lack of a proper document confirming the ownership of this land plot. And depending on the decision taken on the dispute, the property can be assessed in different ways; therefore, it was impossible to award compensation. Both the Claimant and the representatives of the Administration (Akimat) are willing to resolve the dispute. It was also accepted that the dispute is not about the ownership of the land, but the problem is in determining the amount of area that is in ownership of the Requester. If it is determined that such area is smaller in size than the site occupied by the Claimant at present, the surplus will be transferred back to state ownership. So this dispute should be solved in the court. Besides, local administration (Akimat) confirmed that they are aware of the Action Plan of the World Bank on Resettlement agreed in South Kazakhstan Region by the Government and the Bank. This Plan in its turn specifies the conditions and rights to receive payments due to involuntary resettlement, which is not stated in the legislation of Kazakhstan. Taking into account the need for advancement in the implementation of the Project, the representatives of Administration informed Panel representatives that they will support the Claimants in obtaining a court order, where their rights would be explained. (Inspection Panel 2011 p.11)

In the sub-case in Sairam, during the field trip, Inspection Panel members found out that the contractor had made some minor work on agricultural land of Requesters, who has not yet received compensation. Officials involved in the Project in Shymkent informed the Panel that seven of the eight Requesters had agreed on compensation and received appropriate amount of money. For the eighth owner the payment was postponed due to complexity of assets

evaluation. So all in all, during the field trip, the Panel ensured that seven Claimants received compensation and were satisfied with it, the eighth also received compensation, but said that he should have been paid more. (Inspection Panel 2011 p.13)

In the Yntymak sub-case, Project officials informed the Panel that the new project for Yntymak will take into account proposals for narrowing down the lanes and reducing the distance between both lanes of the highway in order to make more room for installing noise protection screens and/or planting trees. Representatives of the Inspection Panel were also informed that the new project will be completed by the end of October or by early November 2011. Besides, during the field trip, the Panel members met with a large group of members of the neighboring community in Yntymak, including some Requesters. The Panel notes that most of the participants of the meeting were either owners or managers of enterprises located along the road in Yntymak. So they are mostly concerned about the problem of safe access to their businesses and parking lots they currently have. Many also expressed concern about the safety of their children when they cross the highway; or when climbing through soundproof fences if they are constructed. Most people at the meeting, whose interests were affected by the Project, expressed the wish that the fence would consist of trees and bushes, which should be built between the road and their shops. They also expressed their willingness to be consulted when discussing a new project. More than that, during the visit, the Panel was accompanied by a project management consultant, who promised to the members of local community to express their concerns and wishes to the road designers. He also said that once the project is completed, it will be submitted for consideration to community members, and they will have another opportunity to express their opinion about the project. (Inspection Panel 2011 pp. 10-11)

3 request

On July 31, 2014, the Inspection Panel has also received a third complain, which raised concerns related to the South-West Roads: Western Europe-Western China International Transit Corridor (CAREC-1b & 6b) Project. The complaint was sent by a single person trying to raise concerns about the decision of a local court.

The claim stated that based on the court decisions, the Agreement signed by him and the Department has been declared invalid in terms of compensation. So now the Requester has to return money for the compensation back to the state, at the same time he lost his property, which is now in state's ownership. The claimant's lawsuits to return his lands are not

satisfied by the court due to the fact that there is a Western Europe - Western China highway built and operated on his land plots and it is impossible to reverse this process. Meanwhile, based on the court's decision, currently, the Government withholds 50% of the claimant's pension to repay the amount that he received as compensation as a result of land acquisition. So in his request the Claimant asked the Inspection Panel to assist in resolving these acts by the Prosecutor's office in Sairam district. (Request for investigation 2014 pp.1-2)

Based on the Inspection Panel decision, current status of the third request for Inspection of the South-West Roads: Western Europe-Western China International Transit Corridor (CAREC-1b & 6b) is marked as non-complaint with the procedures of the World Bank and the Inspection Panel and as not meeting the admission criteria for investigation by the Inspection Panel. However, the Panel still shared the request with the Management for any further response. (Kazakhstan: South-West Roads 2014)

Conclusion

This chapter summarizes the activity of the Inspection Panel and its interaction with the World Bank Management based on the three cases: No. 66, 74 and 96 on South-West Roads project in Kazakhstan.

Above all, based on the fact that after the first and the second requests, the claimants were satisfied with the results, one can say that the Inspection Panel fulfilled its purpose of accountability mechanism of the World Bank by attracting attention of the Management and solving the claimants' problems.

It was noted in the Lessons Learned article by Kay Treakle, Jonathan Fox and Dana Clark, the tendency showed that the Management was responding defensively, trying to deny violations of any policies by challenging the claimant's eligibility and in some cases, the Panel's findings. (Treakle, Fox and Clark 2003 p.254) However, based on the cases mentioned above this trend was not noticed. Even though, the Management did not claim its failure to comply with bank policies in their response, it was not trying to deny any responsibilities. More than that, the Management was not trying to challenge any eligibility. On the contrary, after the request for Panel investigation, the Management made several field trips trying to solve any issues and problems arising among the local population. They arrange several meetings with the claimants and invited other citizens affected by the

construction of the road to discuss the process and consequences. So the communication problems noted as a problem in the article by Treacle, Fox and Clark regarding the field visits were also mitigated.

However, based on the cases, my experience was that the claimants largely lost control of their cases after submitting requests to the Panel. As stated in the article by Clark, once claimants file a request for inspection, they lose the control of the process. (Treacle, Fox and Clark 2003 p.254) In fact the claimants were only contacted by the Management and the Inspection Panel during the field trips. Based on the first case, after submitting the claim, to get a notice of registration of the case, it took almost three months, then around a month to get a response from the Management and then another month till receiving the Report and Recommendations by the Inspection Panel.

All in all, positive project-level impacts were noticed based on the first and the second request. As for the third request, it was not even accepted by the Inspection Panel because it did not meet admissibility criteria. I find this case odd due to several reasons. On the one hand, the claimant did not bother himself to read at least the main admissibility criteria, that there should be at least two affected people requesting investigation. Besides, the claimant did not mention which policies of the World Bank were violated. On the other hand, one can also claim that the Inspection Panel did not provide as much information to the claimant as it could, meaning that the IP just determined that the request did not meet the Panel's admissibility criteria. However, the case of land segregation, repayment for it, and after that asking for repayment looks suspicious and requires investigation. So, the Inspection Panel could have been one of the most effective bodies to address this issue and try to resolve it and help the claimant to get what belongs to him by law. However, due to the lack of information and lack of state's opinion as well as the court decision on that case, it is not that clear why such unfair doings happened to the claimant.

I also had an impression that the Inspection Panel strictly followed the rules and procedures it has. From the reports of the IP and based on the findings of the field communications, I had a feeling that the Inspectors were trying to stay neutral both to the local citizens and the local governments as well as to the Management. Even though, it was noticed in the report that the Management didn't comply with several policies, it was also stated that the Managers of the World Bank managed to resolve the issues. Nevertheless, I find the presence of such a control and accountability body in the World Bank institution necessary and very useful because it

can force the Management to comply with the Bank's policies, as well as protect local affected population by accepting and reviewing their claims and conducting investigations. The second case, showed that precisely. The claimants felt that their rights were violated and they tried to solve their problems without making a request for investigation of the Inspection Panel, by appealing to the Management and local government. However, those two bodies were of no use to solve the problems, so the request to the Inspection Panel helped most claimants to get what they wanted.

Apparently, there were no more protests going on at all and the majority of claimants were really happy with the results. However, there was still some critique in local newspapers claiming that as a result of the project implementation, more than 600 remarks were revealed by experts during the inspection of the road construction, in which 642 people from 63 settlements participated, as well as 1461 employees of 12 construction companies. Nevertheless, not all the remarks were taken into account by the project managers (Tengri News 2013). Besides, in Aktubinsk region eyewitnesses noticed that the asphalt was removed from the road which was without obvious defects. According to the newspaper, people claimed it to be a clever plan for money laundering by the government. According to eyewitnesses, a decent road was spoiled on purpose. As a result, shortcomings were discovered at 40 kilometers of the road, and it will cost government treasury 663 million Tenge (1.66 million Euros) (Tengri News 2017). Furthermore, article in the NUR.KZ newspaper claimed a theft of 68 million Tenge (170 thousand Euros) due to violation of the rules of public procurement when determining the provider of services; overestimation of the project cost when developing estimated design; presence of "kickbacks" to government officials and procuring building materials of a lower quality (NUR.KZ News 2016)

From the cases described above I summaries that World Bank's institutional culture has changed and the Inspection Panel has been accepted and respected by the World Bank Management. More than that, the presence of the Inspection Panel in the World Bank is needed to control the Management and to hold it accountable. Without the Inspection Panel activity, projects of the World Bank would bring more social, economic and environmental harm to indigenous people and project affected population. Based on the researched case, the Management was not trying to obstruct the process lead by Inspection Panel and the IP seemed to be independent from the World Bank Management. Finally, the IP has led to more social and environmental awareness amongst World Bank staff and reduced the number of projects with obviously disastrous consequences.

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