

**Kosovo and the World Bank Inspection Panel:  
Can the affected be represented by the civil society?**

**A Case Study of the IP Cases No. 78. and No. 103.**



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## **List of abbreviations**

BIRN	Balkan Investigative Reporting Network
CLRP	Cleanup and Land Reclamation Project
FIQ	Forum for Civic Initiatives
GAP	Institute for Advanced Studies
INDEP	Institute for Development Policy
IP	Inspection Panel
KOSID	Kosovo Civil Society Consortium for Sustainable Development
KPP	Kosovo Power Project
LPTAP	Lignite Power Technical Assistance Project
RP	Resettlement Plan
RAP	Resettlement Action Plan
RPF	Resettlement Policy Framework
SAF-CLRP	Second Additional Financing for the Energy Sector Clean-Up and Land Reclamation Project
SESA	Strategic Environmental and Social Assessment
SMELT	Stepwise Mining Expansion and Land Take
WB	World Bank
KEK	Kosovo Energy Corporation

## 1. Introduction

The World Bank (WB) Inspection Panel (IP) was founded in 2003 as an independent body of the WB aiming to monitor whether the institution complies with its own policies and procedures. The peculiarity of the IP lies in the possibility that two or more individuals can file a claim in case they suspect the WB does not comply with its own policies and procedures when implementing a project. The majority of the claims are filed to the IP as a result of infrastructure development projects. The cases of Kosovo from 2012 and 2015 are concerning the social and environmental impacts of the Kosovo Power Project (KPP), a coal based power plant and its accompanying mining operations. Thus, the Kosovar context is chosen as a case study of the study because it fits into the trend of occurring policy violations along infrastructure related investments.

The question of energy sector, especially when it comes to discuss the electricity production has been an intensely discussed issue in Kosovo since the declaration of independence in 2008 (Hashani and Shllaku, 2015: 5). Near the entire electricity production of Kosovo stems from thermal plants which burn lignite, one of the lowest quality forms of coal (Uvalic, 2012: 137). What makes the situation with the newly planned coal power plant complicated is that the coal reserves of Kosovo are located on a broad, densely populated area with highly arable land; therefore its exploration requires involuntary resettlement from the residing population (Hashani and Shllaku, 2015: 10).

Individuals and NGOs, among others the Forum for Civic Initiatives (FIQ), GAP Institute of Advanced Studies (GAP) and the Institute for Development Policy (INDEP) from Kosovo have filed two complaints to the IP in 2012 (Case no. 78) and 2015 (Case No. 103) in connection with the planned construction of the coal power plant and the field-works preceding it, with a great concern to involuntary resettlement (Inspection Panel, 2012a; 2015b). The claims affect the power plant's two, widely accepted negative consequences: its environmental impact is adverse, and the involuntary resettlements are deteriorating the livelihood possibilities of the population in the surrounding area (IEEFA, 2016: 24). According to the claims, the WB has not fulfilled its duty to satisfactorily monitor the resettlement, and due to their "improper technical assistance" the displacement was not in compliance with either international or WB standards (Inspection Panel, 2015a: 3)

Nonetheless, giving voice to the individuals faces two vital challenges. At first, NGOs are present in the application, because without their technical knowledge individuals could not file their claims (Treakle et al., 2003: 266); therefore, the attempt for interest articulation of

local citizens becomes indirect. Secondly, in the post-conflict Kosovo, often deeply convinced by the neoliberal agenda pursued by the widely present international actors, it is doubtful that all of the affected individuals are able to articulate their interest even with the representative assistance of NGOs (Uberti et al. 2014a: 431). Thus, this research<sup>1</sup> attempts to answer the general research question: *To what extent can the NGOs act as a voice of the affected people and have an impact on the World Bank, through the Inspection Panel in the case of the Kosovo Power Project?*

To answer the research question this paper is structured as follows: firstly, the WB's involvement in Kosovo's energy sector is described. Following that, the IP cases of Kosovo are explored based on the Government of Kosovo's and the WB's documentation. And finally, building on semi-structured interviews done in Pristina with involved civil society actors, the research investigates the representative ability of the NGOs in the IP process through the case study of the Kosovar context.

## **2. Description of the World Bank's involvement in Kosovo's energy sector**

The WB is involved in three energy related projects in Kosovo: the Lignite Power Technical Assistance Project (LPTAP), which prepared the field for a new coal power plant; the KPP, which is about the construction of that power plant and finally, the Cleanup and Land Reclamation Project (CLRP) that deals with the environmental consequences of coal based energy production.

Based on the problems and needs of Kosovo's energy sector the EB of the WB approved on 12<sup>nd</sup> October 2006 an initial grant of USD 8.5 million for consulting as part of the LPTAP (KOSID, 2017a: 2). The LPTAP aimed to assist the design of an environment that attracts private investment developing lignite mines and build new capacity in Kosovo (World Bank, 2012c: 25). To promote investment, the LPTAP supported the government with EUR 1.2 billion in strengthening the policy, legal and regulatory frameworks of new private investments in the energy sector and to help the Government in finding investors to develop lignite mines and to build a new coal power plant (World Bank, 2012c: 3). Therefore, the LPTAP is involved in the preparation process of the new power plant and the lignite mines (Béér et. al., 2012: 4).

One of the most significant contributions of the LPTAP was the preparation of the draft regulation of the Strategic Environmental and Social Assessment (SESA) in 2008 and

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<sup>1</sup> This study is based on a Master Thesis of the author from September 2017: „*Kosovo and the World Bank Inspection Panel: Can the subaltern speak?*” The Master Thesis was supervised by Prof. Dr. Aram Ziai and Dr. Franziska Müller, Department of Development and Postcolonial Studies, University of Kassel.

the Resettlement Policy Framework (RPF) for Hade village in 2011 in consistence with WB regulations on involuntary resettlement (ibid: 4; Inspection Panel, 2012c: 16). The SESA made a survey in 1580 households in nine project affected villages and hold 57 community meetings (Inspection Panel, 2015b: 9). The LPTAP was closed on 31<sup>st</sup> December 2011 with a total project cost of US\$ 10.5 million (World Bank, 2012c: 25).

The second and most important project concerning the energy sector in Kosovo was the KPP. The government of Kosovo in 2012 requested the WB to support the construction of a power plant that would use domestic lignite coal as a fuel to produce electricity under the framework of the WB KPP. The KPP has three explicit aims: *1. the rehabilitation of Kosovo B Power Plant; 2. construction of a new coal-lignite power plant, the Kosovo C also known as Kosova E Re; 3. the development of a new lignite coal mine in Sibovc* (Inspection Panel, 2012c: 14). According to the project description of the KPP the goal of any future WB support for a coal power plant must imply a reduction in environmental impact of electricity production and strengthen the energy security of Kosovo (World Bank, 2012b: 2).

This argument might make one wonder how a new coal power plant can reduce the environmental impact of electricity production; however, in the case of Kosovo the current production based on the old Soviet technology has not been renovated in the last decades. Its replacement with a modern coal power plant would definitely not be as environmentally friendly as green or hydro energy, but it would improve the current situation (Béér et. al., 2012: 1). The decommissioning of the technically backward Kosovo A Power Station should have happened in Kosovo until 2017 according to the EU facilitated regional Energy Community Treaty; however, as the new plant has not been built yet, the Kosovo A not on full capacity though, but still functions (World Bank 2012a: 1-2; World Bank, 2012b: 2).

The project description of KPP states that from all energy resources in the country the lignite coal is the cheapest; therefore the coal power plant seems to be the most cost-effective solution for assuring the electricity supply of the citizens of Kosovo. Currently, the Kosovo A and Kosovo B plants are responsible for the electricity production in Kosovo. The proposed KPP is supposed to replace the Kosovo A Power Station with a repaired Kosovo B Power Station and a new power plant. The KPP also includes the development of the Sibovc South Lignite Mine to assure the fuel needs of the electricity production (World Bank, 2012b: 2). This is the point where the WB LPTAP is connected to the WB KPP, since the LPTAP is supposed to create the knowledge base and the regulatory environment for the Sibovc South Lignite Mine. To evaluate the risks and benefits of the desired plant, the WB stood up an

External Expert Panel to support the Bank's decision whether or not to contribute to the realisation of the KPP (World Bank, 2012a: 2).

According to the findings of the External Expert Panel the KPP would definitely improve energy security in Kosovo while reducing power shortages (Béér et. al., 2012: 10). According to the project website of the KPP, the estimated cost of the constructions would be US\$ 2000 million, from which the WB's contribution would amount only to US\$ 40 million (World Bank, 2017a).

The third project relevant to the energy sector and the IP cases of Kosovo is the CLRP. The WB has focused on the long-term development of the energy sector in Kosovo and the CLRP attempted to lay the grounds of lignite based electricity production in the country. The word "cleanup" in the name of the project refers to the cleaning of the electricity production process that leads to severe environmental damage in Kosovo at the moment. The old power plants, Kosovo A and Kosovo B instead of backfilling the used dry coal ash to the old mines, place it in an open dump site which causes significant air pollution. Therefore, the WB CLRP aimed to address the issues related to open dumping of ashes on land, to empower Kosovo Energy Corporation (KEK) to free land for community development goals and to remove the Kosovo A ash dump. As a further goal, CLRP also aimed to build capacity at KEK for further environmentally friendly investments (World Bank, 2017b: 1).

The project which ran between 2006 and 2017 and enjoyed the support of a US\$ 14 million grant from the WB did not reach its ultimate goal to remove the Kosovo A ash dump from its place; however, it was successful in directing 100% of currently produced ash from Kosovo A to an old mine which reduced air pollution in the region. What more, it reached the reclamation of 68% of the land for community development purposes (ibid: 15).

In 2013 the WB began a new project called Second Additional Financing for the Energy Sector Clean-Up and Land Reclamation Project (SAF-CLRP) aiming to address environmental issues related to the still open ash dumps on land and to enable KEK to free more land for community development purposes. The project attempted to strengthen the impact of the CLRP with an additional funding of USD 4.2 million and was closed in 2017 (World Bank, 2017c).

### **3. The Inspection Panel Case No. 78 (2012)**

In 2012 the representatives of Darshishtë, Lajthishte/Sibofc, Cerna Vodica, Hade and the town of Obiliq filed a complaint to the IP lamenting the consequences of the LPTAP and the KPP. The complaint was also supported by the civil society organisations INDEP, GAP

and the FIQ. The submission of the IP claim in 2012 did not happen directly by the inhabitants affected by WB projects. The representatives of the affected villages located in the Municipality of Obiliq authorized the civil society and nominated Mr. Nezir Sinani from INDEP to represent them in the IP complaint process (Inspection Panel, 2012c: 7).

The subject of the claim was the social, economic and environmental impact of KPP and LPTAP. According to the request for inspection, the community had already perceived the impact of the works and they had also notified the WB staff; however, they did not react to their complaints. The claim explicitly mentioned which WB policies have been violated by the project:

*"OP 4.01 – Environmental assessment;*

*OP 4.12 – Involuntary displacement*

*OP 10.04 – Economic evaluation*

*OMS 2.20 – Project evaluation"* (Inspection Panel, 2012c: 1)

According to the request for inspection the complaints can be split into different categories, ranging from the environmental pollution, through the water shortages and the economic impact to the involuntary resettlement, lack of transparency and impact on employment (Inspection Panel 2012c: 2).

The environmental concern presented to the IP touches upon the pollutants released by the current and the future power plant. The KPP is planned to be implemented in Obiliq where the currently running Kosovo A and Kosovo B power plants are situated. This municipality is seven kilometres far from the capital city Prishtina; therefore the plant would affect the lives of more than 500.000 people. The complaint argues, that if the KPP was realised the situation would significantly worsen because a modernised plant and a new plant would imply two consequences: increased life span of lignite based electricity production and a greater capacity (Inspection Panel, 2012c: 19).

As a further argument against the KPP, the complaint brings up the possibly multiplying water shortages. The Iber Lepenc canal provides the supply of Prishtina, Obiliq, Mitrovica and Vushtrri and also of the two running power plants. In case of the expansion of capacity, the electricity production would need more water that would make water shortages severe in Prishtina (Inspection Panel 2012c: 3).

The economic layer of the claim discusses the state of Obiliq as a zone of special economic interest. About 70% of the Obiliq territory has been a zone of special economic interest since 2004. It means that the area has to be used for lignite mining purposes; therefore, the local inhabitants are not allowed to extend their households or develop new



ones. Furthermore, some of them in Hade village are not included in any displacement or resettlement programs which would locate them in an area where they could enjoy their rights concerning household development; thus, they are left in limbo in an area where living conditions are extremely poor (Inspection Panel 2012c: 3).

Under the LPTAP's initial stage the KEK started the dislocation of some Hade inhabitants to free place for the KPP. The locals needed to be resettled without Kosovo having any comprehensive national displacement policy, a resettlement plan (RP), in line with WB displacement standards. Although under the LPTAP the SESA was created, it fails to meet the criterion determined by OP 4.01 of the WB as follows: *“inadequate consideration of environmental, health and social impacts; inadequate consideration of viable alternatives; and inadequate and unrepresentative consultations with affected communities”* (Inspection Panel, 2012c: 9). As a consequence, the practice of resettlement contradicted WB policy and resulted in low compensation.

According to the civil society actors mentioned in the claim, the WB did not consider thoroughly enough the alternatives to a power plant. However, the civil society based on cooperation with the Berkeley University of California found that alternative sources would cause less harm to the environment and would create 30% more jobs to locals (Inspection Panel 2012c: 5). Based on the aforementioned arguments, the representatives asked the IP to review the complaint and request the EB of the WB to address the concerns related to the affected projects (Inspection Panel 2012c: 5).

To summarise, here is the recap from the IP itself: *“The Requesters state that they are “concerned about the very serious social, economical and environmental impacts related to KPP and LPTAP” and that they have “already felt the impacts of these projects and are worried about what will happen after KPP has been built”* (Inspection Panel, 2012d: 2).

Following the request for inspection the Management gave its response on 21 May 2012. The response states that the KPP is currently at the planning stage; therefore it would be early to decide on an inspection. The Management also made clear that according to their perception there has been no policy violation from the WB's side and the request for inspection is based on already existing problems and on assumptions that the WB would not follow its own policies and procedures. Furthermore, the issues mentioned are outside of WB mandate. Thus, even if they are deteriorating the livelihoods of the population, the WB does not have the mandate to intervene because it belongs to the responsibility area of another institutions or the government (Inspection Panel, 2012d: 7).

After reviewing the request and the Management's response the IP members took a field visit in Kosovo from 31<sup>st</sup> May to 2<sup>nd</sup> June 2012. The IP team met the requesters, their representative, community members, WB staff in Kosovo, KEK officials, officials of the Ministry of Economic Development and the officials of the European Union and the World Health Organization. Thus, the Panel's recommendation to the EB is based on the request, the Management's response and on the data gathered during the field visit (Inspection Panel, 2012d: 11).

The IP's assessment came to the conclusion that due to the early stage of the KPP there are no Bank activities relevant to the complaints raised in the request for inspection. As a result, the IP did not recommend an investigation on the WB's compliance with its policies and procedures (Inspection Panel, 2012d: 22). Following the IP's recommendation, on 11<sup>st</sup> July 2012 the EB approved the decision about the complaint that there is no need for an investigation at this stage of the project preparation (Inspection Panel, 2012b).

#### **4. The Inspection Panel Case No. 103 (2015)**

The IP's recommendation from 2012 suggested the NGOs in Kosovo to come back to the IP at a later stage of the project, so the submitters of the claim did not give up. Thus, after 2012 NGOs, from think tanks through media organisations to grassroots organisations working with local communities formed the Kosovo Civil Society Consortium for Sustainable Development (KOSID). The goal of KOSID, is to promote development projects around clean energy, better environment and the mitigation of climate change (Balkan Green Foundation, 2017).

The request for inspection was registered by the IP on 30<sup>th</sup> June 2015 which concerns the SAF-CLRP, LPTAP and the KPP. The claim was submitted by three local community leaders with the support of KOSID and its two member organizations, INDEP and FIQ (Inspection Panel, 2015b; Inspection Panel, 2015c: V). The claimants nominated Ms. Dajana Berisha from the FIQ as their representative for the process (Inspection Panel, 2015e: 1). The request mainly concerns the Bank's role in assisting the regulatory and legal framework for resettlement in Kosovo under the LPTAP; the Bank's monitoring role of the resettlement in Hade village under the SAF-CLRP; and the resettlement under KPP (Inspection Panel, 2015d: 1). The requesters are unsatisfied with the loss of land, livelihoods and well-being, with the forced displacement and the restrictions in economic development (ibid: 3-4).

There are a number of citizens mostly in the Municipality of Obilic close to the capital Prishtina who have been forcefully resettled due to the preparation of mining operations of the

KPP (Inspection Panel, 2015b: 1). The affected people live on a 16km<sup>2</sup> territory in 26 agricultural settlements. According to the report attached to the request for inspection in 2015, the preparatory actions to involuntarily resettle more than 7.000 people do not happen according to international involuntary resettlement standards (Inspection Panel, 2015b: 7).

The cause of the problem is the WB's improper technical assistance provided to the Government of Kosovo regarding the preparation of a policy, regulatory and legal framework for involuntary resettlement (Inspection Panel 2015b: 1). The claim to the IP concentrates on the preparation works of the KPP which was designed under the LPTAP. The creation of a special economic zone was the WB's recommendation but it harms the rights of citizens for economic and land development: taking away their lands and limiting their lives and livelihoods happens without compensation, restoration of livelihoods and proper notification about activities. These works have already caused negative social and economic consequences, for instance the depopulation of their area as a result of the inability to accommodate the growing families and expand their houses (Inspection Panel 2015b: 2).

At its core, the claim refers to the WB OP 4.12 which states that involuntary resettlement should be avoided if possible, but if it is not the case, it should be carried out by restoring standards of living and livelihood to pre-displacement levels and the affected have to be allowed a meaningful participation (Inspection Panel, 2015b: 6). If forced resettlement is not carried out along those lines, there is a risk of outcomes such as unemployment, homelessness, loss of income earning assets, food insecurity, loss of land, health risks and the disruption of educational activities. These risks might create a new type of poverty compared to the old one and worsening the situation of resettled citizens (Inspection Panel, 2015b: 8).

According to the OP 4.12 there needs to be a RP before dislocating the people from their homes. In 2009 a RPF was approved which establishes a 30 year compensation framework for the resettlement. The possible compensation according to the RPF can be materialized in cash, new residential sides or in a land for land form (Downing, 2014: 14). As part of the RPF, a Resettlement Action Plan (RAP) was approved for the Shala neighborhood of Hade village in 2009 as well which was the first time that the KEK at least attempted to follow international standards (ibid: 16). However, it only concerned the Shala neighborhood and a more comprehensive RP for the entire resettlement area is still missing from the Government's side. This is a huge deficiency of the project because even WB reviews admit that projects with an RPF are prone to neglect mitigating impacts compared to the ones with a comprehensive RP (ibid: 17).

The harm caused is the most significant and visible next to Hade village where the state-owned Sibovc mine is expanding. The situation in times of submitting the 2015 claim was the same as it used to be in 2012: one part of the village has already been resettled and the remaining part is suffering due to the dust, noise and smoke coming from the mining operations. Ragip Grajcevcic a local who helped in organizing the claim in 2015 explained Climate Home that the WB promised them better livelihoods after resettlement, but what they got resulted in poorer economic possibilities. In “New Hade”, a village built in 2014 for the previously dislocated persons, a school, a medical clinic and a cemetery were promised to the citizens, but none of them have been built yet. Until 2016, 22 families moved there and half of the new apartments are empty. With the exception of the main road, none of them are sealed, the houses lack electricity and the sewage system is not complete. The people who are coming from an agricultural background do not have the possibility to have a garden and keep cows or hens, which is a great disadvantage in a country with high unemployment rate. In spite of this, Arben Citaku the secretary of the Ministry of Spatial Planning claims that the status of citizens has been preserved, although not improved by the resettlement (Climate Home, 2016).

The Bank Management gave its answer to the request for inspection on 27th July 2015 which did not really differ from the one given in 2012. According to their answer all of the harm revealed in the request are stemming from non-WB supported projects and from mining activities prior WB engagement. In line with this the Management did not recommend any actions to be taken (Inspection Panel, 2015c: V-VI).

Following the Management’s response the IP took a field visit to Kosovo from 3<sup>rd</sup> August to 6<sup>th</sup> August 2015 and they submitted their recommendations on 2<sup>nd</sup> September 2015. The main task of the IP after receiving the new complaint in 2015 was to determine whether there was new evidence presented in the new request compared to the old one (Inspection Panel, 2015e: 2).

During the visit they held meetings with representatives of the Government, KEK, the Municipality of Obiliq, the EU and the EBRD with the support of the WB Kosovo office. The IP report notes that the request meets all the formal criteria prescribed in the rules and regulations of the Panel (Inspection Panel, 2015e: 9). Based on the findings, the people in Hade village can now be separated into three groups based on their different complaints: the first group laments their insufficient living conditions in New Hade which village has been built for them by the Government. The second group of people experiencing harm is the one still living in Hade in the special economic zone and cannot expand their houses or build new

ones. And the third affected group of community members is the one being resettled in 2004 on an emergency basis from Hade. To be clear, before 2004 all of these groups used to constitute one single village, but with time as a result of the Stepwise Mining Expansion and Land Take (SMELT) strategy<sup>2</sup> they have been divided in a stepwise process (ibid: 11).

The IP came to the conclusion that the WB assisted the Government through the LPTAP to develop a safeguards framework for resettlement in general and the Shala RAP was being financed under another WB project, the SAF-CLRP. The LPTAP (under this, RPF, Shala RAP) and the SAF-CLRP are essential elements of the preparation works to the preparations of the KPP. Consequently, the IP observed that the harms described above could be linked to the WB's technical assistance provided over the last decade being it direct or indirect support for the proposed KPP project. Thus, the IP recommended an investigation of non-compliance with WB Operational Policies and Procedures regarding the preparation of KPP. Out of the three groups affected, the investigation concerns the resettlement of Shala neighborhood to New Hade and the zone of special economic interest, but the ones dislocated in 2004 are not mentioned at the end of the report (ibid: 17).

Reflecting on the IP's recommendations on 18<sup>th</sup> December 2016 the WB Management submitted its report with an action plan. The Management admitted the shortcomings of their assistance to the Government when it comes to both, the deficient RPF with lack of guidelines on the valuation of properties and the delays occurring at the resettlement of population to New Hade. Therefore, the WB will advise the Government on a renewed RPF which must be consistent with OP 4.12 and they ensure that the improvement of living conditions and livelihood possibilities in New Hade will be the way forward (Inspection Panel, 2015g: V). On 15<sup>th</sup> December 2016 the EB of the WB approved the action plan but it made clear that the decision whether the Bank would support the KPP has not been made yet (Inspection Panel, 2015h).

## **5. The affected groups in the context of the IP cases in Kosovo**

The community mainly affected by the project, the people who used to live in one single village called Hade before 2004, can be split in three categories: the ones resettled in 2004 under inhuman conditions, the ones stuck there in the zone of special economic interest and the ones resettled to New Hade in 2004 (*Interview 4, 2017*).

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<sup>2</sup> SMELT strategy definition:

*„Unlike hydropower displacements that forcefully relocate entire villages at once, the KEK mining slowly amputates parts of settlements, a few houses and sometimes a neighborhood at a time. Operating in a densely populated area, areal photos show this SMELT mining development strategy has been to move mining operations in close proximity to settlements, sometimes within a few hundred meters” (Downing, 2014: 8)*

The first group concerns the ones resettled under emergency evacuation in 2004 which included 158 families with 664 persons (Inspection Panel, 2015f: 31). According to their complaints, they should have been resettled to the newly constructed village New Hade as well but in 2004 that place did not exist. As a consequence of the wrongdoing, 45 families are still living in temporary housing while others in Pristina are renting a place on their own costs (Inspection Panel, 2015e: 14; Inspection Panel, 2015f: 31). The resettlement was carried out in 2004 under the guidance of UNMIK police forces. For 12 days women and families were placed in tents until public housing was made available to them. One person dislocated back then explained, how chaotic the resettlement was: while he was brought handcuffed in a police car to the police station he saw his own cows wandering on the street without any plan about the future of all of the cattles (*Interview 4, 2017*). In times of the resettlement the civil society was not active in this territory, and the citizens lacked the necessary knowledge about their rights concerning proper compensation, housing and the restoration of livelihoods: they were just offered a small amount of money, which might seemed a lot for them but was definitely less than the value of their properties. However, they could not do anything against the police forces without any support in their background (*Interview 2, 2017*).

The second group of people subjected to harm is the ones living in the zone of special economic interest since 2004. They are the ones who have been told, they would be resettled one day, but due to the SMELT strategy the government does not have a comprehensive RP which would handle the situation as a whole. Rather, they decide about resettling a certain neighborhood seemingly spontaneously, and eating up the village in a stepwise process. Thus, the inhabitants all suffer from the unpredictable form of resettlement, the depopulation of the area and the noise due to the proximity of the construction works. They can neither sell their houses nor they are being resettled by the government – they are left in limbo, in a frozen life. What makes their situation even worse is that they have a ban on housing development as well because the government wants to prevent the increment of values of properties waiting for dislocation (*Interview 4, 2017*).

The people who have been living there for decades face huge problems due to their status as inhabitants of the zone of special economic interest. The biggest problem is that they are not allowed to expand their houses. As most of the families in rural Kosovo, they live in a patriarchal family model where several generations are living under one roof. Thus, the continuous expansion of houses would be needed for an undisturbed life. What more: although they can still live in their houses next to the mining works, their agricultural lands

were taken away years ago by KEK for mining. Thus, as most of them are unemployed they only source of income or food is gone (*Interview 4, 2017*).

The third group of people negatively affected by the mining next to Hade are the inhabitants moved to New Hade in 2014. Although they are resettled and do not suffer anymore from the direct pollution, noise and security problems caused by mining next to Hade, they are not satisfied with their situation (*Interview 2, 2017*). New Hade consists of some streets of houses without any accompanying infrastructure: there are no schools, markets, mosque or childcare. The water supply and electricity is problematic and the existing problems are about to be solved at the cost of the inhabitants (*Interview 4, 2017*). The inhabitants complained to the IP about the long period they needed to spend in temporary housing between 2011 and 2014 before being able to move into the new villages. After moving in, they experienced worse infrastructural conditions that they had before since the new houses lacked sewerage and in some cases water and electricity. There is no primary school near the new village and the children have to walk along a busy road if they go to the school in another village. What more, the villagers lost part of their income as they do not have a possibility to cultivate agricultural lands in New Hade which does not allow them to restore their pre-resettlement livelihood levels (Inspection Panel, 2015e: 11-13).

Considering all of these groups the most unuttered voices belong to women. The community leaders who represent their neighborhood are all traditionally men; therefore, it is complicated to measure what kind of complaints the women have. However, the existing sources and personal discussions revealed that while men are usually complaining the lack of employment and educational services, the women are concerned about health, water and security issues, especially when it comes to the security of their children (*Interview 2, 2017; Interview 3, 2017; Interview 4, 2017*). For an example women mentioned issues which are related to household work, which were never brought up by men before. When they clean the house, they cannot open their windows because the dust of the mining works would mess up their work had done before. Furthermore, they cannot hang their clean clothes outside because of the same reasons. Apart from that, their complaints usually refer to the problems with electricity and water supply in the region (*Interview 4, 2017*).

Based on the complaints project affected people face, it can be stated that there are groups among them which are subordinated in relation to the government of Kosovo and the WB. The reason for that is mainly their inability to reach out to the decision makers, their unawareness about their rights as affected citizens and their real or presumed dependence on the project. There are some of them, just like the ones working for KEK or the community

leaders who are dominant in their own environment or still benefiting from the cooperation with the project; however, there are others like the women or the unemployed farmer without land: they do not have any possibility to profit from this situation. Their voices if at all uttered, especially before the IP cases of Kosovo were not listened to; therefore their possibility for interest articulation is limited.

## **6. Representation through NGOs**

Now the question arises: can NGO's representation help the situation of the affected persons? To give an answer, the research explores the difference between the representation strategies of the 2012 and 2015 cases so that the research question can be elaborated on, which is the following: *To what extent can the NGOs act as a voice of the affected people and have an impact on the World Bank, through the Inspection Panel in the case of the Kosovo Power Project?*

At the beginning of the 2000s there was no well-coordinated civil society support behind the affected citizens, since in the post-war Kosovo the sector needed some years to recover and establish itself. In this environment the government and the WB could easily put through its will regarding the KPP because the people living in the territory were either manipulated that they would be benefited by the mining operations or did not know about their rights as victims of involuntary resettlement (*Interview 2, 2017; Interview 4, 2017*).

What is really noteworthy is the WB's role in opening a door for the civil society. Not as organized as it is today but there was a push from local NGOs already at the beginning of the 2000s. However, the involvement of the WB after the 2004 resettlements was the breakthrough for the civil society, as they recognized what kind of doors the WB's involvement would open for them. The WB's agreement to be part of the project meant that their own safeguards would be applied (*Interview 2, 2017*). This point is important to emphasize in the context of the entire IP process because the claims from 2012 and 2015 are making the WB responsible for the harm caused; however, without the WB's involvement the NGOs would not even have been able to turn to such an accountability mechanism as the IP. So then why did the government involve the WB into the picture if they were only making it difficult to implement the project? They did so because without the WB's risk guarantee they could hardly have found investors to the coal power plant, which have not been constructed yet (*Interview 3, 2017*).

Not only the citizens but also the local NGOs did not know about the existence of the IP before 2010. That year, the Bank Information Centre, a US based NGO raised their



attention to this possibility. The IP's rules and regulations require the complainants to turn firstly to the WB itself and if it does not succeed, they may ask the IP to do an investigation. Thus, NGOs from Kosovo notified the WB about the environmental and social impact of the project but their complaints were rejected. Although it was rejected by the WB, the government started to work on policy reforms and the whole energy sector became aware of the fact that there are problems with the environmental and social side of the project. At this point three NGOs, INDEP, FIQ and GAP decided to file a complaint to the IP hand in glove with local communities. Since the process was new to the local NGOs as well, they asked the Washington DC based Centre for International and Environmental Law to put the complaint together. The involvement of NGOs in general was more than necessary: most of the people in the territory have only primary school but some of the community leaders lack any educational background. After submitting the claim the IP members met the communities and the NGOs separately but the language barriers required the local NGOs assistance in translation (*Interview 2, 2017*).

The first complaint was refused by the IP referring to the early phase of project implementation, but it had an impact on the civil society and indirectly also on some affected people in the community. Throughout the process the NGOs began to form a coherent group, got to know the local communities through personal consultations, field visits and house visits. Although the NGOs themselves do not stem from the communities, they assisted the community leaders to make their voice heard. Furthermore, in 2014 the establishment of New Hade under the Shala RAP was a slight improvement in the situation of the resettled people. If we compare their situation with the ones' stuck in Hade, they are at least not anymore exposed to the contamination caused by the mining. To summarize, there were already some benefits of the refused IP claim of 2012, but neither the situation of the ones stuck in Hade saw any improvements, nor the women's inclusion showed steps forward.

The question might arise: what did happen between 2012 and 2015 that made the IP not to refuse the complaint? There are different interpretations of this achievement. On one hand according to Nezir Sinani, the NGO's nominated representative from 2012, the complaints in 2012 and 2015 were basically the same and the project did not develop from its early phase. Rather, the new IP members made the difference when it came to make a different decision on the complaints (*Interview 2, 2017*). On the other hand Dajana Berisha, the NGO's representative from 2015 – understandably – sees the difference in the design and approach of NGO representation (*Interview 4, 2017*).

From 2013 the NGOs formalized their cooperation under the consortium of KOSID and developed a triangle approach to the representation of affected people, which included grassroots, research and media elements (*Interview 1, 2017; Interview 3, 2017*). The local representatives of affected neighborhoods contacted the grassroots organization FIQ to further their campaign against the project. KOSID has nine members, from which all of them are important but among all it is notable to mention the ones mostly visible to the public: apart from FIQ with the grassroots approach, INDEP and Balkan Green Foundation provide the research angle to the triangle approach, while the Balkan Investigative Reporting Network (BIRN) is the most important in the media element (KOSID, 2017b). The grassroots organization developed a close and trustworthy relationship to the local communities and the community leaders.

It is crucial to emphasize that Dajana Berisha - the leader of FIQ and the official representative of the IP claim of 2015 from the NGOs side – was the driving force of the grassroots element. As she met the local community leaders she found herself among only men, so firstly she needed to make herself accepted and then work on the issue of resettlement. This situation was a great help for local women in the community, whose concerns and complaints became considered to a greater extent after the consultations (*Interview 4, 2017*).

It was not only the group of women who benefited from the grassroots level cooperation. Starting from 2013 FIQ held trainings for local citizens about their rights as property owners. Before the civil society engagement the citizens did not know about their rights for proper resettlement, financial compensation and employment in the project. The citizens showed a great interest toward the trainings and understood the content easily, since they had already gone through the problems raised there but they did not know their legal background. This process helped KOSID and its member organization FIQ to build trust with the communities and also to coordinate the sometimes diverging interests of the NGOs and the locals (*Interview 4, 2017*).

The NGOs were from the beginning entirely against the new coal power plant mainly based on environmental arguments. However, all of the local citizens around the coal power plant have never been cohesively against the possibility of the KPP because they saw it as a possibility for employment. Thus, the citizens rather spoke about the lack of employment, problems of resettlement and the pollution, but did not mention explicitly the need for the shutdown of mining. What they wanted was proper resettlement and employment wherever it was possible. Even though there was this mismatch of interest between the citizens and the

NGOs they have been working together and by focusing the claims on the resettlement they found a compromise. At the end, the request for inspection did not ask explicitly the shutdown of the entire project but it was focused on the harms caused by involuntary resettlement. This mode of representation obviously helps the communities suffering from improper resettlement but at the same time raises attention also on environmental concerns, that are important for NGOs such as INDEP or Balkan Green Foundation.

The grassroots element of the NGOs involvement was well complemented by the second element of the triangle approach, the research angle. This made sure that the complaints are designed professionally and all of the questions and critics can be answered and reflected upon. Furthermore, this is the element which was mostly focused on the environmental concerns.

However, the organizations knew well that research in itself can only reach certain strata of the society who are most probably already aware of the situation. Thus, to have a greater impact they needed to reach out to the public through the third angle, the media. They were well aware that the politicians and public-companies care about what the people thinks in general in Kosovo (*Interview 3*, 2017). Hence, the media element with BIRN includes covering the affected people's stories and holding TV debates about the question with the involvement of affected persons in studio talks (*Interview 1*, 2017). There are examples of showing solidarity towards the affected community as a result of the nationwide public media campaign driven by BIRN. For instance, in 2014 through a fundraising campaign NGOs collected around EUR 3.000 for citizens to buy trees and to green the environment in New Hade (*Interview 4*, 2017).

## **7. Conclusion: Can the affected be represented by NGOs?**

So what did the NGO campaign and the IP's decision bring for the affected at the end? Could they make their voice heard through the IP process? Firstly, let us briefly summarize why the WB's involvement in the project is so important for the government and then examine how the subjugated groups benefited from the process of representation.

Although the WB is accused by the NGOs with wrongdoing, it is notable that it provides the IP as an accountability mechanism. Without the Bank, the room of civil society to oppose the project would be significantly smaller. If we look at the project as a whole we see that the decision whether to start the construction of the actual coal power plant as part of the KPP is being postponed since 2004. Apart from postponing the project, the plans have been downscaled from 2100 MW to 450 MW, which is a great achievement with an eye to the

environmental campaign. The question hangs in the air: did the NGOs have a role in it or there are other reasons behind? Most probably, the NGO mobilization played a role in the constant postponing of the decision but there is more to the story. Firstly, the regional political tensions have been mitigated in the last 15 years which gives more chance for cooperation in the Western Balkans; therefore, Kosovo does not necessarily need such a huge power plant (see: Trieste Summit, 2017). Secondly, the biggest problem is that there are no sufficient funds planned for the project neither at the government's nor at the investor's disposal (*Interview 3, 2017*).

Therefore, it is hard to say whether the NGOs involvement was the decisive factor in not signing the WB contract of the project yet. However, it is clear that the accompanying NGO campaign driven by KOSID had a not yet materialized impact on the entire society of Kosovo, included the ones as well who are not directly affected by the project. At the beginning of the 2000s when everything began related to the energy sector, no one spoke about environmental and social concerns regarding the KPP. Today, not only academia but also a greater ratio of the public is aware of the dangers that future investments in coal, and its accompanying social consequences can cause to the population of the country. The television speaks about it in different programs, it is in the news, and investigative journalists visit the project field and cover its stories. Thus, people who live in Kosovo are more self-conscious in general and less prone to manipulation by the WB, US Embassy, the US State Department or anyone who is a stakeholder of the KPP (*Interview 1, 2017; Interview 2, 2017; Interview 3, 2017; Interview 4, 2017*).

Since the affected do not constitute a homogenous group, the benefits of the IP process have impacted them to a different extent. Firstly, according to the IP's findings the ones resettled in 2004 were not caused harm by the WB, therefore the Bank cannot be made responsible for that. However, the IP asked the WB to take into consideration these wrong practices at further resettlements (Inspection Panel, 2015f: VIII). Thus, as the civil society gave a greater publicity to the resettlement and as in 2014 the government built a small village New Hade to the newly dislocated people, it is expected that the ones resettled in 2004 can renegotiate their positions and apply for further compensation (*Interview 2, 2017*). Hence, their complaints did not find listening ears at the IP because of the WB's separation from the harm, but the process itself gave them the possibility to be heard and find some remedy.

The second significant group of subaltern is the ones residing in New Hade since 2014, who were not provided with the required level of livelihood restoration. The IP's decision admits that the WB did not apply OP 4.12 on Involuntary Resettlement to the

preparation of the Shala RAP and it contributed to the harm people face there. The IP recommended the advancement of construction activities in New Hade to satisfy the needs residents have and requires the stakeholders to engage with the community to provide the children safe schooling opportunities (Inspection Panel, 2015f: 52). At this point we cannot see how much the government and the WB are working on implementing their measures but the IP did what lies in its jurisdiction. Thus, the residents of New Hade are definitely in a better situation than before engaging with the IP and to say what has to be said: with the assistance of NGO representation the affected in this particular case can speak.

The third group and possibly the most severely harmed concerns the people stuck in Hade on the territory of the zone of special economic interest, while suffering from the environmental and social effects of the mining operations nearby. The IP found that the WB was not involved in establishing the zone of special economic interest, and believes that in the future the institution will work on improving the situation of the residing population. Even the IP investigation report mentions (ibid: 30) that WB financed studies motivated the government of Kosovo to expand the zone of special economic interest in 2009, but the IP still believes that the government's and the Bank's actions can be separated from each other. This is a common critique from the NGO's side towards the IP that the accountability mechanism relentlessly tries to separate the project's elements from each other, without seeing that the WB is the engine and legitimizer behind all. However, as they slice it up into small pieces, the responsibility can be assigned to others, in this case to the government – and since the IP only investigates WB actions, the government's wrongdoing does not fall under its reach (*Interview 2, 2017; Interview 4, 2017*). Consequently, if we look at the situation of the people stuck in Hade, their situation was included in the IP claim and the NGOs did what they could for them; however, their voices are still sidelined by the IP.

Although in their particular case the affected were not remedied, but it would be narrow-minded to attribute the failure to the NGO representation. Based on the available data, there are no signs directing to the direction, that the civil society involved in the IP process did something against the interest of the affected people in Hade. However, the IP's inflexibility regarding seeing the situation as a whole and recognizing the WB's role as the driving force behind the entire KPP related operations stands as a stumbling block in front of the success.

To point out a significant success of the IP process with the NGOs it is to be concluded that the women's situation improved in the affected communities substantially. At the beginning of the process only men were driving the campaign; however, the involvement

of civil society gave room to women participation. Since then at each IP meeting at least one women was represented from the groups and they even organized a protest on women's day in 2017. If we look at the IP investigation report's positive side and success it may be not a coincidence, that the list of recommendations include the "*safety of children en route to shool*" (Inspection Panel, 2015f: 52).

What kind of difference did the NGOs make? One thing is clear: the well organized and upgraded triangle approach of the civil society has contributed to the improvement of the interest realization ability of the project affected citizens. The research, the grassroots and the media elements of KOSID's approach are all determinant, but based on the generated data it is to be diagnosed that without the media representation the other two elements could not have reached their goals. The investigative journalism and the television presence of the case generated solidarity in Kosovo and also made politicians think about their future because what the public opinion thinks is always important when it comes to elections.

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