

August 21, 2016

Board of Directors  
World Bank  
1818 H Street, NW  
Washington, DC 20433

*Via Electronic Mail*

**Re: Misrepresentations in World Bank Management’s First Progress Report on the Implementation of the Nepal Power Development Project Management Action Plan**

Dear Mesdames and Sirs:

We are Chairperson and Vice Chairperson of the Struggle Committee of people affected by the Khimti-Dhalkebar 220 kV Transmission Line (“KDTL”) in Sindhuli, Nepal.<sup>1</sup> The KDTL project runs through our villages and personally affects our land, homes and livelihoods and threatens the health and safety of our families.

We write to request that you reject World Bank Management’s First Progress Report (the “Progress Report”) on the Implementation of the Management Action Plan (“MAP”), dated August 5, 2016, that responds to the Inspection Panel Investigation Report on the Nepal Power Development Project. The Progress Report falsely represents the situation here on the ground. We have reached out to Bank Management privately asking it to rectify the public record; however, Management has refused and continues to persist in its false representation to the Board. (*See*, Annex 1: Letter to Management dated August 10, 2016, but sent on August 17, 2016, since Management asked for time to consider our request for a correction.)

Our primary request is that Management uphold its commitments in the MAP and support a facilitated dialogue between the NEA and affected communities in Sindhuli. For the integrity of that facilitated dialogue, it is important that Management act in good faith, and rectify its public record. We urge you to advise Management to correct the Progress Report to reflect that:

**1. There was no agreement in April 2016, and there is still an ongoing conflict**

The Progress Report falsely states that “in April 2016, the affected community in Sindhuli agreed with the [CDO] that the [NEA] could resume the construction work for the disputed section of the [KDTL project].” As we have repeatedly informed Management, and the Bank President, there was no such agreement. (*See*, Annex 2: Development at Gunpoint Briefing Paper, April 2016, which was sent to the Bank President, and Annex 3: Email to Management from Accountability Counsel dated April 12, 2016.)

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<sup>1</sup> Our advocates, the Lawyers’ Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP), and Accountability Counsel, supported us in drafting this letter.

There was a document that community members – including Surendraswor Moktan, one of the undersigned – were forced to sign on April 11, 2016, in which they gave their assurance to no longer obstruct project construction. However, this so-called “agreement” was vitiated by the fact that community members signed it under duress, while in police custody, after they had been detained overnight, and under the threat of further criminal sanctions if they did not sign. Local authorities, including the CDO and the Superintendent of Police in Sindhuli district, have repeatedly refused to disclose a copy of the document. Indeed, the CDO does not have the jurisdiction to make such an agreement under current local laws. If Bank management is referring to this document as the agreement in April 2016, it is legitimizing an illegal document.



Protest of KDTL in Sindhuli District on April 17, 2016

A week after this incident, community members held a protest outside the CDO’s office to voice their concern about continuing project construction. The image above was from that April 17, 2016 protest, and was shown to Management shortly after the protest on May 11 2016.

Further, the communities have continued to engage in peaceful protests since April 2016. On July 2, 2016, community members were again arrested in one such peaceful protest and detained overnight. In a clear pattern of intimidation and coercion, local authorities again threatened community members with criminal sanctions, and released them only after forcing them to sign an agreement committing not to obstruct the project. In response, on July 26, 2016, community members filed a case requesting the Sindhuli District Court to invalidate this second document obtained through coercion.

Indeed, all this information has been communicated to Management, and we have been having ongoing private conversations with Management to specifically address the conflict on the ground. Still, publicly the Bank has falsely reported that there is no longer any ongoing conflict associated with the project due to the so-called agreement in April 2016.

Treating an agreement obtained through coercion as determinative has the effect of condoning the human rights abuses – including violence, arrests, detention, and intimidation – being committed against community members by project-implementing authorities, and enables the

NEA to act with impunity. By choosing to ignore and hide clear information provided by the community, the Bank is facilitating human rights violations in Sindhuli.

## **2. The reasons for the community's ongoing resistance are clear**

The Progress Report falsely states that the reasons for our protests in July 2016 were unclear, and wrongly characterizes them as not being peaceful. In fact, the reasons for the protest are clear and are the same reasons the community members have stated for the last ten years: they are opposed to the implementation of the project without adequate or meaningful consultation and information disclosure, and have serious questions and concerns about the impacts of the project. The Bank's own Inspection Panel found that the Bank violated its safeguards – including OP/BP 4.01 Environmental Assessment, OP/BP 4.10 Indigenous Peoples, and OP/BP 4.12 Involuntary Resettlement – because it had not ensured adequate, timely and meaningful consultations during Project preparation and implementation. The protests in July were driven by the Bank's failure to show leadership and use all available means to ensure the project was brought back into compliance with its safeguard policies.

When the Board endorsed the MAP, it acknowledged that Bank management must remedy the violations found by the Inspection Panel “with a view to amicably resolving the outstanding issues.” However, instead, Management is further exacerbating the conflict by ignoring community voices and denying that there is a conflict. Expressing ignorance regarding the reasons for the protests are a clear effort to cover up Bank Management's failure to amicably resolve the outstanding issues.

## **3. We have a right to be consulted on project impacts**

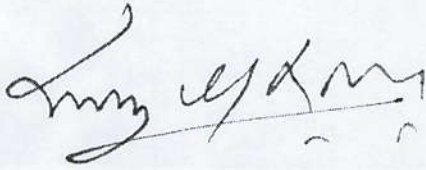
The Progress Report erroneously states that the impacted community in Sindhuli is only looking to be consulted on “VCDP activities” and “community benefit sharing programs”, even though the community has repeatedly stated that we are looking to be consulted on project impacts.

Bank Management has not taken a single public step to rectify its safeguards non-compliance with respect to consultation and disclosure. A letter to the Bank President clearly stated our request in writing: “Bank Management must urgently initiate and oversee the process of appointing an independent, unbiased facilitator who is mutually agreeable to both the NEA and Project affected people.” Additionally, we and our advocates have had multiple private conversations with the Bank where we have asserted that the purpose of the facilitated dialogue is to discuss project impacts. Privately, Bank Management has agreed to this.

Additionally, the Consensus Building Institute (CBI), a conflict management firm retained by the Bank, has clearly advised the Bank there is still a conflict in Sindhuli and the Bank has a role in resolving the conflict by facilitating dialogue. (*See*, Annex 4: Proposed Terms of Reference for the Facilitator provided by CBI. This document reveals that CBI has provided the Bank with a “recommendation to facilitate dialogue and assist negotiations” among the communities and NEA “in project sites where conflict is known to exist, including in Sindhuli”.) Still, Bank Management has chosen to falsely represent that there is no ongoing conflict and that consultation is only outstanding on the VCDP and benefit sharing programs.

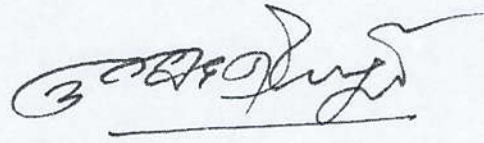
In conclusion, we request that the World Bank Board ask Management to publicly correct the false representations in its Progress Report, and take responsibility by fulfilling its commitments in the MAP by supporting a facilitated dialogue on project impacts between the NEA and the community in Sindhuli. Supporting the facilitated dialogue, including by correcting the public record, will help bring the Bank in compliance with its safeguards, and will help improve the perception and implementation of other Bank investments in Nepal's hydroelectric sector.

Sincerely,



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Surendraswor Moktan

**Chairperson of Struggle Committee of  
Sindhuli High Tension Affected People**



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Ukta Bahadur Thapa

**Vice Chairperson of Struggle Committee of  
Sindhuli High Tension Affected People**