

Report No. 81845-NP

The Inspection Panel 

Report and Recommendation

**NEPAL: Power Development
Project
(P043311)**

October 24, 2013

The Inspection Panel
Report and Recommendation
On
Request for Inspection
Nepal: Power Development Project (P043311)

A. Introduction

1. In accordance with the Resolution (hereinafter “the Resolution”)¹ establishing the Inspection Panel (hereinafter “the Panel”), the purpose of this Report and Recommendation on Request for Inspection (hereinafter “the Report”) is to make a recommendation to the Board of Executive Directors as to whether the Panel should investigate the matters alleged in this Request. The Panel’s recommendation is based on its confirmation of the technical eligibility of the Request and its assessment of other factors as stipulated in the Resolution. The Panel’s determination of the technical eligibility of the Request, in accordance with the 1999 Clarification,² is set out in Section E (a) below; Section E (b) summarizes the Panel’s observations on other factors considered in making a recommendation to the Board. The Panel’s recommendation is presented in the final section of this report, Section F.

2. On July 10, 2013 the Panel received a Request for Inspection (the “Request”) related to the Nepal: Power Development Project (the “Project” or PDP), and specifically its 220 kV Khimti-Dhalkebar Transmission Line (KDTL) under its Component C. The Request was submitted by Surendraswor Moktan (Chairperson of Struggle Committee of Sindhuli High Tension Affected People), Shankar Limbu (Advocate, Lawyers’ Association for Human Rights of Nepalese Indigenous Peoples-LAHURNIP) and Komala Ramachandran (Accountability Counsel) on behalf of “103 indigenous and non-indigenous families in three villages of Sindhuli District, whose homes, lands, and livelihoods have been affected by the Project.” The affected families have provided power of attorney to Shankar Limbu to represent and act on their behalf.³

3. The Panel registered the Request on July 24, 2013. Management requested an extension for the submission of its Response to the Request. Management Response was received on September 18, 2013.

¹ International Bank for Reconstruction and Development (Resolution IBRD 93-10) and International Development Association (Resolution 93-6), “The World Bank Inspection Panel”, September 22, 1993 (hereinafter “the Resolution”), para 19. Available at:

<http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/ResolutionMarch2005.pdf>

² “1999 Clarification of the Board’s Second Review of the Inspection Panel”, April 1999 (hereinafter “the 1999 Clarification”). Available at:

<http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/1999ClarificationoftheBoard.pdf>

³ The Requesters have not requested confidentiality.

B. The Project

4. The PDP aims to support the development of Nepal's hydropower potential, increase access to electricity services in rural areas, and improve the supply of electricity. The Project's development objectives are to *“(a) develop Nepal's Hydropower potential in an environmentally friendly and socially sustainable manner so as to help meet electricity demand; (b) improve access of rural areas to electricity services; and (c) promote private participation in the power sector as a way to improve sector efficiency and to mobilize financing for the sector's investment requirements.”*

5. The Project, when originally approved on May 22, 2003, consisted of three components: (a) establishment of a Power Development Fund (PDF); (b) Micro Hydro Village Electrification Program; and (c), the NEA component which supports grid transmission and distribution improvements. The specific element of the Project which is the subject of the Request for Inspection is the 220 kV Khimti-Dhalkebar Transmission Line (KDTL) which is undertaken under component C. The KDTL is a double circuit transmission line (with one circuit already strung) from Khimti Power Station to the existing 132 kV Dhalkebar substation. The Project has been restructured three times, in 2008, 2009, and 2012, respectively. During the third restructuring the closing date was extended to December 31, 2013 so as to allow, in part, for the ongoing installation of three transmission lines (Khimti-Dhalkebar, Hetauda-Bharatpur and Bharatpur-Bardaghat). The PDP is a category A project.

6. **Financing.** The Project is being financed through an SDR 35.8 million (USD\$50.4 million) credit and SDR 18.4 million (USD\$25.2 million) IDA Grant. The borrower is the Government of Nepal (GoN) and the responsible agencies include the Ministry of Water Resources, the Nepal Electricity Authority (NEA) and the Alternative Energy Promotion Center. The Project closing date is December 31, 2013.

C. The Request

7. What follows is a summary of the allegations of harm and non-compliance with Bank Operational Policies and Procedures related to the Khimti-Dhalkebar Transmission Line component of the Project as included in the written Request received by the Panel. The Request also raises concerns in relation to violations of Nepali and international law.⁴ The complete Request is attached to this Report as Annex A.

8. **Livelihood concerns.** The Requesters state that the Khimti-Dhalkebar Transmission Line will span 75 km across 5 districts in central Nepal. According to the Request, 12 towers remain to be built of which 10 are in Sindhuli District.⁵ Each tower will require acquisition of land for construction of the foundation, and the transmission line will require a 30 meter wide right of way (RoW), i.e. 15 meters on either side of the Transmission Line. According to the Requesters, they oppose the selected alignment of the transmission line based on what they

⁴ These concerns lie outside the Panel's mandate and will not be considered in this Report.

⁵ Please note Management states that out of the 188 towers under the KDTL, 11 remain to be erected. Please see Project Status in Management Response section.

perceive to be its impacts on community life and the local economy. They believe the line will pass through villages and other populated areas, over four schools, near various historical, cultural, and sacred sites, and will cause a devaluation of land and a loss in agricultural production.⁶ The Requesters also state they have been told by Project authorities that no activity, or even entry, is permitted within the 30 meter RoW whereas elsewhere Project documents suggest *“the land within RoW will be utilized as usual by the respective landowners.”* They, therefore, express confusion about this aspect of the Project and request clarification on the matter.

9. **Relocation and compensation.** According to the Request, a *“large number of indigenous and local people are at risk of displacement”* as a direct result of various Project activities, namely land acquisition for the construction of towers, and the RoW. Further, they state that the Abbreviated Resettlement Action Plan (ARAP) misrepresents the complainants preferences by suggesting that the majority of persons *“prefer cash compensation”* when, in fact, the option of realignment or substitute land is preferred to direct monetary compensation. Moreover, the Request states that land-based resettlement options should be offered for persons whose livelihoods are land-based. The Request also observes that the provision of compensation falls short not only in terms of assessed value of the land but also in terms of the amount offered.

10. The Request goes on to state that sixteen households have already been displaced in villages where the transmission line has been constructed. The Requesters fear that displaced families, whose livelihoods are agriculture-based, may be forced to *“seek livelihoods outside of Sindhuli District.”* According to the Request, *“most complainants were not offered compensation even where necessary. Only in some cases where towers were built directly on community members land was a small amount of compensation offered.”*

11. Furthermore, the Requesters ask for retroactive compensation for lost agricultural produce for persons already affected by Project related activities. They ask that *“comparable substitute land”* should be provided to those who have lost land to the Project, or *“fair and adequate”* compensation be paid to them.

12. **Inadequate study of alternatives.** The Requesters claim that they have requested that the transmission line be *“realigned to an alternative route where there is no human settlement”* in order to avoid relocation to as great an extent as possible. They note that while the Government formed an expert committee to explore potential alternative routes, the findings of the committee were never made public. The Requesters cite Operational Policy 4.12 on resettlement as requiring the consideration of *“all viable alternative project designs.”* In this light, they observe that the Environmental Impact Assessment (EIA) contains only a two

⁶ Footnote 22 of the Request states *“Of particular concern are Project impacts on the following urban areas in Sindhuli District: Kamalamai Municipality Ward No. 6 (Andheri Jasedmar, Panityanki, Baira Bhawan); Kamalamai Municipality Ward No.7 (Bardeutar, Danda Tole, Tallo Bardeutar, Mitra Chowk, Majhitar, Thulitar, Bukka Danda); Belganchi Ward No. 4 (Sano Karkare, Ranichuri); VDC Ward No. 1, (Fiting Bhutiya Danda, Maisthan Karkare under Falchuri); Kamalamai Municipality Ward No. 10 (Bhadrakali VDC Dhunge Bhanjyang, Pipal Bhanjyang) as well as historical Sindhuli Gadhi base in Ward No. 1 of Jalkanya VDC and cable car ferrying people to Sidhababa Temple under Kamalamai Municipality Ward No. 9. See Memorandum submitted by the Sindhuli Protest Committee to the Rt. Honorable Prime Minister, Prime Minister’s Office, Singh Durbar, Kathmandu (January 17, 2012) (Annex D)”*.

paragraph summary of alternatives and the ARAP and the Social Impact Assessment (SIA) contain no such analysis. Finally, the Requesters argue that “*alternative routes for the project exist, many of which would avoid damage to cultural property in Sindhuli District*” and that they have brought these alternatives to the attention of Project staff.

13. **Indigenous people.** The Request observes that the affected groups in Sindhuli District are largely indigenous (*adivasi*) or *dalit* peoples (the Request defines *dalit* as a group “*considered to be low caste Hindu*”). It places the proportion of indigenous peoples in the area as high as 95%. Further, it points out that *adivasi* and *dalit* can be considered “*highly marginalized communities whose vulnerability is further exacerbated by the high rate of poverty in the region.*” The Request states that these communities depend on subsistence agriculture and their farming activities will be affected by the RoW and that they face possible displacement.

14. Moreover, the Request states that the Project did not “*appropriately*” identify Project-affected indigenous people and that only a single plan, the Vulnerable Communities Development Plan (VCDP), was prepared to address “*vulnerable communities*” without analyzing the specific conditions, concerns and needs of the indigenous people. The Requesters believe an Indigenous Peoples Development Plan (IPDP), as required by the Bank’s Indigenous Peoples policy, should have been prepared. According to the Requesters, an IPDP also requires the preparation of appropriate mitigation measures when adverse impacts are unavoidable but such measures, according to the Request, were not developed. Moreover, according to the Requesters, the VCDP “*misidentifies*” some indigenous groups thereby not taking into account their precise needs and preferences as required by Bank policy.

15. The Requesters further state that the SIA “*shows particular insensitivity to and prejudice*” against indigenous communities and makes “*discriminatory generalizations*” about ethnic and caste identity and reinforces “*the lack of understanding and attention to affected indigenous communities.*”

16. **Inadequate consultations and transparency.** The Requesters emphasize that Project affected individuals, notably indigenous people in Sindhuli district, “*were never consulted*” on the design, location or alignment of the transmission line, nor were they invited to participate in the preparation of the various safeguard documents. They claim that they “*have not received any information about the Project*” nor have they granted permission for “*the transmission line to go over their land or for the towers to be built on their land.*”

17. The Requesters note that “*only two consultations or public hearings were held about the project,*” however none in Sindhuli District or at a location easily accessible from Sindhuli District.⁷ They claim that they were only informed about the consultations by the Chief District Officer in 2012 “*long after the hearings had taken place*” and only after they had raised their concerns regarding the Project. Additionally, they note that while the ARAP and SIA were uploaded to the NEA website in March 2013, the ARAP was dated 2006 and the SIA did not

⁷ The Request claims that the consultations were held in Dhanusha District and Manthali Village in Ramechhap District, both 40-60 Kilometers away from Sindhuli District. According to the Requesters, travel between Sindhuli District and the consultation destinations would have required “*over a day and a half*” to reach.

have a date. The Requesters claim that a full version of the EIA had yet to be made available to them.

18. The Requesters claim they were misled about the nature of the Project during its initial stages. They state they were “*led to believe*” during planning stages that the Project would involve “*a small, local electricity distribution project, a water supply network, a radio transmission system, or a road.*” In general the Requesters allege a lack of specific information regarding Project activities and in particular the provision of relocation and compensation packages.

19. **Health impacts.** The Requesters express concern over the potential health impacts that may arise as a result of the Project. These concerns stem mainly from the potential adverse effects of electric and magnetic fields created by high voltage power lines. The potential adverse health impact of the transmission line on children is emphasized, particularly as the line will run near or over schools and human settlements. The Requesters note that no documentation or evidence has been presented to them to alleviate these health-related concerns.

20. **Impact on cultural and sacred sites.** According to the Request, the planned route of the transmission line “*approaches various monasteries, temples, cremation sites and other sites of cultural significance.*” They add that one of the towers has already had “*serious impacts*” on the Sindhuli Gadhi site, while towers have also been built near a Bhimsen Shrine and close to the Kamalamai Temple, adversely affecting what they consider an appropriate environment for such locations.

D. MANAGEMENT RESPONSE

21. What follows is a brief summary of the Management Response.⁸ The complete Management Response can be found in Annex B.

22. **Country context.** Management emphasizes that the Project has been implemented during a “*tumultuous period*” in Nepal’s history and that Nepal remains a fragile post conflict state where the ramifications of a decade long civil war, which overthrew an established monarchy, are still being felt.

23. According to Management, Nepal has “*struggled to move away from a feudal past...*” where power had been centralized in the hands of an elite class through an “*authoritarian Panchayat (assembly) system*” to “*... a more open and inclusive society.*” Management states that by the 1990s, various peoples’ movements had begun to challenge the monarchy, and the Maoist movement, which began to rise to prominence in the mid-1990s, had by 2005 taken over most of the countryside. A civil war ensued and in 2006 the King relinquished sovereignty to a house of representatives, which soon proclaimed Nepal to be a secular federal republic.

⁸ Management Response – Request for Inspection of the Nepal: Power Development Project (P043311), September 18, 2013.

24. Management states that despite the abolition of the monarchy, political stability has been a challenge, the drafting of the new constitution has been stalled, and consensus amongst political parties remains a rare occurrence. Moreover, some regions which were especially affected by the insurgency continue to see Maoist domination, and central government authority remains weak in these areas. Management states that “*Sindhuli District, the focus of the Request, was one of the five districts where the Maoist armed insurgency originated in 1996.*” Also, Management states that after the 2008 elections, “*an uprising of the Madhesi, Indigenous People from the Terai in the south of the country, led to internal migration to the Sindhuli area, raising land prices*”, and that there is “*still a Maoist presence in the Sindhuli area and the writ of the state remains weak.*”

25. Management mentions that the PDP was implemented during this particularly turbulent period of Nepal's history which caused “*huge challenges both for NEA to implement the PDP and the Bank to supervise the Project, including limitations in visiting Project sites at different junctures of Project implementation.*”

26. **Project context.** Management states that Nepal is facing an energy deficit which is a main constraint to development, and weak institutional capacity is one of the reasons why the energy sector is performing poorly. According to Management, “[p]ublic sector capacity, especially in agencies such as NEA has weakened over the years, a situation worsened by the absence of top leadership for many years and frequency of staff changes in middle management.” Management notes that large infrastructure projects are usually troubled by land acquisition and right of way problems which are often exacerbated by the period of political instability. Management mentions, as an example, that “*there has been virtually no commissioning of new hydropower and transmission lines since 2003. An Asian Development Bank project that supported transmission lines was ultimately closed with significant stranded assets as final stringing of the transmission towers could not be undertaken due to lack of resolution on right of way issues.*”

27. **Project status.** Management states that the Khimti-Dhalkebar Transmission Line represents 11 % of the total Project cost and as such is a relatively small component of the Project. It crosses four districts: Ramechhap, Sindhuli, Dhanusa and Mahottari, and is “*approximately 75 km long with a 30 meter wide transmission corridor ROW. It involves the construction of 188 towers with an average span of 350 meters between towers and tower heights ranging from 42 to 49 meters.*” Though the Project was approved in 2003, “*construction on KDTL began in 2007 and to date, 177 out of 188 towers have been erected, the foundation works for 3 additional towers have been completed, and stringing of conductors is ongoing in the undisputed sections of the KD Transmission Line.*”

28. Management also states that the Project was “*stalled on different occasions due to insecurity on Project sites and has been restructured three times (2008, 2009 and 2012) to expand Project scope and provide additional financing.*” Management also notes that the Project is being reviewed by the World Bank Institutional Integrity Department (INT) “*for procurement issues unrelated to concerns raised in this Request.*”

29. Management believes that the Request “*is based on assumed harmful outcomes of Project implementation*” and assumed inaction on behalf of the Bank. Additionally, they suggest that “*the issues being raised are not uncommon for a project of this scope and complexity being implemented in a fragile and conflict setting.*” Moreover, Management states that “*all relevant Project-related impacts referred to in the Request have been taken into account in the course of Project preparation and are being addressed through the appropriate mitigation measures.*”

30. **Alternative routes.** Management claims that contrary to the assertions made by the Requesters, an “*adequate*” analysis of alternatives was carried out, first, during the design phase and preparation of the EIA, and second, during a Government review of the alignment of the segment of the transmission line in question. Management asserts that the Project EIA prepared during the “*design phase analyzed three alternative routes and concluded that the current alignment was the best option.*” Management states that this decision was based on “*technical and economic feasibility as well as environmental and social impacts.*”⁹ Management also states that “*the Requesters’ proposed alternative alignments have been analyzed under the Environment Impact Assessment*” and that they were considered to potentially have “*greater adverse impacts than the current alignment.*”

31. Moreover, Management mentions that after receiving complaints from the community in January 2012, the Government conducted its own review of the alignment by constituting a 5-member Technical Committee on March 15, 2012. This Technical Committee, according to Management, after having consulted with local populations and examining various issues connected with a possible realignment - social impacts, timeframes, cost, implications of message sent to World Bank about inability to complete the transmission line - issued its Report on March 25, 2012 in which it recommended continuing with the existing alignment.

32. **Consultations.** Management asserts that the NEA carried out “*a series of consultations in the Project areas,*” which included Sindhuli District. Management states that these consultations were announced in advance, and the input provided by participants was well received by the Project staff. Management notes that during the EIA preparation process, out of a total of 22 community consultations, 7 were held in Sindhuli District. Management adds that during the preparation of the SIA, ARAP and VCDP, 8 community consultations were carried out of which 4 were carried out in Sindhuli District.¹⁰

33. Management also documents two public hearings that took place with regards to the preparation of the EIA about which advance notice was provided in national daily newspapers. Management states Project related information was disseminated during the hearings. Management also states that the EIA report was disclosed “*for public review and comment for one month*” prior to publication, and was made available in the Project office.

34. **Relocation and compensation.** Management notes that the “*key dispute regarding the project relates to compensation of land holders in the RoW whose land is not being acquired but*

⁹ The assessment summary can be found on Page 77 of the EIA.

¹⁰ According to the Management Response, two of these were carried out in Kamalamai municipality, attended by 14 participants, one in Rannichuri Village Development Committee attended by 10 participants, and one in Bhadrakali Development Committee attended by 6 participants.

would be impacted by the power lines passing over their land in the Sindhuli District.” Management notes that the NEA provides 100% compensation to persons whose land is fully acquired. With regards to land that is not acquired “*but affected*” by the power lines, the NEA provides 10% of the value of the land as compensation. According to Management, this framework is in line with Nepalese legal procedures, namely the Electricity Act of 1992 and Electricity Regulation of 1993. Further, Management clarifies that there is “*generally no restriction of access and movement for individuals within the RoW or to cross the RoW.*” Hence, “*cultivation can continue as usual within the RoW*”¹¹ and that “*loss of income from agricultural practices is not expected.*”

35. Management contends that the affected communities in the Sindhuli District “*demand 100 percent rather than 10 percent compensation for the land not acquired but impacted by the RoW.*” These demands could not be met by the NEA because they were beyond the mandated legal framework. In response, Management notes, the Government announced a compensation package which approved “*compensation at 100 percent of land value, provision of a local road, and uninterrupted power supply*”. The proposed local road will be built in the disputed section of the Transmission Line and it will allow the Government to fully acquire land in the RoW and “*thus compensate affected households at 100 percent of the land value.*” Management claims that this plan would also provide “*additional benefits of better road access and connectivity.*”

36. In Management’s opinion, this alternative compensation package proposed by the Government “*responds to community demands, as well as expectations, recorded in the Project’s social assessment.*” Management notes that the land was valued in July 2013, and since that time 96 out of 159 landowners have accepted this new compensation package. They add that this number includes “*affected households that recently moved into the project area*” and hence, were not originally recorded in the ARAP.

37. With respect to compensation already paid, Management “*asserts that compensation was carried out according to Bank policy*” and that “*[c]ompensation payments were agreed with the affected households prior to construction and payments were delivered before taking possession of the land parcels for the tower pads.*” Management further states that no tower pads have been constructed without first paying compensation to the land owners.

38. **Indigenous peoples.** Management observes that when the Project was approved in 2003, OD 4.20 on Indigenous People governed projects involving indigenous peoples. When the restructuring took place in 2009 and additional financing was approved, newly added activities triggered OP 4.10 on Indigenous Peoples.

39. Contrary to claims made in the Request, Management argues that Bank policy was followed and that the IPDP was carried out in accordance with the Integrated Safeguards Data Sheet and the Project Appraisal Document (PAD) approved by the Board. Management quotes from the documents which state that “*the presence of ethnic minorities or tribal populations in the project affected area for any sub-project will require the preparation of a separate VCDP.*” Management adds that “*the VCDP will be prepared in accordance with the provisions of OD*

¹¹ There are a number of limitations to this including limitations on the height of structures built on the land and the planting of tall trees.

4.20 and the EIA/SIA policy framework” and that the SIA accurately identified indigenous communities “in line with Bank policies and NEFIN classification.”¹²

40. Management states that “Bank policy allows for the use of alternative terminology to account for country context and the varied and changing contexts in which Indigenous Peoples live.” Management notes that OP 4.10 states “when indigenous peoples live in the same area with non-indigenous peoples, the IPDP should attempt to avoid creating unnecessary inequities for other poor and marginalized social groups,” as evidence of this notion. Management suggests that this scenario applied to Nepal and the Sindhuli District, and this is why the Project opted for preparing a VCDP rather than an IPDP.

41. Finally, Management concedes that the VCPD “could have been stronger.” Extrapolating on this point, Management suggests that the VCDP “could have been more rigorous in its analysis and provided more detailed action plans and benefits for different groups.” Management agrees with the Requesters view that “some of the statements and wording used in the SIA may appear insensitive to some” and states that these do not reflect World Bank position. Management also notes that the number of indigenous households may have increased from the 70 directly affected indigenous households identified in the SIA since the time when the SIA and VCDP were prepared. Finally, Management points out that the NEA is currently making revisions to the VCDP to reflect these changes and address these issues.

42. **Disclosure.** In line with assertions made in the Request, Management concurs that “the disclosure of safeguard documents for the PDP has been uneven and requires significant strengthening.” Management adds that despite this shortcoming, remedial measures have been put in place. They note that “core project documents” have been disclosed through various Project and government offices as well as the Bank’s InfoShop website. These include the EIA, SIA, ARAP and VCDP which Management states were “disclosed in 2005 and 2006 in the form of hardcopies available at local project offices.” They note that the EIA included a summary translated into the local language, and that these documents were also disclosed on the NEA website in March 2013. Management believes the NEA will disclose the ARAP and VCDP when these have been updated.

43. **Confrontation.** Management considers the incident surrounding a confrontation between protesters, Project staff and police on February 18, 2013 to be “separate” from that of Bank policy compliance and more relevant to matters of Nepali law enforcement. Management claims that they took the matter seriously and initiated substantive measures to help resolve the concerns. This included a request that the NEA “stop Project construction until issues were properly resolved,” meeting with affected parties, sending a 3-member Bank team to visit and assess the affected area, engaging a local facilitator who visited the area and conducted two consultations, and sending a Bank team from HQ to Sindhuli in June 2013 to develop an action plan for the NEA and the Bank.

¹² The Management Response defines NEFIN as “Nepal Federation of Indigenous Nationalities (NEFIN) is an autonomous and politically non-partisan, national level common organization. NEFIN currently consists of 54 indigenous member organizations widely distributed throughout the Terai, Hills and Himalayas of Nepal.”

44. **Cultural and sacred sites.** Upon reviewing the Project alignment, Management claims that “*no cultural or sacred site is adversely impacted by the Project.*” They note that the NEA has offered to undertake “*a joint verification of the alleged proximity of such sites to the RoW,*” however, as far as Management is aware, this offer has not been accepted by the community thus far.

45. **Health issues.** With regards to the concerns about electromagnetic radiation, Management concludes that “*the scientific consensus is that no known health impacts can be linked to the electromagnetic exposure that is expected to stem from the Project.*” Management describes the Requesters concerns as lacking “*evidence of real risks,*” and that the transmission line has been laid so as to maintain the minimum distance from any building and hence, is in compliance with “*industry standards and practice.*”

46. **Grievance redress.** Management acknowledges that the “*Project-level grievance redress mechanism to receive and address community concerns was not as robust as it could have been.*” Notably, according to Management, the NEA’s Khimti-Dhalkebar Environment Management Unit tasked with organizing grievance redress lacked the structural capabilities to carry out this function and failed to implement a number of key requirements listed in the ARAP, such as representation from local communities in any grievance redress committee. Management notes that the NEA is currently “*in the process of reconstituting and strengthening the Project-level GRM.*”

47. Management states that the “*Bank has followed the policies and procedures applicable to the matters raised in the Request in a very challenging country context*”, and that it will “*continue to supervise the Project to ensure adequate implementation of the environmental and social mitigation measures consistent with Bank Policy and global good practices.*” Management refers to an action plan which it states was prepared “*[i]n consultations with the Government and affected communities*” which it hopes will “*address outstanding issues related to the KD Transmission Line, as well as enhance NEA's capacity in social and environmental safeguards supervision and community outreach.*”

E. Panel Review of the Request and Management Response

48. Panel Member Zeinab Elbakri together with Deputy Executive Secretary Dilek Barlas and Senior Operations Officer Mishka Zaman visited Nepal from September 30-October 4, 2013. During its visit, the Panel team met with staff in the World Bank Kathmandu Office, Government officials from the Ministry of Energy, Ministry of Finance, and Nepal Electricity Authority, and Requesters and other potentially affected persons in the Project area.

49. The Panel wishes to express its appreciation to all those mentioned above for sharing their views and exchanging information and insights with the Panel. The Panel wishes to thank the Government of Nepal for meeting with the Panel team. The Panel extends its thanks to the Requesters and affected people and to the Country Director and staff in the Country Office for meeting with the Panel team, discussing the issues and providing relevant information, and assisting with logistical arrangements.

50. The Panel's review is based on information presented in the Request, on the Management Response, on other documentary evidence, and on information gathered during the site visit, and meetings with Requesters and other affected people, and Bank Management. Subsection (a) covers the Panel's determination of the technical eligibility of the Request, according to the criteria set forth in the 1999 Clarification, and subsection (b) includes observations on other factors supporting the Panel's recommendation.

(a) Determination of technical eligibility

51. The Panel is satisfied that the Request meets all six technical eligibility criteria provided in paragraph 9 of the 1999 Clarification.

52. The Panel notes that its confirmation of technical eligibility, which is a set of verifiable facts focusing to a large extent on the content of the Request as articulated by the Requesters, does not involve the Panel's assessment of the substance of the claims made in the Request. It follows that determination of technical eligibility in and of itself would not constitute sufficient basis for recommending an investigation.

53. Criterion (a): *"The affected party consists of any two or more persons with common interests or concerns and who are in the borrower's territory."* The Panel confirms that the Requesters live in the borrower's territory and share interests that may be affected by Project activities. The Panel considers the requirement of paragraph 9(a) as met.

54. Criterion (b): *"The request does assert in substance that a serious violation by the Bank of its operational policies and procedures has or is likely to have a material adverse effect on the requester."* The Request refers to violations of the World Bank's Social and Environmental Safeguards Policies allegedly caused by the PDP, and specifically by the Khimti-Dhalkebar Transmission Line. The Request notes that several wards and municipalities in the Sindhuli District, encompassing settlements, schools, sacred sites, pastures and agricultural land will be affected. They state that the Project was developed without adequate community participation or consultation and peaceful demonstrations opposing the Project have been violently suppressed by security forces. The Panel is thus satisfied that the requirement of paragraph 9(b) is met.

55. Criterion (c): *"The request does assert that its subject matter has been brought to Management's attention and that, in the Requester's view, Management has failed to respond adequately demonstrating that it has followed or is taking steps to follow the Bank's policies and procedures."* The Requesters indicated that the issues related to their concerns were brought to the Bank's attention on different occasions. The Panel during its discussions with Management confirmed that the issues were known to Management at the time of the receipt of the Request. The Panel is satisfied that this criterion has been met.

56. Criterion (d): *"The matter is not related to procurement."* The Panel is satisfied that the claims with respect to harm and non-compliance included in the Request for Inspection do not raise issues of procurement under the Project and hence this criterion is met.

57. Criterion (e): *“The related loan has not been closed or substantially disbursed.”* At the time of the receipt of the Request, the original IDA Credit 3776-NEP was 67.6 % disbursed and IDA Grant H390-NEP was 100% disbursed. The IDA additional financing credit 4637-NP was 92.73% disbursed and additional financing IDA Grant H506-NP was 97.44% disbursed. Overall, as noted in the Management Response, as of July 7, 2013, approximately 85 percent of Project funds had been disbursed. The Project is due to close on December 31, 2013. This criterion is thus met.

58. Criterion (f): *“The Panel has not previously made a recommendation on the subject matter or, if it has, that the request does assert that there is new evidence or circumstances not known at the time of the prior request.”* The Panel confirms that it has not previously made a recommendation on the subject matter of the Request.

(b) Observations on other factors supporting the Panel’s recommendation

59. The Panel acknowledges that energy is a key constraint for development in Nepal and notes that by supporting the construction of a new 220 kV double circuit transmission line from Khimti power station to the existing Dhalkebar sub-station, the Project aims to strengthen Nepal’s transmission system and expand distribution networks. The Requesters informed the Panel that they understand the need for such infrastructure development projects, but question whether in the case of KDTL, adequate social and environmental safeguards have been put in place to avoid or mitigate harms to directly affected local people.

60. During its visit, the Panel team met approximately 300 people, including the Requesters, who belong to different communities living along the RoW of the transmission line in Sindhuli District, i.e. living along the 3.5 km disputed stretch and beyond it in the transmission line sections immediately adjoining this stretch. The Panel visited the villages of Khurkot, Bardibas, Khaniya Kharka, Pipal Bhanjyang, Andheri, Bardeutar, Majhitar, Phiting (or Fiting) and Karkare and met with several of the inhabitants who had gathered to meet the Panel team. The Panel team visited Maisthan English Boarding School, which has 105 students between the ages of 4-13, and Swiss Sindhuli English Boarding School, which has 325 students between the ages of 5-16, both of which are located near the transmission towers and line. The Panel team also visited the Sindhuli Gadhi, Bhadrakali Temple and Kamalamai Temple cultural and sacred sites.

61. The Request raises two broad issues of harm, or potential harm, and related non-compliance with Bank policies, namely (a) harms related to deficiencies with the ongoing process of land acquisition and establishment of RoW in Sindhuli District, and (b) harms that may have been avoided had a different alignment been selected based on a study of alternatives conducted in accordance with Bank policy and procedures. In sections (i) and (ii) below, the Panel records its preliminary observations regarding these alleged key issues of harm and compliance raised in the Request, noting that the Panel can only make a definitive assessment of the Bank’s compliance with its policies and procedures, and any adverse material effect this may have caused, through an investigation. In terms of informing its recommendation to the Board, the Panel presents in section (iii) below its review of the seriousness of the allegations of harm and compliance, and actions to address the situation in Sindhuli as presented by Management.

i. Land acquisition and RoW for the current alignment

62. The Panel notes that the Request raises issues which can be categorized under the following four aspects: (1) impacts from land acquisition on livelihoods which have not been adequately mitigated, and those which may arise in the future; (2) impacts on indigenous people and vulnerable households which have not been properly addressed, and those which may arise in the future; (3) a failure to engage affected communities in a participatory process through proper consultation and sharing of information; and (4) a failure to receive and address grievances through an adequate process. The Panel presents its observations on these four aspects below.

63. **Impacts on livelihoods.** The Requesters state that they represent households directly affected by the acquisition of land and restriction of land use for the Project, which has caused or may cause, the following losses: loss of land for tower pads, restriction on their land use due to the RoW, loss of house and farming structures, loss of standing crops and trees, and loss of income from tenants.

64. During the visit, the Panel team heard pronounced concern and confusion regarding provision of cash compensation, the methodology used to identify affected people, the amount of compensation provided and methods of payment. The Requesters, especially the ones whose lands have already been acquired due to tower pad construction or have houses in the RoW, told the Panel team that their livelihoods depend on farming their small plots of land, and that providing them with cash compensation without offering them alternative land would adversely affect their livelihood. The Panel team heard several testimonies from affected people who claimed that the land they have remaining after acquisition for tower construction can no longer sustain their livelihood, and that all of their land should have been acquired. These persons expressed a fear that they may be forced to relocate due to an inability to make a living from a smaller plot of land. Many of the Requesters stressed that they are not interested in cash compensation. In all, the Panel team heard testimonies which raise questions about the application of Bank Policy on Involuntary Resettlement, including the Requesters' claim that they were not offered the option of land for land compensation.

65. Moreover, the Panel team met with several affected people who claimed that their lands were acquired for transmission towers without any compensation being paid, or that they received partial compensation payments only after the building of the towers. The Panel team also met with several people who indicated that their houses are directly under the transmission line and fall within the RoW but that they had not received any compensation. Many of them told the Panel team that they have not received compensation for the loss of agricultural activities and fruit trees due to tower construction, or as a result of being within the RoW.

66. The Panel team also observed confusion regarding the understanding of what activities can or cannot take place within the RoW. Several people claimed that they heard from Project authorities that neither cultivation nor any other activity would be allowed within the RoW.

67. In its Response, Management states that the key dispute about the Project relates to the compensation of landholders in the RoW whose land is not being acquired but who would be impacted by the transmission line. Management notes that standard procedures for construction

of transmission lines provide that landholders whose land is permanently acquired for tower pads are compensated at 100 percent of the value of their land. For land that is not permanently acquired, but is still affected by the transmission lines because it falls within the RoW, 10 percent of the land value is provided as compensation. Management further notes that while access and movement within the RoW is generally not restricted, construction of any type of structure and planting of trees above 6.5 meters are not allowed for security reasons. As a result, it is necessary to remove all houses and trees above 6.5 meters which fall within the RoW.

68. With respect to the disputed stretch of the transmission line in Sindhuli District where construction has been halted for almost two years, the Government announced a revised compensation package on April 19, 2012 which included the following: (i) construction of a road to benefit the local community along the affected stretch of the RoW, which implies that affected land owners will be compensated at 100 percent rather than 10 percent of assessed land value; and, (ii) provision of uninterrupted electricity supply to Kamalamai Municipality. In Management's opinion, this proposed compensation package responds to community demands. The Panel team was informed during its visit by Management and GoN officials that the proposed road will approximately be 3.5 km long but its exact alignment has not yet been determined.

69. Management also states that the land was revalued in July 2013, and since that time 96 out of 159 landowners have accepted cash compensation under this new package, with the remaining 63 land holdings to be compensated for in due course. The Panel team was informed by Management and GoN officials that funds to compensate the remaining 63 land parcels had been sanctioned and were being sent to the District administration to get the compensation process started.

70. **Impacts on indigenous peoples.** During its visit the Panel team met with several members of indigenous groups, living in the area who claim to be affected by the Project. These included members of the Tamang, Newar, Rai, Magar, Tharu, and Majhi groups. The Panel team understands that although some controversy surrounds the classification of indigenous people in Nepal, the above mentioned groups are accepted as 'indigenous nationalities' under the National Foundation for Development of Indigenous Nationalities (NFDIN) Act of 2002, and the 2007 Interim Constitution of Nepal recognizes the need to promote the rights of indigenous peoples.

71. The Requesters, many of whom belong to different indigenous groups, assert that the Project did not properly identify Project-affected indigenous people and that only a single plan, the Vulnerable Communities Development Plan (VCDP), was prepared to address "vulnerable communities" without analyzing the specific conditions, concerns and needs of the indigenous people.

72. All members of indigenous groups that the Panel team met, without exception, noted their disagreement with the Project because of its adverse effects on their community, their livelihood and their ethnic identity. They said they have not been consulted during the design or implementation of the Project by the authorities and learned about the Project in different ways. Some said that although some meetings about the Project took place, they were held together with different groups and non-indigenous communities where they (the indigenous peoples)

could not adequately express their concerns. They mentioned that women in particular were disadvantaged during these consultations as non-local languages were used.

73. Furthermore, they said that they have lived in the Project area for generations and their livelihood depended on subsistence agriculture on small plots of land which they cultivate. They said they are poor and marginalized people and the Project will worsen their situation given its alleged impact on their land. They said that since their livelihoods depend on land they are not interested in cash compensation. They noted that they have not been offered any land for land compensation. They said that it is easier for non-indigenous groups living in the area to accept cash compensation because they do not have a similar history of attachment to their land. They feel that their ethnic identities, including their languages, are under threat due to displacement caused by the Project. They stressed it is important for them to decide as a community about their lands so as to protect their identities and their livelihoods.

74. In its Response, Management notes that indigenous communities were identified in the Social Assessment in accordance with Bank policy. Management also notes that use of alternative terminology for the development plan of indigenous communities is allowed under Bank policy. Management also notes that the VCDP could have been more rigorous in its analysis and could have provided more detailed action plans and benefits for different groups. Management also acknowledges that the number of indigenous households may have increased since the preparation of the Social Assessment and the VCDP. Management states that NEA is currently updating the VCDP to address these issues.

75. The Panel notes that the application of the Bank policy on indigenous peoples becomes particularly critical since the Project affects the lands of indigenous communities and includes involuntary resettlement issues. This also raises a question about whether the Project obtained the broad community support of affected indigenous groups through free, prior and informed consultation, as required under Bank policy.

76. **Consultation and disclosure.** The Panel notes that there is a significant communication gap and lack of information about the Project in all of the communities it visited. The community members consistently complained about lack of consultation and disclosure of information during the design and implementation of the Project. Many of them claimed that the Project authorities misinformed them. Several of them noted they were told initially that the transmission towers were for mobile phone stations. Some said they were told by surveyors that they were measuring the altitude in the area, while others said they were told by the surveyors that they were measuring the water level in the nearby river.

77. The Panel team observed that the Project affected people were not aware of their rights and entitlements. There appears to be confusion about the RoW and what activities can and cannot take place in the RoW. Many people noted they had not seen any document related to the Project in Nepali or in their own languages. More broadly, the Requesters question the application of Bank policies related to consultation and disclosure of information for Category A projects, and claim these requirements were not complied with.

78. In its Response, Management notes that it identified some weaknesses concerning disclosure of information and consultations. Management also recognizes the shortcomings in the disclosure of safeguard documents, including the VCDP and ARAP. Management states that NEA is currently updating the main safeguard documents and will disclose the updated documents, including in local languages.

79. **Grievance redress.** Several Requesters recounted to the Panel team their grievances regarding how the involuntary resettlement, compensation and adverse livelihood impacts of the Project are being dealt with by the Project. The Panel team also observed that the communities are unaware of any Project grievance mechanism functioning in the area.

80. During its visit, the Panel team met with several members of the “Struggle Committee” which was established five years ago to bring the grievances of the communities living along the transmission line to the attention of the authorities. The Panel team observed a very tense situation on the ground due to the construction of the transmission line. Some community members informed the Panel team that they were detained by the police in their houses during the construction of the towers. Some, including several women, mentioned that they were severely beaten and had to be hospitalized when they protested against the implementation of the Project.

81. Management acknowledges in its Response that the Project level Grievance Redress Mechanism was not “*as robust as it could have been*” in order to address the community’s concerns, but notes that the “*NEA is now in the process of strengthening the Project level GRM, which will complement the Government’s system for grievance redress.*”

ii. Alternatives to the current alignment

82. The Panel notes that the issues raised in the Request relate to (i) the lack of community involvement, (ii) the Project not taking into account changes in settlement patterns and population growth, (iii) impacts of the transmission line on cultural and sacred sites, and (iv) health impacts from high voltage transmission lines.

83. **Community involvement.** In all of the settlements that the Panel team visited, the inhabitants complained about the alignment of the transmission line and that possible alternative routes which could have avoided going through human settlements were not assessed adequately during the design and implementation of the Project.

84. The Requesters said they had heard about a study carried out by a Government Technical Committee to investigate the alignment which, according to the Requesters, did not change the alignment due to cost reasons. The Requesters noted that this report was never made public and they were not consulted during the work of the Committee. The Requesters told the Panel team that the alignment of the transmission line in Sindhuli district was changed from its initial routing due to the opposition of “*powerful groups of the population*” as this initial routing would have affected their land.

85. As noted in the Management Response, following complaints received from the community in January 2012, the Government constituted a Technical Committee in March 2012 to re-assess the alignment of the transmission line for the disputed stretch of the RoW in Sindhuli District, from Andheri through Panityanki, Gadyula and Phiting of Kamalamai Municipality, and where the construction work came to a halt. This Committee submitted its report on March 25, 2012, recommending the continuation of the existing alignment. In its conclusions, the committee noted that *“it seems while carrying out the alignment survey of an alternative route feasible to pass through the forest area instead of urban-oriented land and analysis thereof; it will cause additional financial burden due to unnecessary increase in the length of the transmission line, necessity to demolish the already constructed infrastructures, become the land acquired through acquisition procedures useless, massive tree felling and take at least 18 months of time to fulfill the legal procedures relating to thereof, consume extra time to conduct Environmental Impact Assessment, face difficulties in contract management and prolong the period for supplying additional materials and eventually contribute to stop the flow of the World Bank loan and send the wrong message to the donor community.”* During its visit, the Requesters expressed serious doubts to the Panel team about the timing, methodology, and conclusion of the Technical Committee’s report.

86. **Population growth and changes in settlement patterns.** The Requesters told the Panel team that since 2003 when the Project was designed and implementation began, significant changes had occurred along the selected transmission line route. The Requesters said that in addition to the indigenous population that was living in the area for generations, there were many additional indigenous and non-indigenous families who have come to settle in the area more recently, whose main livelihood is agriculture. The Panel team observed that the transmission line in Sindhuli District passes through mostly agricultural land composed of small plots where mainly paddy, millet, and pulses were observed to be cultivated at the time of the Panel team’s visit.

87. The Requesters also noted that due to the transmission line they are losing access to several possible economic opportunities that were planned in the area. In Dugribas, the Panel team was shown the location of a cable car project which, according to the Requesters, would have brought pilgrims to a Siddababa temple located on top of a hill. They claimed that this project would have diversified and improved livelihood opportunities for local residents but was later cancelled allegedly because of the transmission line passing through the planned cable car route.

88. The Requesters note that the 2005 Environmental Impact Assessment for the transmission line describes the area as *“barren or forested land”* whereas in reality it is agricultural land with significant human settlements on it. They therefore question the adequacy of the analysis of alternatives when, according to them, the route chosen was not described properly. The Requesters also question why Project implementation, which has taken almost ten years, relied on a study that was done so long ago without taking into account migration to the area, and as a result, changing human settlements on the ground.

89. **Cultural properties and sacred sites.** The Requesters expressed serious concerns regarding the impact of the transmission line on several historical, cultural and sacred sites. The

Panel team visited sites close to the towers or transmission line that have historical or spiritual significance for the local population, including the Sindhuli Gadhi fort. The Requesters informed the Panel team about the historical significance of this fort; according to them, this was where British soldiers were defeated for the first time in the Indian sub-continent in 1767 by Gurkha soldiers. The Panel team observed the proximity of the transmission tower to one of the main fort walls, which, the Requesters felt would adversely affect potential future development of the fort as a tourist attraction of significance in the area.

90. The Requesters also showed the Panel team the proximity of two towers near the Bhadrakali Temple. The Requesters claim that one of the towers is less than 15m from the boundary of the land of the Temple. The Requesters also expressed their serious concern regarding the impact of the transmission line which they claim passes over Kamalamai Temple, which they stated is a major shrine in the region.

91. The Requesters assert that the Bank failed to avoid or mitigate the Project's adverse impacts on historical, cultural and sacred sites in Sindhuli District as required by Bank policy. Management states that Bank Policy on Physical Cultural Resources was not triggered as the EIA indicated that the impact of the RoW on cultural sites is insignificant. Management states that following the complaint of the community in February 2013, although NEA offered to undertake a joint verification of the proximity of such sites to the RoW, this offer has not been taken up by the community so far.

92. **Health impacts.** The Panel notes that people expressed significant health concerns related to the high voltage transmission line, and the Panel observed that in some areas the towers and the transmission line are very close to dense settlements and that several inhabited houses were in, or very close to, the RoW. The Panel team observed in particular two schools whose students are between the ages of 5 to 16 years old and who would be passing and, likely, playing under the line as they cross the RoW on the way to the schools.

93. Management states in its Response that it has "*carefully reviewed the concerns about electromagnetic radiation including the studies cited by the Requesters and concluded that the scientific consensus is that no known health impacts can be linked to the electromagnetic exposure that is expected to stem from the Project.*" Management also notes that the Requesters concern about electromagnetic exposure is based on "*perceived risks which cannot be supported by any evidence of real risks.*"

iii. Panel's review

94. In view of the above analysis, and based on observations gathered during the Panel team's visit, it is the Panel's view that the Request alleges issues of existing and future harm of a serious character which may arise from Project activities within the 3.5 km disputed section of the transmission line where the proposed road is to be built, and also from areas which are adjacent to this disputed section where some Project-related construction activity has already taken place. The seriousness of these allegations stems in particular from the risk of loss of livelihoods and greater impoverishment related to certain marginalized groups, including indigenous people.

95. The Panel notes Management's view that "*the Bank has followed the policies and procedures applicable to the matters raised in the Request in a very challenging country context.*" Management indicates that it has identified some weaknesses concerning disclosure and consultations, which are currently being addressed. However, Management does not agree that the harm alleged in the Request is due to weaknesses in the implementation of the Project. Management also states that the Requesters' rights or interests have not been, nor will they be, directly or adversely affected by a failure of the Bank to implement its policy and procedures. It is the Panel's view, however, that people's concerns about impacts on livelihoods and the controversies around possible alternative alignments do raise valid questions about the Bank's compliance with its policies on Environmental Assessment, Involuntary Resettlement, Indigenous Peoples, Physical and Cultural Resources, Project Appraisal and Supervision.

96. In connection with the above, the Panel acknowledges that NEA and the Bank have developed a set of actions to improve Project implementation and address outstanding issues related to the transmission line, which is presented in Annex 1.6 of the Management Response. Management notes that this action plan is "*based on (i) Bank staff consultation with the local community in April, 2013; (ii) the independent consultant's evaluation; (iii) consultations with the CDO [Chief District Officer] and NEA.*" Management notes that these measures will also enhance NEA's capacity in social and environmental safeguards supervision and community outreach. Management also notes that it has formally requested NEA to halt any civil works until the compensation related issues for the RoW in Sindhuli are resolved. Management states that it will continue its supervision to ensure that environmental and social mitigation measures are adequately implemented in compliance with Bank policy and consistent with global good practices.

97. The key elements of the action plan, under the responsibility of NEA, include:

- Completing disbursement of compensation for land and RoW for eight unfinished tower pads in Sindhuli District as well the rest of the length (including road). The action plan notes that if some land owners do not voluntarily accept the compensation offered, then the land will be acquired through the process of eminent domain, in accordance with the Land Acquisition Act of 1977 (end November 2013);
- Hire Communication/Social Specialist (end October 2013)
- Appoint community liaison officers for key communities (mid-November 2013)
- Updating of the ARAP and VCDP (end December 2013)
- Complete implementation of updated VCDP and ARAP (April 2014)
- Strengthen the current Project Grievance Redress Mechanism (GRM) (December 2013)
- Continuing consultations and interaction with affected communities to reach conclusion on the RoW of the disputed stretch (continuing activity in the remaining period of Project implementation)
- Develop and disseminate new communications materials at 3 sites (November 2013)
- Completion of physical works (March-April 2014).

Meanwhile actions under Bank responsibility include:

- Develop Project FAQ/Information pamphlet and support NEA in developing other communication materials (mid-October 2013)
- Support NEA in strengthening the current GRM (end November 2013)
- Support creation of a roster of mediators (end November 2013)
- Disclose safeguard documents at Info Shop (end December 2013)
- Continue safeguard capacity building of NEA for implementation of the updated VCDP and ARAP. Prepare case study on the KD transmission line as a tool for applying a conflict sensitive approach throughout the power sector in Nepal (continuous engagement).

98. The Panel appreciates and welcomes the Bank and NEA's efforts to address the Project affected communities' concerns through the actions summarized above. The Panel notes that the proposed actions, if successfully implemented, may address some of the concerns of some of the affected people and Requesters.

99. The Panel also notes the Bank's commitment to continue its engagement with the Project beyond the closing date of December 31, 2013. The Panel further notes the Bank's expressed willingness to learn appropriate lessons from this Project for potential future interventions in Nepal's power sector, and use the Project as a case study for applying a conflict sensitive approach throughout the power sector in Nepal. The Panel hopes that this learning exercise may also include lessons on the assessment of project alternatives.

F. Recommendation

100. The Requesters and the Request meet the technical eligibility criteria set forth in the Resolution that established the Inspection Panel and the 1999 Clarification.

101. The Panel notes that there are conflicting assertions and differing views between the claims in the Request and the Management Response. The Panel notes that the harms claimed by the Requesters are linked to the Khimti-Dhalkebar Transmission Line financed under the Project. The Panel further notes that the claims raise issues of harm and non-compliance of a serious character which can only be fully ascertained in the context of an investigation.

102. The Panel notes that the Bank and NEA developed an action plan, as presented in Annex 1.6 of the Management Response, which includes important actions aimed at solving the ongoing dispute in Sindhuli District. The Panel further notes the Bank's declared commitment to supervise the implementation of the proposed action plan beyond closure of the Project and its intention to learn from the experience of the implementation of this Project. The Panel welcomes these actions and hopes all stakeholders will make a good faith effort to address outstanding issues based on this framework.

103. At the same time, the Panel also notes that while the action plan attempts to resolve the ongoing dispute in Sindhuli District, the claims of the Requesters regarding Bank's non-compliance and resulting harms, with respect to analysis of alternatives, impact of the transmission line on historical and cultural properties, consultation and disclosure, issues of

involuntary resettlement and indigenous peoples, and impacts on livelihoods continue to have merit.

104. In light of the observations above, the Panel recommends that an investigation be carried out focusing on: (i) issues of compliance with World Bank operational policies and procedures under the Project that relate to alleged loss of livelihoods, or potential future losses, for vulnerable communities, including indigenous groups, and (ii) issues of compliance with respect to the study of alternatives and alignment of the transmission line and allegations that certain harms were not adequately considered. In order to take into account the implementation of the proposed actions set forth in Annex 1.6 of the Management Response during its investigation, the Panel recommends commencing its investigation after April 30, 2014. If the Board of Executive Directors concurs with the foregoing, the Inspection Panel will advise the Requesters and Management accordingly.