

RECOMMENDATION: To avoid undermining the predictability, effectiveness, and independence of complaint processes, the CAO must not defer compliance review investigations.

The CAO should not be able to defer a compliance investigation to allow management an opportunity to address the issues in a complaint. While the IFC/MIGA should be required to do everything in its power to proactively engage with complainants to address grievances, adding a deferral procedure risks undermining the predictability and effectiveness of the CAO's complaint process.

**Deferral Can Protract Harm to Communities and Can be a
Disservice to Institutional Learning**

The experience of communities in the Sindhuli district of Nepal affected by the World Bank-financed Khimti-Dhalkebar transmission line demonstrates real problems that can arise from deferring a compliance investigation. In 2007, the Nepal Electricity Authority (NEA) began constructing the transmission line. Asserting inadequate consultation, Sindhuli communities began to oppose a section of the transmission corridor sited to traverse residential zones, agricultural lands, school grounds, sacred sites, and urban areas. Without adequate consultations, the communities became growingly concerned about the project's route, potential health and safety impacts, and whether they would be fairly compensated for land takings.

In June 2013, after police forces used violence to suppress concerned protestors, the Lawyers' Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP) joined the communities to oppose project harms and deepen engagement from the Bank and NEA. In response, the Bank and NEA presented the communities with an action plan. Because that action plan was deficient in process and substance and failed to address concerns, the communities, supported by LAHURNIP and Accountability Counsel, submitted a July 2013 [complaint](#) to the World Bank Inspection Panel. The complaint called for, among other things: (1) an independent analysis of alternative designs and routes for the project to be sited in areas without human settlement; (2) full transparency, community participation, consultation with indigenous and non-indigenous populations, and disclosure of all project baseline studies; and (3) full compliance with Nepali law, international law, and Bank policy.

In October 2013, the Panel found the complaint [eligible](#) for compliance review, but upon the [insistence](#) of Bank management, delayed investigation for six months to allow time for management to address "weaknesses concerning disclosure and consultation" and negotiate compensation packages for land acquisition. Shortly after deferral, management revised the June 2013 action plan by including steps to improve information dissemination, community consultation, property compensation, and resettlement. Later, communities relayed that they felt pressured to agree to the revised action plan after the Panel warned that the Bank could withdraw from the project and the Government of Nepal could forcibly take land (in violation of law) instead. Neither management nor the Panel provided the communities with a Nepali translation of the full revised action plan.

The Panel [postponed](#) the compliance investigation not just six months, but to late April 2014. The Panel's decision to delay investigation created no benefit to communities seeking to be heard through the Panel process during that time. As Yale Law School's study [Deferring Accountability: Delays at the World Bank's Inspection Panel](#) confirms, "most community members reported seeing no change in the behavior of the Bank management and NEA during the six months of delay."

In February 2015, more than a year and a half after the complaint was submitted, the Panel released [findings](#) of non-compliance highlighting, among other things, shortfalls in community engagement, weak institutional capacity of the NEA to implement the project and control armed insurgencies from retaliating against community activists, and Bank failure to follow its involuntary resettlement policy. After the report's release, the Government of Nepal deployed armed security forces to see construction through.

The Panel's investigation report made only a brief reference to the fact of the delay. Nothing in the report indicated that the delay ultimately benefited the community, the investigation, or the Bank's own accountability or development outcomes. To the contrary, the Panel's failure to adhere to their procedural timelines was to the detriment of communities who expected a predictable process. Moreover, deferral significantly delayed publishing important information, such as the report of non-compliance, which came too late to make a consequential difference to the development outcomes for communities. The Panel's failure to conduct an immediate investigation made the communities' requested remedy -- a rerouting of the transmission line in the disputed area -- more difficult to fulfill as project construction progressed around the area.

Deferral Can Deteriorate the Effectiveness of the Accountability Mechanism

Not only did the Panel's decision to defer fail to spur real remedy, but the outcome of that delay, a belated compliance investigation report, further disillusioned communities harmed by the Bank-funded project. Substantive communication between communities and the Panel ended during the deferral period. Moreover, without timely access to the report, communities were deprived of useful information that may have helped in their efforts to resolve their concerns domestically and impel stronger action from the NEA and the Bank.

The case highlights the risks and challenges of deferring compliance review investigations, both for the institution and the communities who stand to lose when their voices are not heard. What may seem like a well-intentioned reason to defer may result in prolonged or exacerbated harm and distrust in the accountability mechanism. While providing management a formal opportunity to respond to a CAO complaint would be positive, the CAO should not defer compliance investigations to accommodate management actions. As in Nepal, management often has ample time to course-correct when adverse impacts become known through project-level grievance mechanisms or media reports. Communities resort to accountability mechanisms when they feel that management failed to respond appropriately. As we have learned from the Panel's [Pilot for Early Solutions](#), forcing delays in the complaint process fails to address the root causes of passivity over community concerns. Management can still constructively engage with complainants contemporaneous with an ongoing investigation.

In principle, complaints ultimately belong to the project-aggrieved communities who submit them, and communities must have a say in directing the trajectory of their complaint. If, despite the foregoing concerns, deferral procedures are added to the CAO's Operational Guidelines, they must have the following guardrails:

- Complainants must agree to the deferral and must be consulted on the proposed management actions to address their complaints;
- All deferrals must be time bound, and the CAO must monitor and publicly report on the implementation of management actions; and
- The CAO must regularly consult with complainants throughout the deferral time period, and complainants must be able to stop the deferral process at any time.