

**FIRST PILOT ON EARLY SOLUTIONS:  
LAGOS METROPOLITAN DEVELOPMENT AND GOVERNANCE PROJECT (LMDGP)  
RESPONSE TO AMNESTY INTERNATIONAL'S CONCERNS RAISED IN ITS  
BRIEFING NOTE ON BADIA EAST (SEPT 2014)**

**INTRODUCTION**

The Inspection Panel appreciates and thanks Amnesty International for its interest in our work and its support for accountability broadly. Amnesty's work in focusing the world's attention on the plight of the evictees in Badia East and its vigorous campaign in favor of their human rights is also praiseworthy.

The Inspection Panel case was based on a Request by the Social and Economic Rights Action Center in Nigeria (SERAC) alleging that the demolition of hundreds of homes in Badia East as part of a housing development project financed by the Lagos State Government "*without prior consultation, notice, compensation or resettlement*" led to the "*impoverishment and insecurity*" of thousands of people. It was alleged that this was a result of World Bank's failure to ensure that the Lagos Government complied with its commitments made under the Financing Agreement for the LMDGP even though the evictions were not financed by the Project itself.

After consulting with the Requesters and Bank Management, the Panel decided to consider this case under the new Pilot approach on the basis of the Action Plan provided by Bank Management and agreed by the community and their representative. The main concern and the focus of the Action Plan centered on the urgent need for compensation by the evictees, taking into account that the Project closed on the day the Request was received by the Panel and that the Lagos Government essentially perceived the evictees as illegal squatters.

As a result of the implementation of the Pilot and as of today, the great majority of affected people have received compensation, and Bank Management is committed to following up until the completion of the compensation process. This accomplishment was a result of the intense work by the Requesters and other community representatives, SERAC, Bank, and the Lagos State Government over several months. On July 10, 2014, the Requesters expressed their satisfaction with the Pilot and Bank Management formally committed to maintain oversight until the completion of all payments, to resolve all outstanding grievances, to facilitate participation in vocational training facilities, and to inform the Board on final implementation of the Resettlement Action Plan. They also undertook to carry out a stand-alone case study to extract lessons learned from LMDGP in a more systematic manner, provide in-depth analysis of the modalities of urban sector engagements in a mega-city like Lagos, and make recommendations towards the structure and manner of engagement in such settings. On July 16, 2014, the Panel informed the Board that based on the satisfaction of the community members it would not register the case.

Below are the Inspection Panel's comments to the specific concerns raised by Amnesty International.

### **PEOPLE FORCIBLY EVICTED WERE PART OF A WIDER GROUP MEANT TO BENEFIT FROM A WORLD BANK FUNDED PROJECT**

The evictions in Badia East were not directly caused by activities financed under the World Bank's LMDGP. The linkage between the evictions and the Project stems from a provision in the Project's Financing Agreement requiring that all city-wide upgrading projects in Lagos, regardless of their source of financing, be implemented in accordance with the principles of the Bank policy on Involuntary Resettlement. This important distinction is clearly recognized in the Request for Inspection letter submitted by the then Staff Attorney of SERAC. There was a fundamental difference in perception, however, between the Bank and the Borrower regarding the entitlements of affected people. The borrower Government considered slum dwellers illegal squatters not entitled to any compensation under the law.

The Panel in its publicly available Notice of Non-registration (NNR) to the World Bank's Board highlights the areas in which the RAP implementation fell short of the WB's Involuntary Resettlement Policy. The Board is thus aware of potential non-compliance and these issues have not been simply ignored.

### **CONSULTATION ON THE PILOT APPROACH**

Amnesty's Report claims that the Pilot was developed between the Inspection Panel and Bank Management with little regard for comments received from civil society.

The Panel undertook a lengthy process of consultations on its draft Operating Procedures from which the Pilot approach emanates, including detailed questionnaires and interviews, with both internal and external stakeholders. Internal consultations are a part of due diligence in any transparent and objective process, and by no means can be interpreted as constituting a conflict of interest. The Inspection Panel is an independent mechanism, and as such, its Operating Procedures, and in this case, the Pilot approach, is adopted by the Panel based on careful consideration of all inputs from stakeholders. In the final analysis, the Panel's independent judgment led to the development of the Pilot approach.

The Pilot approach cannot be described as "*a marked departure from the functions described in the Board Resolution that established the Panel.*" The Pilot approach does not alter the mandate and the function of the Panel, which is to hear requests for inspection from people who have been affected by actions or omissions by the Bank in non-compliance with its policies and procedures. Since the Pilot approach does not contain elements that amend the Panel Resolution or its Clarifications, the document describing the Pilot process was sent to the Board on an information basis. Sending it on an information basis in no way precludes the Board from expressing comments or even voicing objections. No objections were received from Board members, and recent interactions with them on the Lagos Pilot confirmed their overwhelming support for the efficacy of the approach.

Furthermore, it is important to note that the Pilot is to be applied on an exceptional basis and by no means intended to become the norm for processing Requests.

## **PRECONDITIONS FOR PARTICIPATION IN THE LAGOS PILOT**

The Amnesty Report states that the Requesters agreed to participate in the pilot on the basis of three preconditions, of which at least one was not fulfilled by the World Bank. The Panel would like to clarify that the Requesters' Representative, in communication (email and telephone) with the Panel in November 2013, understood and agreed to the suggestion that the three pre-conditions, relating to the release of the RAPs and clarifications about the Grievance Mechanism, be taken up in the direct dialogue between Management and the Requesters under the aegis of the Pilot and the Panel proceeded on this basis. The Panel also wishes to state that the three pre-conditions raised by the Requesters were noted in the Panel's Notice of Receipt.

## **INADEQUATE FINANCIAL ASSISTANCE RATHER THAN COMPENSATION**

The Pilot process resulted in prompt payment to over 9,000 evictees, and we consider this to be a good outcome particularly in a context in which the evictees are considered illegal squatters under local law.

Of particular significance, we are not aware of any instances in which the Lagos State Government has provided compensation to evictees for an eviction caused by a project financed by them, establishing their own structures and processes such as the Technical Committee and a grievance redress process, as was the case here, and this creates an important precedent with the possibility for a longer term impact.

Under the very specific circumstances of this Pilot (the Project was closed the same day the Request was received, both the Federal and the Lagos State Governments were unwilling to recognize "squatters" as having any rights, the eviction did not take place as part of the Project), the Panel's judgment was that a lengthy process of investigation would not yield improved outcomes for the Requesters.

## **THE RAP PROCESS CONTRAVENES BANK POLICY**

The Panel concurs with Amnesty's assessment that the RAP process was inadequate. The Panel's NNR informed the Board the ways in which the RAP implementation fell short of Bank Policy on Involuntary Resettlement, including the lack of prior socio-economic studies including a census, lack of proper consultations, etc. The Panel has stated that by definition, a retroactive RAP is deficient of the necessary features for orderly resettlement to take place and therefore falls short of Bank policy.

## **THE PANEL DID NOT REGISTER A REQUEST THAT MET ELIGIBILITY REQUIREMENTS**

As spelt out in the Board document outlining the Pilot process, its purpose is to create an opportunity to redress an alleged harm, based on the implementation of an Action Plan agreed upon between the Requesters and Bank Management beforehand, thus delaying a decision on whether or not to register a case. It is understood that the Pilot is implemented to respond to Requests that meet the admissibility criteria. A Pilot cannot be initiated unless the Requesters wish to proceed in this manner. The Pilot is concluded, and the case is not registered, upon receipt of a

written communication from the Requesters that they are satisfied with the results of the process. These conditions were met in the present case.

## **CONCLUDING REMARKS**

On September 3, 2014, the Inspection Panel briefed the Committee on Development Effectiveness (CODE) of the World Bank Board on this first Pilot experience. The briefing outlined the implementation of this first Pilot, together with its achievements, challenges, and lessons for future Pilots. As set forth in the publicly available document on the Pilot approach presented to the Board of Executive Directors in November 2013, the results and effectiveness of the Pilot will be assessed by the end of 2015.

In the Panel's view, the Lagos Pilot case proved to be both efficient and effective in redressing the grievances of affected people by focusing Bank efforts on solving the critical needs of thousands of evictees, while maintaining consistency with the Resolution that established the Inspection Panel. The Panel recognizes that there are important lessons for the application of future Pilot cases. These are noted in the NNR. The case also highlights the tremendous challenge of resettlement of slums in rapidly growing cities in a sustainable manner.

The full Notice of Non-Registration can be accessed through [http://ewebapps.worldbank.org/apps/ip/PanelCases/91-Notice%20of%20Non-Registration%20\(English\).pdf](http://ewebapps.worldbank.org/apps/ip/PanelCases/91-Notice%20of%20Non-Registration%20(English).pdf).

*For complete set of documents on the case related to Nigeria Lagos Metropolitan Development and Governance Project, please go to this link:* <http://ewebapps.worldbank.org/apps/ip/Pages/ViewCase.aspx?CaseId=94>

*For more information about the Inspection Panel, please visit: [www.inspectionpanel.org](http://www.inspectionpanel.org)*