



CAO ASSESSMENT REPORT

**Regarding the Third Complaint in Relation to
IFC's Investment in Karot Hydro (#36008) in Pakistan**

March 2021

Office of the Compliance Advisor Ombudsman
for
the International Finance Corporation and the
Multilateral Investment Guarantee Agency
www.cao-ombudsman.org

About CAO

The Office of the Compliance Advisor Ombudsman (CAO) is the independent accountability mechanism for the International Finance Corporation (IFC) and the Multilateral Investment Guarantee Agency (MIGA), the private sector arms of the World Bank Group. CAO reports directly to the President of the World Bank Group, and its mandate is to assist in addressing complaints from people affected by IFC/MIGA-supported projects in a manner that is fair, objective, and constructive, and to enhance the social and environmental outcomes of those projects.

For more information, see www.cao-ombudsman.org

TABLE OF CONTENTS

LIST OF ACRONYMS IV

1. OVERVIEW 1

2. BACKGROUND 1

 2.1 The Project..... 1

 2.2 The Complaint..... 1

3. ASSESSMENT SUMMARY 1

 3.1 Methodology 1

 3.2 Summary of Views 2

4. NEXT STEPS..... 6

ANNEX A. CAO COMPLAINT-HANDLING PROCESS 7

LIST OF ACRONYMS

BWI	Building and Wood Workers International
CAO	Office of the Compliance Advisor Ombudsman (IFC/MIGA)
CSAIL	China Three Gorges South Asia Investment Limited
FTA	Finance Technical Advisor
GRM	Grievance Redress Mechanism
HSE	Health Safety and Environment
IFC	International Finance Corporation (World Bank Group)
KPCL	Karot Power Company Limited
MIGA	Multilateral Investment Guarantee Agency (World Bank Group)
PCR	Polymerase Chain Reaction
PESSI	Punjab Employees Social Security Institution
PFBWW	Pakistan Federation of Building and Wood Workers
PIRA	Punjab Industrial Relations Act
PPE	Personal Protective Equipment
SHLU	Social Hydro Labour Union
SOPs	Standard Operating Procedures
TGDC	China Three Gorges Technology & Economy Development Co Ltd
WCMC	Workers Council and Management Committee

1. OVERVIEW

In July 2020, a complaint was lodged with CAO by representatives of Building and Wood Workers International (BWI) and the Pakistan Federation of Building and Wood Workers (PFBWW), on behalf of the Awami Labor Union (the Complainants), in relation to Karot Power Company Limited (KPCL or "the Company") in Pakistan. The complaint raises a range of social issues related to the working conditions and terms of employment, workers' organizations, and grievance redress mechanism at the Karot hydro power plant (Karot or the Project).

CAO found the complaint eligible for further assessment in August 2020. During CAO's assessment, the Company indicated willingness to engage in a dispute resolution process, while the Complainants preferred that the complaint be handled by CAO's Compliance function. Since no consensus was reached on a dispute resolution process, which is voluntary, the complaint will be referred to CAO Compliance for appraisal of IFC's performance, as per CAO's Operational Guidelines.

2. BACKGROUND

2.1 The Project

IFC has an active project with KPCL, a special purpose vehicle incorporated in Pakistan and majority owned by China Three Gorges South Asia Investment Limited (CSAIL or "the Project Sponsor"). The project involves providing a project finance facility of up to US\$100 million to support the construction, operation, and maintenance of a 720MW run-of-the-river hydropower plant being developed on the Jhelum River, in Pakistan.

2.2 The Complaint

In July 2020, CAO received a complaint from representatives of BWI and PFBWW, on behalf of the Awami Labor Union at Karot. The Complainants claimed adverse impacts on approximately 3,000 project workers, including violations of IFC Performance Standard 2 on workers' organizations, health and safety, working conditions and terms of employment, grievance mechanisms, retrenchment, and concerns related to the use of security forces under IFC Performance Standard 4.

The issues raised during the assessment are described in more detail below.

3. ASSESSMENT SUMMARY

3.1 Methodology

The aim of the CAO assessment is to clarify the issues and concerns raised by the Complainant(s), gather information on the views of different stakeholders, and determine whether the Complainant(s) and the IFC Project Sponsor would like to pursue a dispute resolution process facilitated by CAO, or whether the complaint should be handled by CAO's Compliance function for appraisal of IFC's performance (see Annex A for CAO's complaint-handling process).

In this case, CAO's assessment of the complaint included:

- a desk review of project documentation;

- telephone and email communications with the representatives of BWI, PFBWW, and Awami Labor Union;
- telephone and email communications with KPCL's management; and
- telephone and email communications with relevant IFC staff.

A CAO assessment typically involves a field visit to meet with the complainants and project sponsor to gain a better understanding of the situation. Due to COVID-19-related restrictions on travel and social gatherings, CAO could not arrange in-person meetings with the relevant stakeholders involved in this case. However, CAO decided not to delay the assessment of the complaint and conducted the assessment via virtual platforms, with the consent of both parties.

3.2 Summary of Views

This section presents a broad overview of the issues and perspectives of the parties, as expressed by the Complainants and KPCL's management, respectively. It does not comprise a judgment by CAO about the merits of the complaint.

Complainants' Perspective

The complaint to CAO was lodged by representatives of Building and Wood Workers International (BWI) and the Pakistan Federation of Building and Wood Workers (PFBWW). BWI is a global union federation that establishes unions with members of the building, building materials, wood, forestry, and allied sectors. PFBWW is the BWI-affiliated federation for Pakistan.¹ The complaint was submitted on behalf of the Awami Labor Union, China Three Gorges Corporation Karot Power Company Private Limited, which is an enterprise union affiliated with PFBWW.

The Complainants raise concerns about the adverse impacts on approximately 3,000 project workers at Karot, including violations of IFC Performance Standard 2 on workers' organizations, health and safety, working conditions and terms of employment, grievance mechanisms, retrenchment, and concerns related to the use of security forces under IFC Performance Standard 4. The Complainants informed CAO that before submitting the complaint, they had attempted to discuss their concerns with the Company; however, given that these endeavors did not bring satisfactory results to the Complainants, they decided to file a complaint with CAO. The Complainants also claimed that before lodging the complaint with CAO, BWI directly engaged with IFC to raise the concerns and requested IFC to urge the Company to comply with the IFC's Performance Standards.

a. Concerns related to the workers' organizations:

From the Complainants' point of view, KPCL failed to respect the workers' right to organize and bargain collectively with their employer, which is recognized by IFC's Performance Standards, as well as by international law and Pakistan's national trade union laws. The Complainants alleged that the Company interfered with the Awami Labor Union's registration process, by creating unnecessary bureaucratic burdens that substantially delayed the ability of the union to operate.

Additionally, the Complainants claimed that KPCL made efforts to undermine the collective bargaining process through the creation of the Social Hydro Labour Union (SHLU), which they believe to be a company-controlled or "yellow" union. The Complainants explained that SHLU

¹ See BWI's website: <https://www.bwint.org/>

was registered at an unusual speed and that none of the Awami Labour Union's workers or office holders at the Karot project site were aware of its existence. The Complainants believe that since the creation of SHLU, KPCL's management has kept up negotiations with Awami Labour Union solely as a formality, with no real intention to improve the working conditions of its employees.

The complaint indicated that anti-union actions have been taken by KPCL's management to undermine workers' rights. The Complainants claimed that fines are being imposed on workers without a proper investigation, and that up to 200 union members were terminated without justification or compensation. Additionally, they claimed that the requirements imposed by KPCL on access to the workplace by trade union leaders, including providing up to 48 hours prior notice to be authorized to enter the premises, severely restrict Awami Labor Union's ability to access the site and carry out its duties. The Complainants further stated that the heavy presence of military forces at the project site creates an intimidating atmosphere that impacts the parties' free exercise of their rights in the collective bargaining process. According to the Complainants, workers are watched and are not allowed to gather, meet, and discuss among themselves, and union office bearers have been repeatedly threatened and falsely accused by the Company.

b. Concerns related to the workers' health and safety:

The complaint indicated that the Company failed to adequately protect the health and safety of Karot workers, in violation of IFC Performance Standard 2. The Complainants claimed that workers' personal protective equipment (PPE), including safety jackets, gloves, boots, and helmets, is of substandard quality and not replaced in a timely manner when worn out. The Complainants argued that, although the union raised the issue several times with the Company's management, progress has been very slow.

An additional set of concerns was highlighted in relation to the alleged lack of appropriate safety measures in response to COVID-19. Specifically, the Complainants alleged that the Company failed to provide testing facilities, qualified doctors, and safety supplies, such as hand sanitizer and good-quality face masks, at the project site. Social-distancing protocols have not been implemented and workers are not allowed to leave the project site, even in the case of the death of a close relative.

c. Concerns related to the terms of employment and retrenchment:

The Complainants shared their impression that the wages paid to Karot workers are not adequate, when compared to wages offered at similar projects in Pakistan. They claimed that workers do not receive the benefits provided by Pakistan's national law, including increments, gratuity, and leave. Additionally, they highlighted the concern that there is no difference in salary between skilled and unskilled workers. The Complainants further alleged that the terminations of workers carried out by the company without justification or compensation violate the IFC policy on retrenchment.

d. Concerns related to the Company's grievance mechanism:

The complaint further claimed that KPCL project management failed to set up a project-level grievance redress mechanism (GRM), in violation of IFC Performance Standard 2, despite repeated requests and reminders from the Complainants. The Complainants shared with CAO that, to date, no GRM has been established at the project site and there have been direct negotiations only between the Awami Labour Union, PFBWW, and the Karot project management. The Complainants highlighted that, without a GRM, the workers' ability to raise their concerns with KPCL has been substantially limited.

Company's Perspective

In responding to the concerns raised in the complaint, the Company indicated that, from their point of view, the project is being developed in compliance with the applicable labor laws and IFC's Performance Standards. They shared a detailed report with CAO about the concerns raised. Further, in their engagement with CAO they indicated that they are continuously striving to improve the working conditions and there are no unlawful practices being carried out at the project site. The Company expressed gratitude for the support and guidance the IFC has provided at each stage of the development and implementation of the Karot Project.

a. Concerns related to the workers' organizations:

The Company indicated that they respect the workers' rights envisaged under the Punjab Industrial Relations Act, 2010 (PIRA) and IFC Performance Standard 2. The Company also expressed that all the workers on the project site are allowed to form and join the trade union/workers' organization of their choice and to take part in all the activities of such trade unions in accordance with the law, including the workers' employment contracts, which provide for the rights of workers to join the trade union of their choice.

In addition, the Company reflected that during the period from March to September 2019, they held various meetings with the Complainants to brief them about their concerns. Further, they highlighted that the Company has no control or influence over any of the unions' registrations for the project. The Company argued that they never had any information related to workers joining the Awami Labour Union, that the Company does not terminate workers without any reason, and that all the exit formalities and documentation are completed. The Company also said that they make sure to pay due compensation to the workers who leave the Company and that no fines are being imposed on workers, except in case of violation of health and safety Standard Operating Procedures (SOPs), which are clearly communicated to workers for their own safety. The Company's Health Safety and Environment (HSE) staff maintains related records and evidence of violations.

KPCL expressed that negating the presence of the other labor union for the project, the Social Hydro Labour Union (SHLU) registered under the law, and portraying it as the project's controlled "yellow" union is highly unfortunate, and reflects no confidence by the project's workers in such representatives. The Company highlighted that KPCL, China Three Gorges Technology & Economy Development Co Ltd (TGDC), and its contractors, have nothing to do with the delay in the registration process of the Awami Labour Union. The Company claimed that the registrar had turned down the registration application on legal grounds related to jurisdiction and that the court procedures took additional time to complete the registration process. Neither the Company nor TGDC believe they have created any hurdles in the process.

The Company highlighted that the project is of the highest national importance, and the government of Pakistan has deployed the Pakistani army for security at the project, looking after and controlling access to the project site. The Company indicated that protocols and procedures in relation to entry to and exit from the project site are prepared by the Pakistani army and have to be followed, leaving the Company and its contractors with no control over such security protocols and procedures. KPCL indicated that this was conveyed clearly to the union leaders and that they had agreed to follow the procedures.

b. Concerns related to the workers' health and safety:

The Company said that they and their contractors are providing adequate protection facilities to the workers at the project site; in particular, they indicated that measures such as frequent

water sprinkling during dry weather, provision of first aid boxes on site, emergency response mock drills, frequent inspections, provision of personal protective equipment (PPE), and organizational health and safety trainings, along with supervision, monitoring, and placement of firefighting equipment and housekeeping materials at sites and in accommodation camps, are being provided and implemented to protect the health and safety of workers. They also indicated that the workers' employment contract acknowledges the employer's responsibility in relation to the health and safety of the workers and working conditions at the workplace.

KPCL expressed that, in order to cope with the threat of the pandemic and its adverse impact on the workers' health and construction activities, the Company and its contractor made a detailed plan to control and prevent the spread of COVID-19 on the project site, which includes measures such as timely establishment of a leading group for the prevention and control of the epidemic, maintenance of social distancing, use of masks and disinfectant spray, daily temperature checks and very limited movement, testing at the company's expense, and establishment of a quarantine facility for the workers. From the Company's perspective, five members of the medical team from China have reached the project site to strengthen the project's medical team. Furthermore, five COVID-19 PCR testing machines and various medications, such as Lianhua Qingwen capsules and antibiotics, have been provided at the site facilities, where the medical team provides periodic testing and treatment. Meanwhile, a telemedicine system has been set up to provide further assistance with health care consultancy, COVID-19 prevention guidance, and other emergency guidance and services.

The Company informed CAO that they are committed to providing a healthy and safe environment for every worker and are making every effort to resolve any issues in the best interest of the Karot workers.

c. Concerns related to the terms of employment and retrenchment:

The Company indicated that overtime is being paid as per applicable labor laws at the project. They emphasized that the rate is double for extra working hours and on Sundays, and triple for public holidays. The Company argued that, along with their contractors, they are paying the wages, allowances, and other benefits to the workers in accordance with the applicable Pakistani labor laws and the employment contract.

In addition, the Company noted that their human resources policies have been developed in compliance with the requirements of IFC's Performance Standard 2 and Pakistani labor laws. They have shared that the policies have been adopted by all contractors across the project.

From the Company's perspective, a uniform, certified "Employment Contract" was prepared by Karot's legal firm and reviewed by the IFC and FTA (Finance Technical Advisor), before being issued to all workers at the Karot Project site. The Company states that this is not a legally mandated requirement, and it is solely at the employer's discretion to award salary increments based on employee performance. The Company also informed CAO that all the currently active workers have been registered with the Employees Old-Age Benefits Institution (EOBI) and Punjab Employees Social Security Institution (PESSI), and their contributions are being paid on a regular basis.

d. Concerns related to the Company's grievance mechanism:

The Company noted that, in view of the requirements under the PIRA and IFC Performance Standard 2, a grievance redress mechanism (GRM) and Workers Council and Management Committee (WCMC) have been established to address the workers' grievances. The grievance redress committee meets regularly on a monthly basis and handled 81 complaints in 2019, while the WCMC meets every two months. The Company informed CAO that in 2020, due to COVID-related restrictions, WCMC meetings were not held regularly. However, workers could

use complaint boxes or directly approach HR and HSE personnel through phone calls if they had any complaint. In 2020, 44 worker complaints were resolved as of July 31. According to the Company, WCMC is composed of 20 worker representatives nominated by the workers from different sub-contractors, and 12 members from management. The WCMC provides a bridge between the management and employees for smooth resolution of conflicts and engages the workers in its routine activities without any disturbance. The Company indicated that, since the establishment of the WCMC, a number of worker grievances have been resolved, including issues related to control of food prices, increasing the drinking water cooler ratio in camps, the immediate leave approval process, timely payment of wages, and establishment of a dispensary under the PESSI.

Complaint boxes are located in all labor camps, and the committee follows a complaint-lodging procedure that includes the possibility of filing an anonymous complaint if workers do not want to disclose their identity. The Company informed CAO that the GRM procedure is shared with all workers through daily Toolbox Talks (TBT). There are nine worker representatives from different sub-contractors who can share worker concerns with KPCL's management. In the past, issues have been resolved through this committee, including provision of transport, an increase in the number of buses, provision of clean drinking water and a self-cooking area, provision of bedding, food allowances across the board, and minimum wage.

4. NEXT STEPS

The CAO dispute resolution process requires voluntary agreement to participate by the complainants and the IFC client. During CAO's assessment, while the Company indicated a willingness to engage in a dispute resolution process, the Complainants expressed their preference that the complaint be handled by CAO's Compliance function. Accordingly, the complaint will be referred to CAO Compliance for appraisal of IFC's performance, as per CAO's Operational Guidelines.

ANNEX A. CAO COMPLAINT-HANDLING PROCESS

Once CAO declares a complaint eligible, an initial assessment is carried out by CAO dispute resolution specialists. The purpose of CAO's assessment is to: (1) clarify the issues and concerns raised by the complainant(s); (2) gather information on how other stakeholders see the situation; and (3) help stakeholders understand the recourse options available to them and determine whether they would like to pursue a collaborative solution through CAO's Dispute Resolution function, or whether the case should be reviewed by CAO's Compliance function.

As per CAO's Operational Guidelines,² the following steps are typically followed in response to a complaint that is received:

Step 1: **Acknowledgement** of receipt of the complaint.

Step 2: **Eligibility**: Determination of the complaint's eligibility for assessment under the mandate of CAO (no more than 15 working days).

Step 3: **CAO assessment**: Assessing the issues and providing support to stakeholders in understanding and determining whether they would like to pursue a consensual solution through a collaborative process convened by CAO's Dispute Resolution function, or whether the case should be handled by CAO's Compliance function to review IFC's/MIGA's environmental and social due diligence. The assessment time can take up to a maximum of 120 working days.

Step 4: **Facilitating settlement**: If the parties choose to pursue a collaborative process, CAO's Dispute Resolution function is initiated. The dispute resolution process is typically based on or initiated by a Memorandum of Understanding and/or mutually agreed-upon ground rules between the parties. It may involve facilitation/mediation, joint fact finding, or other agreed resolution approaches leading to a settlement agreement or other mutually agreed and appropriate goals. The major objective of these types of problem-solving approaches will be to address the issues raised in the complaint, and any other significant issues relevant to the complaint that were identified during the assessment or the dispute resolution process, in a way that is acceptable to the parties affected.³

OR

Compliance Appraisal/Investigation: If the parties opt for a Compliance process, CAO's Compliance function will initiate an appraisal of IFC's/MIGA's environmental and social due diligence of the project in question to determine whether a compliance investigation of IFC's/MIGA's performance related to the project is merited. The appraisal time can take up to a maximum of 45 working days. If an investigation is found to be merited, CAO Compliance will conduct an in-depth investigation into IFC's/MIGA's performance. An investigation report with any identified non-compliances will be made public, along with IFC's/MIGA's response.

Step 5: **Monitoring and Follow-up**

Step 6: **Conclusion/Case Closure**

² For more details on the role and work of CAO, please refer to the full Operational Guidelines: http://www.cao-ombudsman.org/documents/CAOOperationalGuidelines_2013.pdf

³ Where stakeholders are unable to resolve the issues through a collaborative process within an agreed time frame, CAO Dispute Resolution will first seek to assist the stakeholders in breaking through impasse(s). If this is not possible, the Dispute Resolution team will inform the stakeholders, including IFC/MIGA staff, the President and Board of the World Bank Group, and the public, that CAO Dispute Resolution has closed the complaint and transferred it to CAO Compliance for appraisal.