

An Evaluation of the Inspection Panel's Early Solutions Pilot in Lagos, Nigeria



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May 2016

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SOMO

Inclusive Development International

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Inclusive Development International is a human rights organization working to make the international economic system more just and inclusive. IDI supports and builds the capacity of grassroots organizations and communities to defend their land, natural resources and human rights against threats from harmful investment, trade and development practices. Through research, casework and policy advocacy, IDI works to strengthen the human rights regulation and accountability of corporations, financial institutions and development agencies.

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Colophon

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Executive Summary

The Inspection Panel is an essential part of the system of accountability at the World Bank. It has been a pioneering body in accountability in development finance, setting the standard for independent accountability mechanisms that have since been established at other multilateral development banks and similar institutions.

The Panel's achievements have been made within a complex political environment. Bank management and staff are often uneasy with the Panel's role in scrutinizing and assessing their work. The World Bank's clients can be hostile to the principles of citizen-driven accountability that the Panel exists to defend. At the same time, affected communities and civil society place high expectations on the Panel's contribution to accountability.

The Inspection Panel is hampered in its work by a limited mandate and toolbox for achieving its accountability mission, which has not been significantly updated by the Board since it adopted its resolution establishing the Panel in 1993. In particular, unlike newer accountability mechanisms, the Inspection Panel lacks the power to resolve grievances through dispute resolution or "problem-solving."

Confined by its mandate, the Panel has attempted to respond to this lacuna through a change in its Operating Procedures. In early 2014, the Inspection Panel introduced a new approach to allow it to postpone registration of a Request for Inspection in specific situations to give Bank management and the Requesters an additional opportunity to attempt to resolve grievances and alleged harms. If, after a given time period, the Panel deems that the Requesters are satisfied with the outcome, it will close the case without registering the complaint, and without conducting its standard investigative and compliance review function.¹ The so-called "Early Solutions approach" creates a passive problem-solving role for the Panel, in which it provides a space for the parties to resolve grievances, but does not actively shape the process or outcomes.

The Early Solutions approach was first piloted in a case related to the Nigerian Lagos Metropolitan Development and Governance Project, which aimed to increase access to urban services through investments in infrastructure.² The project's financing agreement required all city-wide upgrading projects, regardless of the

¹ Inspection Panel Operating Procedures, April 2014, Annex 1, available at: ewebapps.worldbank.org/apps/ip/PanelMandateDocuments/2014%20Updated%20Operating%20Procedures.pdf

² Project Appraisal Document for the Lagos Metropolitan Development and Governance Project, June 7, 2006, para. 16; and Inspection Panel Case 91, <http://ewebapps.worldbank.org/apps/ip/Pages/ViewCase.aspx?CaseId=94>

source of financing, to be carried out in accordance with the principles of the Involuntary Resettlement Policy.³ However, when demolitions were carried out in the Badia East urban poor settlement in March 2012 and again in February 2013, none of the policy principles were met. As a result, some nine thousand of the project's intended beneficiaries were forcibly evicted and left destitute.⁴ Representatives of the evicted families filed a Request for Inspection in September 2013.

Inclusive Development International (IDI) and the Centre for Research on Multinational Corporations (SOMO) undertook an evaluation of the Early Solution pilot in Lagos in order to assess whether the pilot provided an effective remedy to the affected people. We evaluated both the process used and the outcomes achieved based on an extensive review of relevant documentation, as well as quantitative and qualitative surveys and interviews with affected people one year after the case was closed.

Evaluation of the Pilot Process

To evaluate the process, we asked to what extent the pilot adhered to predictable rules and incorporated procedural protections to ensure equity and fairness. We examined these characteristics because they are essential ingredients of a fair and equitable grievance redress process in a context in which power relations between parties are vastly asymmetrical.

The evaluation found that, contrary to the Panel's determination, none of the three criteria set out in the Inspection Panel's Operating Procedures for initiating the Early Solutions approach were fully met. The forced evictions and physical and economic displacement of more than 9000 residents of an urban poor settlement amount to serious human rights violations and cannot reasonably be described as "clearly defined, focused or limited in scope" such that they were "amenable to early resolution," as required by the first criterion. Moreover, there was evidence from the beginning that the measures proposed by Management would not effectively address these harms, as implicitly required by the second criterion. The proposed measures centered around the provision of payments to affected people of an amount that had been described in the Request for Inspection as "insufficient to offset the harms suffered," a claim consistent with the basic tenets of the Bank's Involuntary Resettlement Policy. Lastly, key information that the Requesters asked for as a condition of their agreement to trial the Early Solutions approach, including the retroactive Resettlement Action Plan (RAP) developed by the Lagos Government and the Bank, had not yet been disclosed when the Panel initiated the pilot. Thus, the third criterion, which requires the consent of the Requesters, was also not fully met.

³ Inspection Panel, Notice of Receipt of Request for Inspection, Nigeria: Lagos Metropolitan Development and Governance Project, November 11, 2013, p. 2.

⁴ Ibid., p. 2-3.

The Operating Procedures stipulate “the right of Requesters at any time to indicate that they are not satisfied and would like the Panel to register the Request.”⁵ Two of the three original Requesters expressly asked the Panel in writing to register the Request because of serious problems on the ground.⁶ They described a coercive process, in which payments were presented as a “take-it-or-leave-it” offer, with attempts by the affected community to negotiate better terms rejected by authorities.⁷ However, the Panel instead responded to an expression of satisfaction with the process by the NGO originally representing the Requesters, and the third Requester, and did not register the Request.⁸ While the Operating Procedures are silent on the issue of conflicting views among Requesters, guidance can be found in the Board resolution establishing the Panel and clarifications, which allows “any two or more” persons “who share common interests or concerns” to access the Panel.⁹ Given the explicit request by two of the Requesters, the Operating Procedures and the Board resolutions, read together, would appear to have directed the Panel to register the Request. The evaluation thus finds that the Panel’s decision to conclude the Pilot process and close the case did not reasonably adhere to the rules governing the process and contravened a crucial safeguard embedded in the Early Solutions approach – the ongoing consent and satisfaction of the Requesters. In terms of other procedural protections, the evaluation found that neither the Panel nor Management played an effective role in ensuring that the remedial process would be fundamentally fair in a context of extreme power imbalances and in which the affected people were highly vulnerable. The Panel does not have the mandate to play such a role and Management was not in an appropriate position to do so given its financing relationship with the Lagos State Government. Thus, affected community members and their representatives were left to fend for themselves in navigating the grievance redress process.

One year after the case was closed, our field researchers asked a sample of affected community members if they were ever consulted or asked whether they were satisfied with the RAP and the resolution of their complaints. Ninety-seven percent of survey respondents said, “No.” Eighty-nine percent of affected people interviewed said they did not feel that the remedial process, as they experienced it, was fair. Respondents stated that they felt forced to agree to the RAP because they were in desperate situation, not because they felt the proffered payments were fair.

⁵ Inspection Panel (April 2014), op cit., Annex 1, para. 5(b).

⁶ Inspection Panel, Memorandum to the Executive Directors, Notice of Non-Registration, July 16, 2014, para. 24 and Annex III.

⁷ Ibid.; and Amnesty International, The World Bank Inspection Panel’s Early Solutions Pilot Approach: The Case of Badia East, Nigeria, September 2014, p. 5.

⁸ Inspection Panel (July 2014), op cit., para. 24 and Annex IV.

⁹ World Bank Board of Directors Resolution establishing “The World Bank Inspection Panel,” (Resolution No. IBRD 93-10 and Resolution No. IDA 93-6) September 22, 1993, para. 12; and 1996 Clarification.

Evaluation of the Pilot Outcomes

In our evaluation of the outcomes, we asked whether the outcomes were consistent with the objectives of the World Bank Involuntary Resettlement Policy, and in particular, the objective of ensuring that displaced persons are “assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.”¹⁰ We undertook our own analysis of whether the measures outlined in the RAP were likely to meet the objective and conducted interviews to obtain a sample of the affected people’s experiences and perceptions of whether this objective was met. We also examined whether it can be said that the use and outcome of the pilot was “in the interests of Requesters.”

The retroactive RAP was centered around the provision of monetary payments to displaced people mainly for their lost assets. In contrast, the Involuntary Resettlement Policy calls on Bank clients to provide a multifaceted resettlement, compensation and livelihood support package based on consultations with affected people. A principal tenet of the policy is that compensation alone does not prevent impoverishment of displaced households, especially those that are already poor.¹¹ The RAP mentioned training opportunities at State Vocational Centers, however no detail was provided about how affected people would be assisted to take advantage of these opportunities or about how the training would restore their livelihoods. Therefore it was clear from the start that the RAP was unlikely to achieve the policy objective of restoring the livelihoods and living standards of those displaced.

Our field research conducted one year after the case was closed confirms this analysis. Among survey respondents, 92% ultimately received financial assistance under the RAP. Of these, none said they agreed to the amount. Almost 95% of persons compensated said the payment was not enough to restore them to their pre-demolition situation.

None of the survey respondents said they received the skills or job training promised in the RAP. Of those who had an income source at the time of interview, 97% described their present work as “worse” or “much worse” than before the demolition. Almost all reported earning less than before the demolitions took place.

Almost one third of respondents were still homeless one year after the Panel declared the pilot “both efficient and effective at redressing the grievances of affected people.”¹²

¹⁰ World Bank, OP 4.12 - Involuntary Resettlement, December 2001, para 2 (c).

¹¹ See: Michael Cernea, “Compensation and Investment in Resettlement: Theory, Practice, Pitfalls, and Needed Policy Reform,” in *Can Compensation Prevent Impoverishment?* (2008), Eds. Michael Cernea and Hari Mohan Mathur.

¹² Inspection Panel, News Release: Panel Concludes its First Pilot, Nigeria: Lagos Metropolitan

While our field research was limited to 73 respondents, the data provides a clear indication that the measures were insufficient to restore, let alone improve, livelihoods and living standards to pre-displacement levels. The data provides evidence that the measures did not sufficiently address the harms raised in the Request for Inspection.

Nonetheless, it is clear that the Inspection Panel was of the firm view that the use of the Early Solutions approach was in the best interests of the Requesters and other project affected people because of their desperate and immediate need for cash, which the Panel's normal investigative function would not provide.¹³

However, the evaluation found that the reasoning behind the Panel's decision not to register the Request because this was in the best interests of the Requesters is neither solid nor in line with its mandate.

Based on the information available, we believe that it is likely that a better outcome could have been achieved if the Panel had registered the Request, either instead of or in addition to using the Early Solutions approach. It is unclear why Management could not have continued its efforts with the Lagos Government to address the harms at the same time as the Panel proceeded with its mandated role of assessing the Request's eligibility and, if warranted, carrying out an investigation. However, if the Panel believed that registering would have obstructed Management's actions at the time the Request was received, it had a second opportunity to register the Request several months later, at a time when the majority of payments were made. With the evidence before it that the RAP fell well short of the policy and that many affected people felt that the payments were "totally insufficient for them to restore their previous livelihoods,"¹⁴ this would appear to have been the prudent course of action, consistent with the Panel's mandate. A compliance investigation at this stage may have compelled the Bank to take corrective actions in line with Bank policy.

Lastly, the argument that the Bank had limited leverage to influence the Lagos Government because the project had closed on the same day the Request was filed is unconvincing. The Bank was in the process of preparing two new policy reform operations for Lagos State for a total of US \$400 million, both of which have been approved by the Bank since that time.¹⁵ The Bank could have used the negotiations

Development and Governance Project, September 3, 2014, available at:

<http://ewebapps.worldbank.org/apps/ip/PanelCases/91%20-%20Panel's%20Press%20Release%20on%20the%20first%20Pilot%20for%20Early%20Solutions.pdf>

¹³ Inspection Panel (July 2014), op cit. para. 27(b)

¹⁴ Ibid., para. 27(g)

¹⁵ World Bank, Nigeria Lagos Second State Development Policy Credit (approved March 2014) and Third Lagos State Development Policy Operation (approved June 2015), available at: <http://www.worldbank.org/projects/P123352?lang=en> and

around the budget support operations as an opportunity to require remedial actions consistent with the principles of the Involuntary Resettlement Policy to achieve better outcomes for the affected people.

Conclusion and Recommendations

The Early Solutions approach is an attempt to expand the Panel's toolbox to achieve better results by facilitating swift recourse for harms suffered by project affected people. It was the product of constraints imposed upon the Panel by the Board resolution establishing it and, in particular, the absence of a problem-solving function. Yet, the findings of this evaluation underscore the dangers of leaving problem solving to the parties involved – often the perpetrators and victims of human rights violations – without an independently facilitated process with protections in place to balance power asymmetries and ensure fundamental fairness.

The following recommendations seek to ensure that the World Bank and the Inspection Panel are better able to achieve institutional accountability and provide recourse to people harmed by World Bank-financed operations.

Recommendations on Problem-Solving Processes:

- Any problem-solving processes between Requestors, the Bank, and its client should ensure the application of predictable rules and a range of protections to ensure fairness, recognizing the power imbalances that exist between the Bank, its clients and affected people, who are often poor and vulnerable. These protections should include, inter alia:
 - An impartial third-party facilitator whom the aggrieved party trusts sufficiently to freely express their views;
 - Full access to relevant information in a form understandable to the affected people;
 - Awareness-raising of rights, entitlements and options, including entitlements under safeguard policies and the option to access the compliance review function of the Inspection Panel;
 - Free and open forums for dialogue about options and measures proposed to address harms without fear of retribution;
 - Respect for the involvement of legal advisors; and
 - The right for Requesters at any time to withdraw from the problem-solving process and have their complaint addressed through the standard compliance review procedures of the Panel.
 - The decision to use a problem-solving process should not preclude a policy compliance investigation, either at the same time or following the conclusion
-

of the problem-solving process where simultaneous processes are not feasible. A compliance investigation need not become an obstacle to problem-solving and Management should not stop productive activities to address harms and grievances when an investigation is initiated by the Panel. The Panel should take into account progress made in problem-solving efforts in its investigation. The Panel's findings should be used to improve the problem-solving efforts in order to ensure to the extent possible that safeguard policy objectives are met.

- The World Bank's safeguard policies should form the basis of problem-solving processes. This gives due recognition that the objectives and measures set out in the safeguard policies are ultimately aimed at ensuring that project affected people do not face adverse impacts as a result of development projects.

Recommendations for Further Research:

- Evaluations of other Early Solutions pilots and similar cases should be conducted. This report only evaluates the pilot in the Lagos case. A similar evaluation of the second pilot of the Early Solutions approach in the Paraguay case would be useful to inform whether the tool may be better suited to other types of cases and if so, what conditions must be present for the approach to lead to a genuinely successful outcome in line with the Bank's safeguard policies. Similarly, research on the outcomes of the cases in which the Panel has deferred its decision on the eligibility of Requests for Inspection may also provide valuable information about approaches leading to effective outcomes for complainants and institutional accountability.
- A broader study should be conducted on the effectiveness of dispute resolution processes in the public sector context. Several Independent Accountability Mechanisms have the mandate to conduct facilitated problem-solving processes involving complainants and public sector clients, including by using third party neutral facilitators. The conditions for a successful process involving public sector clients may vary from those involving private sector clients. More research is needed to understand how IAMs can successfully conduct problem solving or dispute resolution processes involving government bodies.

Recommendation for Remedial Action in the Badia Case:

- The World Bank should use its ongoing budget support relationship with the Lagos State Government to implement a comprehensive plan to restore and improve the livelihoods and living conditions of the victims of Badia East evictions in line with the objectives of the Involuntary Resettlement Policy and basic human rights standards.

"The people who were impacted just wanted to be paid so they could eat. That is what really happened. But we did not think stopping the investigation

was fair – we signed because we needed help, not because the money was enough.”

A hungry man – you give him a piece of bread, do you think he will explain it is small while it is being handed to him? No, he will eat it first and then complain about the size, and that is what is happening now.

–Badia East community representatives, July 2015

1. Introduction

The World Bank Inspection Panel was the first independent accountability mechanism (IAM) of its kind to be established at a development finance institution (DFI). For many years, it set the standard for addressing grievances associated with DFI-financed projects by conducting investigations into allegations of harm resulting from policy non-compliance upon the request of affected people. Today, several newer mechanisms established by other institutions are providing an avenue for accountability and redress through the exercise of a range of innovative powers and functions that extend beyond policy compliance review. Meanwhile, the Panel's functions remain limited to investigations as mandated by the World Bank Board of Directors' 1993 resolution establishing the mechanism.

The most significant additional function of newer accountability mechanisms is the power to resolve grievances through dispute resolution or “problem-solving.” The problem-solving functions of different accountability mechanisms vary, but their common feature is that they engage the complainants and other relevant parties in a voluntary dialogue process, often with the involvement of a professional mediator or facilitator. The principal advantage of such a problem-solving function is that it can theoretically result in a practical, and potentially faster, resolution of affected people's grievances, through a process involving their active participation.

In recent years, the Inspection Panel has sought to deal with its limited mandate, compared to its sister mechanisms, by adapting its processes to the extent possible within the confines of the rules set by the Board. In particular, in several cases, the Panel has deferred decisions on whether to register Requests for Inspection and determinations on their eligibility and suitability for full investigation.¹⁶ These deferrals have usually occurred in cases in which Bank management has committed to attempt to resolve the issues raised in the Request, under the rationale that Bank management's actions will obviate the need for an investigation by the Panel and produce a positive outcome in a shorter period of time than the full Panel process could. In other words, the Panel has in these cases carved out a passive role for itself in problem-solving by deciding to suspend its normal functions while other parties work to resolve the grievances on the ground.

In early 2014, the Inspection Panel revised its Operating Procedures to introduce a formal process to govern pre-registration deferrals in cases that meet specific criteria. The so-called “Early Solutions approach” allows the Panel to postpone registration of

¹⁶ See, for example the following cases, Yemen: Institutional Reform Development Policy Financing; Liberia: Development Forestry Sector Management Project; Kazakhstan: South-West Roads; Romania: Mine Closure and Social Mitigation Project, Mexico: Indigenous and Community Biodiversity Project; Lebanon: Greater Beirut Water Supply Project.

a Request for Inspection to give Bank management an additional opportunity to attempt to resolve the grievances. If, after a given time period, the Panel deems that the Requesters are satisfied with the outcome, it will close the case without registering the complaint.¹⁷

The Early Solutions approach was first piloted in a case related to the Nigerian Lagos Metropolitan Development and Governance Project, which aimed to increase access to urban services through investments in infrastructure.¹⁸ The Bank's Involuntary Resettlement Policy was triggered during project preparation because the infrastructure investments would foreseeably result in evictions. The project's financing agreement required all city-wide upgrading projects, regardless of the source of financing, to be carried out in accordance with the principles of the Involuntary Resettlement Policy.¹⁹ However, when demolitions were carried out in the Badia East urban poor settlement in March 2012 and again in February 2013, none of the policy principles were met. As a result, some nine thousand of the project's intended beneficiaries were forcibly evicted and left destitute.²⁰ Representatives of the evicted families filed a Request for Inspection in September 2013.

Much controversy surrounded the introduction of the Early Solutions approach into the Panel's operating procedures.²¹ The piloting of the approach in the Lagos case was even more controversial given the scale and gravity of the human rights violations and harms, and the power imbalances pervading the situation on the ground.²² The Chair of the Panel argued, on the other hand, that the Early Solutions approach was in the best interests of the Requesters because it had the potential to expeditiously get desperately needed funds to those displaced.²³

The aim of this report is to evaluate the use of the Early Solutions pilot in the Lagos case in terms of both process and outcomes. The evaluation seeks to assess the degree to which the pilot resulted in an effective remedy for the affected people. The Panel has subsequently applied the Early Solutions approach to a Request regarding impacts from the Bank's investment in the Paraguay Sustainable Agriculture and

¹⁷ Inspection Panel (April 2014), *op cit.*, Annex 1.

¹⁸ World Bank, Project Appraisal Document for the Lagos Metropolitan Development and Governance Project, June 7, 2006, para. 16; and Inspection Panel Case 91, available at: <http://ewebapps.worldbank.org/apps/ip/Pages/ViewCase.aspx?CaselId=94>

¹⁹ Inspection Panel, (November 2013), *op cit.*, p 2.

²⁰ *Ibid.*, p. 2-3.

²¹ See, for example Civil Society Comments on Inspection Panel Draft Operating Procedures, January 15, 2014; available at: <http://www.accountabilitycounsel.org/policy/existing-mechanisms/world-bank/current-policy-initiatives/>

²² See, letter from 21 CSOs to World Bank President Kim and Inspection Panel Chair Watanabe, August 27, 2014; available at: <http://ewebapps.worldbank.org/apps/ip/PanelCases/91%20-%20CSO%20letter%20on%20the%20first%20Pilot%20for%20Early%20Solutions.pdf>

²³ Inspection Panel consultation with CSOs on draft Operating Procedures in February 2014 and Notice of Non-Registration, para. 32 and 33.

Rural Development Project.²⁴ An evaluation of that pilot is beyond the scope of this report, but would contribute to a fuller understanding of the Early Solutions approach.

Inclusive Development International (IDI) and the Centre for Research on Multinational Corporations (SOMO) undertook this evaluation in order to contribute to the World Bank Inspection Panel's own assessment of the Early Solutions pilot cases, scheduled to occur after the approach is used in a third case.²⁵ It is the authors' hope that the findings of this evaluation will be used to improve accountability and access to effective remedy for people who suffer harms as a result of World Bank-financed projects. The lessons learned from this case are also applicable to other development finance institutions.

Moreover, we hope that this report can bring attention to the ongoing grave situation of the displaced families from Badia East, many of whom remain homeless and destitute several years after their forcible eviction and eighteen months after the Inspection Panel closed the case.

²⁴ See: <http://ewebapps.worldbank.org/apps/ip/Pages/ViewCase.aspx?CaseId=100>

²⁵ Inspection Panel (April 2014) *op cit.*, Annex 1, para 9.

2. Methodology

The objective of the research was to evaluate the pilot application of the Early Solutions approach in the Lagos case in terms of both process and outcomes. The primary research question was: *Did the pilot provide an effective remedy to affected people?*

The specific research questions posed were:

- ❑ To what extent did the process adhere to predictable rules and incorporate procedural protections to ensure fairness in a context of asymmetrical power relations?
- ❑ Were the outcomes of the pilot consistent with the objective of the Involuntary Resettlement policy to improve, or at least restore, the livelihoods and standards of living of affected people?
- ❑ Were the use and outcomes of the pilot “in the interests of the Requesters”?

In order to answer these questions, extensive desk and field research was conducted. The desk research included review of the World Bank Board resolutions and clarifications regarding the Inspection Panel; the Panel's Operating Procedures; and all publicly available case documents, including the Request for Inspection, the Notice of Receipt of Request, Management's proposed actions, and the Notice of Non-Registration and annexes. The Project Resettlement Action Plans (RAPs) and the World Bank's Involuntary Resettlement policy (OP 4.12) were also reviewed. Questions were sent to the Inspection Panel Chair and Executive Secretary, who provided responses clarifying the Early Solution approach and its application in the Lagos case.

The field research, led by a Lagos-based researcher, Anna Maitland, took place in July 2015, one year after the conclusion of the pilot.²⁶ The field research included the following:

A quantitative and qualitative survey

The survey was administered to 73 individual respondents, who were directly affected by the February 23, 2013 demolition in Badia East and still reside in the Badia East vicinity. The respondents were randomly selected following a general announcement in Badia East, to which hundreds of people responded. The survey team ran the questionnaire on virtually everyone who volunteered either individually or organized

²⁶ Maitland is a co-director of Justice & Empowerment Initiatives – Nigeria (JEI). Although other JEI co-directors were involved with the filing of the Request for Inspection in their former employment, they were not directly involved in the field research for this report

into focus groups. The survey team only screened out those who did not fit the initial criteria, e.g. anyone not personally affected by the 2013 demolition.

Of the 73 individual respondents:

- ❑ 37% lost a home only, and 63% lost both a home and a business in the demolitions.
- ❑ 42% were structure owners (“landlords”) and 58% were tenants.
- ❑ 59% were female and 41% were male.

The questionnaire was administered orally by a team of three surveyors in the English, Yoruba, and Pidgin English languages.

Five focus group discussions

The focus groups comprised different clusters from Badia East communities selected based on criteria aimed at drawing out particular experiences or perspectives on the demolition, compensation, and Inspection Panel processes. The focus groups were organized as follows:

- ❑ Focus Group 1 comprised 4 elders and leaders, 3 male and 1 female, from Badia East community including one person who was an official “representative” in meetings with the Lagos State Government throughout the process of developing and implementing the Resettlement Action Plan (RAP) and one of the persons who signed the letter of mandate for the Request for Inspection (one of the three Requesters).
- ❑ Focus Group 2 comprised 17 persons, 10 male and 7 female, 3 landlords and 14 tenants, who encountered problems during the RAP development and implementation process.
- ❑ Focus Group 3 was a women-only group, comprising 30 female tenants, selected using the same criteria as Focus Group 2.
- ❑ Focus Groups 4A & 4B comprised 8 persons (5 male and 3 female) and 6 persons (3 male and 3 female), respectively, who were unable to participate in the individual survey and instead responded as a discussion group.

Four key informant interviews with affected persons

Three of these persons were selected based on personal experiences of the post-demolition processes that were indicative of broader patterns. The fourth, who requested anonymity, was among the principal community representatives engaging with the Lagos State Government through the post-demolition processes.

In total, researchers spoke to 142 people who were directly affected by the evictions. A more extensive survey was not possible with the limited resources available.

3. Overview of the Panel's mandate, procedures and the Early Solutions approach

The Inspection Panel is empowered by the World Bank Board of Directors to investigate claims of adverse impacts raised in eligible Requests for Inspection and make findings on whether, in relation to the claimed harms, the Bank complied with all relevant Bank policies and procedures.²⁷ Pursuant to its normal Operating Procedures, upon receiving a Request for Inspection alleging harm resulting from a Bank operation, the Panel registers the Request as long as it meets a number of basic requirements.²⁸

Following registration, the first phase of the inspection process involves ascertaining the eligibility of the Request according to a number of technical criteria set out in the Board resolution and clarification. One of the criteria relates to prior contact with Bank Management. The Requester must first raise the subject matter of the request with Management and allow Management a reasonable opportunity to respond. If in the Requesters' view, Management has "failed to demonstrate that it has followed, or is taking adequate steps to follow the Bank's policies and procedures,"²⁹ the Requester can submit the request to the Panel. Following the Panel's receipt of the Request, Management must provide a response, which may include, *inter alia*, a denial of wrongdoing or an admission of failures and a description of steps it intends to take to address them.³⁰ The Panel conducts an assessment of whether the eligibility criteria are met, which typically includes a site visit.

The Panel then submits a Report and Recommendation to the Board, which sets out its findings on whether the eligibility criteria are satisfied and a recommendation as to whether a full investigation is warranted. According to the Panel's Operating Procedures, the Panel may decide not to recommend an investigation even if the Request is technically eligible. It takes into account, *inter alia*, whether Management has dealt appropriately with the issues raised in the Request and has demonstrated that it has followed required policies, or whether Management has committed to taking remedial actions that, in the judgment of the Panel and taking into account the view of the Requesters, are likely to be adequate.³¹

²⁷ World Bank Board of Directors (1993), *op cit.*

²⁸ Inspection Panel (April 2014), *op cit.*, para 25.

²⁹ *Ibid.*, para 13; and World Bank Board of Directors, Clarification of the Board's Second Review of the Inspection Panel, 1999, paragraph 9(c).

³⁰ *Ibid.*, para 2 and 3.

³¹ Inspection Panel (April 2014), *op cit.*, para 43.

If the Panel so recommends, and the Board authorizes it, the Panel proceeds to the second phase of the process: a full investigation of the facts at hand. It assesses whether the Requestors have suffered or are likely to suffer material adverse effects, as a result of an action or omission of the Bank, due to a failure to comply with the Bank's operational policies and procedures. The full report and findings are sent to the Board, which then also receives Management's response to the Panel's findings. Where policy non-compliance is found, the Management's response should include a plan to address failures and bring the project into compliance.

It is evident – from both the 1993 resolution establishing the Inspection Panel and the 1999 clarification – that the Board has always been concerned with ensuring that Bank Management is given ample opportunity to deal with the Requesters' grievances without the need for a full investigation by the Panel. Allowing the Bank such opportunity is a prerequisite for eligibility of a Request. Any commitments by the Bank to resolve the issues are to be taken into account in the Panel's recommendation on whether or not to investigate. The Panel has also been at pains to give Management this opportunity over the years through its frequent deferral of its recommendation to investigate, sometimes for lengthy periods, to allow Management extra time to resolve the issues.³² The extent to which these deferrals have been justified and resulted in positive impacts on the ground is not the subject of this study, but may warrant examination in separate research. Germane to this discussion, however, is the assumption in those cases that an investigation of a case by the Panel poses an obstacle, rather than an aid, to the Management's ability or willingness to resolve the matters at hand. This implicit assumption is at odds with the Panel's Operating Procedures, which reiterate that there is no formal barrier to prevent Management from taking remedial actions contemporaneously to a Panel process. Any such actions should be taken into account in its investigation.³³

In 2014, the Panel introduced in its revised Operating Procedures an optional new approach "to support early solutions in the Inspection Panel process."³⁴ The objective of the approach is to "provide an additional opportunity for Management and the Requesters to address the concerns about alleged harm raised in a Request for Inspection by postponing the Panel's decision on registration of the Request (which otherwise meets the criteria for registration)."³⁵ The Panel stated that it would pilot this new approach "to improve the effectiveness and efficiency of the Panel process both for affected people and the institution."³⁶

³² Supra note 16.

³³ Inspection Panel (April 2014), *op cit.*, para 60.

³⁴ The new approach was introduced as an annex to the 2014 Operating Procedures under the heading "Piloting a new approach to support early solutions in the Inspection Panel Process."

³⁵ Inspection Panel (April 2014), *op cit.*, para Annex 1, para 2.

³⁶ *Ibid.*, para 1.

According to the Operating Procedures, the Panel would consider using the pilot approach when the issues of alleged harm are clearly defined, focused, limited in scope, and appear to be amenable to early resolution in the interests of the Requesters; Management proposes a course of action to address the alleged harm that it has the ability to implement; and the Requesters support the idea of exploring this additional opportunity for early solutions, in light of steps or measures indicated by Management.³⁷

If the Early Solutions process is initiated, the Panel issues a Notice of Receipt of Request explaining that it is postponing its decision on registration and explaining the basis for doing so. The Operating Procedures require that the Notice explicitly recognize “the right of Requesters at any time to indicate that they are not satisfied and would like the Panel to register their Request;”³⁸ however, they do not definitively state that the Panel will register the Request in such circumstances. The Panel has clarified in a written response to questions submitted for this evaluation that the Requesters’ satisfaction with the outcomes “is the principal criteria” in its decision to register or not register the Request for Inspection.³⁹ According to the Operating Procedures, the Panel asks both parties to keep it updated on progress in addressing the concerns of the Requesters.⁴⁰

Within three months, the Panel reviews the situation. If the Requesters inform the Panel in writing that they are satisfied, the Panel will not register the Request and will close the case with a Notice of Non-Registration. In other cases, the Panel may visit the project area to have direct discussions with the Requesters and other parties to inform its decision on whether or not to register the Request. If the Panel decides to register the Request according to its normal process, it will explain its decision in the Notice of Registration.⁴¹

³⁷ *Ibid.*, Annex 1.

³⁸ *Ibid.*, Annex 1, para 5(b).

³⁹ Inspection Panel response to IDI/SOMO questions for the evaluation (March 2016), response to question 4.

⁴⁰ Inspection Panel (April 2014), *op cit.*, Annex 1, para 5(c).

⁴¹ Inspection Panel (April 2014), *op cit.*, Annex 1, para 8.

4. Piloting the Early Solutions approach in Lagos: An Overview

Although the Early Solutions approach was not formally adopted in the Panel's Operating Procedures until April 2014, the first pilot was initiated by the Panel after it received a Request for Inspection in September 2013 regarding the Nigerian Lagos Metropolitan Development and Governance Project.⁴² The Request was sent by the Social and Economic Rights Action Center (SERAC), a Lagos-based civil society organization, on behalf of "individuals, families and groups living in the Badia area of Lagos State."⁴³ The Request was accompanied by a "Letter of Consent" signed by three Requesters authorizing SERAC "to petition the World Bank." The Request alleged that the Bank's failure to ensure compliance with its safeguard policies had caused "further impoverishment and insecurity" for the residents of Badia, a vulnerable slum community in Lagos, as a result of evictions that occurred "without prior consultation, notice, compensation or resettlement."⁴⁴

The project,⁴⁵ approved in 2006, aimed to increase access to basic urban services in Lagos through investments in and upgrading of infrastructure in nine specified slum areas, including Badia.⁴⁶ The slums that the project sought to target were estimated to be home to over one million people.⁴⁷ The financing agreement required the Lagos State Government to carry out city wide upgrading programs in accordance with a Resettlement Policy Framework, and a number of principles that reflect the objectives of the Bank's Involuntary Resettlement Policy.⁴⁸ The principles set out in the Agreement included: "i) involuntary resettlement would be avoided where feasible; (ii) where avoidance is not feasible, displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs; and (iii) displaced persons should be assisted in their efforts to improve their livelihoods and standards of living or at least restore them, in real terms, to pre-displacement levels."⁴⁹

⁴² The Request for Inspection and the Notice of Receipt of Request both predated the adoption of the 2014 operating procedures of the Inspection Panel.

⁴³ Inspection Panel (November 2013), p. 2.

⁴⁴ *Ibid.*

⁴⁵ World Bank (2006), para. 16 and Annex 5.

⁴⁶ *Ibid.*

⁴⁷ Request for Inspection in the Matter of the Lagos Metropolitan Development and Governance Project, September 2013, para 1.

⁴⁸ World Bank, Financing Agreement (Lagos Metropolitan Development and Governance Project), July 31, 2006, Section V; and Notice of Receipt of Request: Nigeria: Lagos Metropolitan Development and Governance Project (P071340), November 11, 2013, p. 2-3.

⁴⁹ *Ibid.*

However, according to the Request for Inspection, when more than 100 homes and other structures in Badia were demolished in March 2012 to make way for the construction of a drainage canal built under the project, none of these requirements were met. Instead, without prior notice, “[s]ome homes were set on fire in the middle of the night; the others were demolished the following morning.”⁵⁰ Nor were the resettlement requirements applied in February 2013, when hundreds of additional structures adjacent to the newly constructed canal were demolished, forcibly evicting some nine thousand people.⁵¹ According to the Bank, the 2013 evictions were “not undertaken as part of project implementation,” but should have nonetheless been carried out in accordance with the project’s RPF, as stipulated in the financing agreement.⁵²

A letter from community representatives (the Requesters), described the eviction experience as follows:

*“We awoke to bulldozers tearing through our homes and businesses. We received no notice, no compensation, and no offers of resettlement, or any other form of remedy whatsoever. The resulting destruction has devastated our community, as many people continue to sleep outside two months after the demolition.”*⁵³

The Request states that in December 2012 a retroactive RAP for the first evictions was completed and provided “minimal financial assistance” – from US \$1,100 to \$2,375 – to 121 project affected people. According to the Requesters, “the sums were insufficient to offset the harms suffered, especially in light of the delay of nearly nine months.”⁵⁴ Victims of the second forced evictions had not received any compensation or assistance before the Request was filed some seven months after the demolitions occurred.⁵⁵ On September 30, 2013, before filing the Request, SERAC inquired with Management as to the status of the promised RAP for the second evictions, and was told that the World Bank had received the document from the Government and it “was still in need of work.”⁵⁶ Since final project disbursements, which would bar the registration of a Request, were imminent, and believing that Management had failed to demonstrate that it was taking “adequate steps to follow the Bank’s policies and procedures,”⁵⁷ later that day, SERAC sent the Request for Inspection to the Panel.

⁵⁰ Request for Inspection, *op cit.*, para 3(a).

⁵¹ *Ibid.*, para 3(b).

⁵² World Bank, Nigeria - Lagos Metropolitan Development and Governance Project: Actions proposed by Bank Management, October 29, 2013, para. 5.

⁵³ Letter of Consent to Petition World Bank Inspection Panel to SERAC, September 30, 2013.

⁵⁴ Request for Inspection, *op cit.*, para 3(e).

⁵⁵ *Ibid.*, para 3(e).

⁵⁶ *Ibid.*, para 6(e).

⁵⁷ *Ibid.*, paragraph 13; and World Bank Board of Directors (1999), *op cit.*, paragraph 9(c).

The Requesters asked the Panel to “recommend an expeditious and comprehensive investigation of these matters in order to remedy these violations”.⁵⁸

According to the Panel’s Notice of Receipt of Request, “as per its practice”, the Panel met Management “to be briefed on the Background of the Project and any proposed actions by Management in response to the concerns raised.”⁵⁹ Apparently encouraged by Management’s proposals, the Inspection Panel considered that the case may be appropriate for piloting the Early Solutions approach, and suggested this alternative option to Requesters.⁶⁰ The Requesters “indicated their interest” in trying the Early Solutions approach if they received a written statement of Management’s commitments for consideration.⁶¹

Soon afterwards, Management sent a memo to the Panel describing its proposed actions to address the issues raised in the Request.⁶² The memo described efforts that Management had already taken to urge the Lagos Government to adhere to the Bank’s Involuntary Resettlement Policy, including by supporting the Badia evictees in a manner “consistent with the provisions of the project’s RPF.”⁶³ Management described progress made on the development of the RAP, which included “entitlements to compensation consistent with and using the same valuation methodology as in the 2012 RAP”.⁶⁴ It noted that Government representatives had agreed to ensure that affected people were also “provided with skills training, micro-credit, and employment opportunities since cash compensation only [and not resettlement assistance] was being offered.”⁶⁵

According to the memo, the RAP had been “cleared by Bank Management” on September 30, the same day the Request was filed, “with the proviso that it may be further updated.”⁶⁶ It described regular communications with the Lagos State Government on the implementation of the RAP including on reviewing compensation levels, completing the beneficiary list, and the establishment of a complaints handling mechanism.⁶⁷ Management conveyed to the Panel its intention to continue these efforts, including by clarifying with SERAC the concerns raised in the Request regarding compensation amounts; reviewing a revised RAP; and following up on disclosure and community consultation on the RAP.⁶⁸

⁵⁸ Request for Inspection, *op cit.*

⁵⁹ Inspection Panel (July 2014), *op cit.*, p. 3.

⁶⁰ *Ibid.*, p. 3.

⁶¹ *Ibid.*, p. 3.

⁶² *Ibid.*, p. 3.

⁶³ World Bank (October 2013), *op cit.*, para. 7.

⁶⁴ *Ibid.*, para. 8(b) and 11.

⁶⁵ *Ibid.*, para 8(b).

⁶⁶ *Ibid.*, para. 11.

⁶⁷ *Ibid.*, para. 12.

⁶⁸ *Ibid.*, para. 13.

Management also noted that the Bank would contribute US\$3 million for compensation to project-affected people, which would be supplemented by the Government as necessary.⁶⁹ It underscored the Government's commitment to implement the measures and its own commitment to continue to supervise implementation of the RAP.⁷⁰ Finally, it noted the good relationship between the Bank and the Lagos Government, which is "embedded in a strong on-going lending program with the State anchored by the preparation of a Development Policy Operation."⁷¹

In its Notice, the Panel verified that the Request met all basic requirements for registration and then set out its reasons for initiating the Early Solutions process instead of following the standard registration procedures.⁷² The Panel explained:

Based on its interactions with both Management and the Requesters, the Panel considers that this Request for Inspection provides an appropriate opportunity to provide additional time and space to see if the concerns can be addressed without the need to register the Request and initiate the full-fledged Panel process.⁷³

According to the Notice of Receipt of Request, the Requesters had told the Panel that their "key concern was to ensure that Resettlement Action Plan(s)...would be finalized, funded and properly implemented to address the concerns of the affected people in Lagos, in accordance with the Bank Policy on Involuntary Resettlement and Bank Supervision policy."⁷⁴ The Requesters consented to the use of the Early Solutions approach provided that certain information was provided to them,⁷⁵ discussed further below. The Panel judged that the urgency of the situation facing the evictees and the commitments made by Management made this a suitable case to pilot the Early Solution approach.⁷⁶ It determined that all criteria for initiating the pilot were "fully met."⁷⁷

The Panel asked "the Requesters and Management to engage in dialogue directly" and to "keep it updated on progress in addressing the concerns of the Requesters."⁷⁸ The Panel explained that it would review the situation within three months, including

⁶⁹ *Ibid.*, para. 13(c).

⁷⁰ *Ibid.*, para. 14, 16.

⁷¹ *Ibid.*, para 17.

⁷² Inspection Panel (November 2013), *op cit.* p. 1.

⁷³ *Ibid.*

⁷⁴ *Ibid.*, p. 3.

⁷⁵ Inspection Panel (July 2014), *op cit.*, para 10.

⁷⁶ *Ibid.*, para. 11.

⁷⁷ *Ibid.*, para. 11.

⁷⁸ Inspection Panel, (November 2013), *op cit.*, p. 4.

the level of satisfaction of the Requesters, and would thereafter make a decision on whether to register the Request or close the case.⁷⁹

Seven months later, the Panel issued its decision not to register the Request for Inspection. In its Notice of Non-Registration, the Panel described the process of implementation of the RAP, including its public disclosure and the payment process. It describes interactions between the Government Technical Committee in charge of implementation and eight community representatives. According to the Notice, this interaction led to agreement on compensation amounts.⁸⁰ However, as discussed below, according to reports by affected people, payments were presented as a “take-it-or-leave-it” offer, and the amount offered dropped after the initiation of the pilot process.⁸¹

The Panel described several issues and complications that emerged during the process of implementing the RAP. The first notable issue was that the beneficiary information form used by the Lagos State Government to process claims included a clause through which recipients waived their right to any future claims related to the evictions.⁸² The Panel makes mention of the waiver clause without comment. The second was a delay in payments due to a requirement that affected people show State-issued identification cards, which some did not possess.⁸³ Another was the issue of claimants that were omitted from the initial beneficiary list.⁸⁴ According to the Notice of Non-Registration, Management kept the Panel abreast of progress in addressing these problems. In addition, Management informed the Panel that the Government would provide training opportunities at the State vocational centers.⁸⁵

By July 2014, Management reported to the Panel that almost 85% of affected people had received their payments and that a firm action plan was in place to complete the remainder.⁸⁶ The Panel underscored that the Pilot approach was pivotal in providing “an opportunity for the Lagos State Government and the Bank, together with SERAC, to speedily work together, thus allowing them to effectively (if not always perfectly) provide immediate compensation and thus relief to thousands of affected people.”⁸⁷ In its Notice of Non-Registration, the Panel described several challenges and complications (discussed further below), but concluded that, although “there were aspects of the Project that fell short of Bank safeguard requirements”, in the circumstances, “the decision to implement that Pilot proved to be effective.”⁸⁸

⁷⁹ *Ibid.*, p. 4.

⁸⁰ Inspection Panel (July 2014), *op cit.*, para. 19-20.

⁸¹ *Ibid.*, Annex III; and Amnesty International, *op cit.*, p. 5.

⁸² Inspection Panel (July 2014), *op cit.*, para. 19.

⁸³ *Ibid.*, para. 20.

⁸⁴ *Ibid.*, para. 20.

⁸⁵ *Ibid.*, para. 21.

⁸⁶ *Ibid.*, para. 33.

⁸⁷ *Ibid.*, para. 11.

⁸⁸ *Ibid.*, para. 33.

5. Evaluation of the Process

This section evaluates the process used in the Lagos pilot of the Early Solutions approach. The following section evaluates the outcomes achieved.

The Early Solutions approach in the Lagos case comprised two interrelated processes. One process was the decision-making and engagement of the Inspection Panel itself, from the point of receiving the Request for Inspection in September 2013 to its decision not to register the Request, and close the case, in July 2014. The second process was the course of action proposed by Management and implemented on the ground by the Lagos State Government under the Bank's supervision. This second process was an extension of the action already being taken by Management and the Lagos Government, which also continued after the Panel issued the Notice of Non-Registration. These two processes together constituted "the pilot" that is evaluated below. Most affected people experienced the pilot through the second process only.

To evaluate these interrelated processes, we asked to what extent the pilot adhered to **predictable rules** and incorporated **procedural protections** to ensure equity and fairness. We examined these characteristics because they are essential ingredients of a fair and equitable grievance redress process in a context in which power relations between parties are vastly asymmetrical. These criteria are particularly important to protect the rights and interests of local communities when safeguard policies, and the entitlements they confer on project affected people, do not form the agreed basis of the problem solving process. While predictable rules and procedural protections are not the only criteria for an effective remediation process, we decided to highlight these two components because we were able to objectively assess them based on publicly available information.

To assess adherence to predictable rules, we looked to the Inspection Panel's 2014 Operating Procedures, and particularly those governing the Early Solutions pilot, and to the Board resolution establishing the Inspection Panel and subsequent clarifications. This part of the evaluation looks primarily at the Inspection Panel's interventions and decision-making. To assess the incorporation of procedural protections to ensure fairness, we looked for measures in place in both processes to support and empower affected people, who were categorically vulnerable, to have agency in the process. We also inquired into the subjective experiences of affected people and their perception of the fairness of the process.

5.1. Did the pilot process adhere to predictable rules?

The rules governing the Early Solutions pilot are set out in a two-page annex to the Inspection Panel's Operating Procedures, and are described as "consistent with the Resolution establishing the Panel and its Clarifications."⁸⁹ The procedures set out three criteria for deciding which cases may be considered for the Early Solutions approach. These criteria are:

- ❑ The issues of alleged harm presented in the Request in general are clearly defined, focused, limited in scope, and appear to be amenable to early resolution in the interests of the Requesters.
- ❑ Management informs the Panel of steps or measures already initiated and/or planned to address the alleged harm and an anticipated timeframe for the implementation of the measures, and confirms that these are issues within the ability of Management to address at this stage.
- ❑ The Requesters inform the Panel that they support a postponement of the decision on registration to explore this additional opportunity for early solutions, in light of steps or measures indicated by Management.⁹⁰

The Operating Procedures then set out steps for moving through the process, which involve informing the Board about the initiation of the process and then, within three months,⁹¹ making a decision on whether to close or register the Request based on a review of the situation, including the views of the Requesters and, in some cases, a site visit.⁹² The Operating Procedures also state that the Panel recognizes "the right of Requesters at any time to indicate that they are not satisfied and would like the Panel to register the Request."⁹³

Below we evaluate the extent to which the Panel adhered to these procedures and the Board resolution and clarification regarding the Panel (together constituting the rules governing the Early Solution approach) when it initiated and closed the pilot process.

5.1.1. Were the issues clearly defined, focused and limited in scope?

The first criterion for initiating the Early Solutions approach is that "the issues of alleged harm presented in the Request in general are clearly defined, focused, limited in scope, and appear to be amenable to early resolution in the interests of

⁸⁹ Inspection Panel (April 2014), *op cit.*, Annex 1, para 2.

⁹⁰ *Ibid.*, Annex 1, para 3.

⁹¹ The Panel did not adhere to the 3-month deadline in the Lagos case, but instead informed the Board that it was extending the time given to Management to resolve the issues. We do not evaluate whether the extension of time was appropriate in the circumstances, but appreciate that strictly adhering to deadlines in remediation processes is not always conducive to the best outcome.

⁹² *Ibid.*, Annex 1, para 8.

⁹³ *Ibid.*, Annex 1, para 5(b).

Requesters.”⁹⁴ This criterion is sensible and important because the use of the Early Solutions approach means that the Panel will refrain from its important role of conducting “independent and impartial assessment of claims about harm”⁹⁵ and reporting this information to the Board and the public. If the alleged harms are not clear or not limited in scope, the Panel has a crucial role to play in impartially investigating and placing its findings on the public record. In the alternative, a robust facilitated mediation process equipped to deal with complex, controversial issues of harm would be necessary.

In its Notice of Non-Registration in the Lagos case, the Panel stated that the criterion “was fully met” because “the issue of concern was specific and focused in nature.”⁹⁶

This is a striking assertion by the Panel. The issues of alleged harm presented in the Request for Inspection involved the demolition by bulldozers and arson of hundreds of homes and other structures without warning on two occasions, affecting more than 9000 people. The Request described the harm suffered in the aftermath of the forced evictions as follows:

*Many of the evictees have been forced to sleep outside, become squatters, or live in distant places far removed from their employment thereby further impoverishing an already poor and vulnerable population. Women, children, the sick and the disabled, among others, have suffered and are still suffering untold hardships. They have been forced to live in unacceptable conditions with no access to basic amenities and sanitation.*⁹⁷

The allegations of these serious and complex harms, which amount to the violation of human rights of thousands of individuals,⁹⁸ could not reasonably be described as “clearly defined, focused or limited in scope” such that they were “amenable to early resolution.” The Panel had to look no further than the World Bank’s Involuntary Resettlement Policy and many of its own previous cases to know that the multifaceted impoverishment impacts of physical and economic displacement are complex, and that the “resolution” of the harms require a set of sustained, integrated measures that are “carefully planned and carried out.”⁹⁹

Therefore, based on the Panel's own criteria for initiating the Early Solutions approach, we believe that it should not have proposed using the Lagos case as a pilot. In the absence of a robust problem solving function with full competencies, the

⁹⁴ *Ibid.*, Annex 1.

⁹⁵ *Ibid.*, para 2.

⁹⁶ Inspection Panel (July 2014), *op cit.*, para 11(a).

⁹⁷ Request for Inspection, *op cit.*, para 3(d).

⁹⁸ See, UN Committee on Economic, Social and Cultural Rights, General Comment 7, Forced Evictions, and the Right to Adequate Housing (Sixteenth session, 1997), UN. Doc. E/1998/22, annex IV at 113 (1997), para 2.

⁹⁹ OP 4.12, para 1 and 2.

harms described in the Request for Inspection warranted use of the Panel's standard compliance function.

5.1.2. Did the measures proposed by Management address the alleged harms?

The second criterion for considering the Early Solutions approach is that Management must have informed the Panel of "steps or measures already initiated and/or planned to address the alleged harm and an anticipated timeframe for the implementation of the measures."¹⁰⁰ Notably, the criterion does not refer to Management's responsibility to bring projects into compliance with the Bank's policies and procedures, as underscored in the Board resolution establishing the Panel and its 1999 Clarification.

Management had evidently made considerable efforts to work with the Lagos State Government to develop a retroactive RAP, despite resistance by the Government to the notion of compensating persons it deemed to be illegal squatters.¹⁰¹ Management provided the Panel with a proposed course of action to complete the drafting and implementation of the RAP, and informed the Panel that both the Government and Management were committed to this plan. This satisfied the Panel that the second criterion was "fully met."¹⁰²

However, inherent to the criterion is the need for an assessment of the degree to which the proposed measures are likely to *address the alleged harm*.¹⁰³ While, in the spirit of the objectives of the Early Solutions approach, this assessment may not be lengthy and comprehensive, the Panel should be reasonably assured that the measures are capable of addressing the harms raised in the complaint.

No such discussion appears in the Panel's Notice of Receipt of Request. This was despite the evidence before it that should have alerted the Panel to the risk that the course of action may not be sufficient to address the harms. It was apparent from Management's proposed course of action that the measures were comprised almost entirely of the payment of compensation for lost structures and assets and a period of rent for tenants.¹⁰⁴ The retroactive preparation of the RAP meant that there was no baseline study on which to assess the adequacy of the compensation, so an assessment would have required a consideration of alternative data and information. Management specified in its memo that the sum of compensation would be consistent with the 2012 RAP, with a 5% added contingency to the costs of replacement

¹⁰⁰ Inspection Panel (April 2014), *op cit.*, Annex 1.

¹⁰¹ Inspection Panel (July 2014), *op cit.*, citing ICR, para 40.

¹⁰² *Ibid.*, para 11(a).

¹⁰³ Inspection Panel (April 2014), *op cit.*, Annex 1, para 3(b).

¹⁰⁴ Scant mention is made of skills training and vocational support, but no serious measures are proposed.

structures.¹⁰⁵ In the Request for Inspection, SERAC had described these sums as “insufficient to offset the harms suffered” by the victims of the 2012 demolitions.¹⁰⁶ This claim was consistent with the Bank’s Involuntary Resettlement Policy, which seeks to, at a minimum, address (or avoid) the harms of physical and economic displacement and restore living standards and livelihoods through a comprehensive range of measures that were clearly not being offered in the Management’s proposed course of action.

Management mentions in its memo that the Government agreed to provide “skills training, micro-credit, and employment opportunities,” but no plan or timeline is provided to show that Management or the Government was taking the need for these important measures seriously. The Panel does not raise this omission as a concern in its Notice of Receipt of Request, nor later when the RAP is posted online and the reference to livelihood support measures remain tokenistic. The lack of detail should have raised red flags about whether these important measures would actually be made available to affected people in an accessible and meaningful manner.

In its justifications for using the Early Solutions approach, the Panel emphasized the “urgency of the situation” of the evictees, and “the need for compensation.”¹⁰⁷ Later, in its Notice of Non-Registration it characterized the measures undertaken under the pilot as having provided “important relief to most of the people that were evicted”.¹⁰⁸ In its response to our questions for this evaluation, the Panel states that it believes that because of the unique factors in the case, which are discussed below, no remedy at all would have been provided had it used its normal investigative function.¹⁰⁹ Thus, instead of assessing whether the proposed measures were likely to address the alleged harm, as implicitly required by the Operating Procedures, the Panel appears to have assessed whether, in their view, the measures were likely to provide a better result than an alternative of no action at all. We do not believe that this satisfied the second criteria for initiating the pilot.

5.1.3. Were the Requesters “in the driver’s seat”?

The third criterion for initiating the Early Solutions approach is that the Requesters’ must provide their consent.¹¹⁰ This reflects an important broader principle that appears repeatedly in the procedures governing the pilot.¹¹¹ The procedures emphasize “the right of Requesters at any time to indicate that they are not satisfied and would like the Panel to register the Request.”¹¹² In the procedures regarding the

¹⁰⁵ World Bank (October 2013), *op cit.*, para 8(b) and 11.

¹⁰⁶ Request for Inspection, *op cit.*, para. 3(e).

¹⁰⁷ Inspection Panel (July 2014), *op cit.*, para. 11.

¹⁰⁸ *Ibid.*, para. 27(b)

¹⁰⁹ Inspection Panel (March 2016), *op cit.*, Response to question 5.

¹¹⁰ Inspection Panel (April 2014), *op cit.*, Annex 1, para. 3(c).

¹¹¹ *Ibid.*, 3(c), 4, 5(b) and 8.

¹¹² *Ibid.*, Annex 1, para. 5(b).

Panel's "decision on closing or registering the Request" the Panel once again underscores the importance of Requesters' satisfaction.¹¹³ Since the use of the Early Solutions approach delays or closes off the option of accessing the normal process of impartial investigation by the Panel, the free and informed consent of the Requesters at all times – including prior to the initiation of the alternative approach and before the Panel makes a decision to close the case – is an essential safeguard.

This section evaluates the presence of the Requesters' consent both in initiating and closing the pilot in order to determine whether the procedures were adhered to and whether the Requesters were "in the driver's seat", as asserted by the former Chair of the Panel.¹¹⁴

Prior to the initiation of the pilot, SERAC, on behalf of the Requesters, did give conditional consent to trial the Early Solutions approach, subject to three key pieces of information and documentation, including the RAP, being disclosed. The Panel communicated this to Management describing the disclosure of the information as "needed for effective engagement and dialogue".¹¹⁵ Management "acknowledged these points"¹¹⁶ and referred to the importance of the Lagos Government publicly disclosing the RAP in its memo on proposed actions.¹¹⁷ However, the Panel then initiated the pilot even though the requested documents had not yet being shared with the Requesters.¹¹⁸

Several months later, in making its decision on whether to register the Request for Inspection or close the case, the Panel was again required by its procedures to consider the Requesters' views. Two weeks before issuing its Notice of Non-Registration, the Panel received a letter signed by two of the original three Requesters, expressing their "deep dissatisfaction with the inadequate Resettlement Action Plan and flawed Inspection Panel Pilot Process" and requesting the case to be registered.¹¹⁹ In the letter the Requesters stated that SERAC no longer represented their interests and that they had designated a new legal representative, a local lawyer. Attached was a letter from the lawyer, which provided several serious reasons for the Requesters dissatisfaction, including a coercive process in which people had no choice but to accept inadequate compensation amounts (described further below).¹²⁰ The lawyer's letter was accompanied by a letter of support for the demand for registration from 41 affected people.¹²¹

¹¹³ *Ibid.*, Annex 1, para. 8.

¹¹⁴ Discussions during civil society consultations on 13 March 2014 regarding the amendments to the Operating Procedures that introduced the Early Solutions approach.

¹¹⁵ Inspection Panel (July 2014), *op cit.*, para. 10.

¹¹⁶ *Ibid.*, para. 10.

¹¹⁷ World Bank (October 2013), *op cit.*, para 9, 10

¹¹⁸ Inspection Panel (July 2014), *op cit.*, para. 10.

¹¹⁹ Inspection Panel (July 2014), *op cit.*, para. 24 and Annex III.

¹²⁰ *Ibid.*

¹²¹ Amnesty International, *op cit.*, p. 7.

Several days later, the Chair of the Panel received an email communication from SERAC, conveying “the Badia East community’s expression of satisfaction with the implementation of the Resettlement Action Plan” and “with the pilot process of the World Bank Inspection Panel.”¹²² Attached to this email was a letter signed by the third Requester and five of the eight community members who had been selected as representatives to liaise with the Government Technical Committee implementing the action plan. This letter, addressed to Lagos State authorities, stated that they “wish to state categorically that the intents of the letter [from the lawyer] did not emanate from our community as there was no consultation whosoever [sic] with stakeholders before such representation was made and as such we dissociate ourselves from same.”¹²³ In the letter, the signatories apologized to the Lagos State Government “for any embarrassment that such an unwarranted and needless petition might have caused.”¹²⁴

The split among the Requesters, while not unusual or unexpected in dispute resolution processes, posed a dilemma for the Panel. The Operating Procedures are silent on the issue of conflicting views among Requesters. Guidance, however, can be found in the Board resolution establishing the Panel and clarifications, which stipulate as one of the eligibility criteria that the Request comes from “any two or more” persons “who share common interests or concerns.”¹²⁵ Since two of the original Requesters and 41 other affected people expressed their dissatisfaction and asked the Panel to register the Request, the Operating Procedures for the Early Solution approach and the Board resolution and clarifications, read together, would appear to direct the Panel to register the Request.

The Panel did not adopt this line of reasoning. In its Notice of Non-Registration, the Panel stated that it “carefully reviewed the issues of community representation due to conflicting communications” and notes that the initial Request for Inspection was submitted by SERAC on behalf of the affected community.¹²⁶ Notably, the Panel does not mention here that the Request was accompanied by a “Letter of Consent” signed by three Requesters authorizing SERAC “to petition the World Bank.” The Panel continues: “the majority of the eight selected community representatives expressed their satisfaction with the implementation of the Action Plan.”¹²⁷ The Panel is referring here to the community members selected to engage with the Government’s Technical Committee implementing the RAP and does not distinguish between these “community representatives” and the three Requesters. The Panel then concludes that since “the majority of the community representatives expressed their satisfaction in writing and Management has taken adequate measures to address the remaining

¹²² Inspection Panel (July 2014), *op cit.*, Annex IV.

¹²³ *Ibid.*, Annex IV.

¹²⁴ *Ibid.*, Annex IV.

¹²⁵ World Bank Board of Directors (1993), *op. cit.*, para. 12; and 1996 Clarification.

¹²⁶ Inspection Panel (July 2014), *op cit.*, para 31.

¹²⁷ *Ibid.*, para 31.

concerns related to implementation of the Action Plan, the Panel has decided not to register the Request and thus conclude the Pilot process.”¹²⁸

In response to our questions for this evaluation, the Panel stated that during its field trip to Badia East prior to issuing its Notice of Non-Registration, “the Panel consulted widely with affected people and their representatives to gauge their views about the pilot process and their degree of satisfaction with it, [and] at no time during this trip did the Panel hear about expressions of wanting to register the Request.”¹²⁹

One year after the case was closed, our field researchers asked affected community members if they were ever consulted or asked about whether they were satisfied with the RAP and the resolution of complaints. Ninety seven percent of survey respondents said, “no.” None of the respondents knew what the Early Solutions pilot was or that the complaint was handled through this process. Since there were 9000 affected people, it is entirely possible that the Panel consulted with different groups than those interviewed by our field researchers. However, the fact that not one respondent knew about the pilot process, and the option to ask for the Request to be registered, highlights both the importance and immense challenge of ensuring that affected communities are informed and empowered during problem solving processes.

During focus group discussions, our field researchers asked community leaders, who were generally more informed and engaged in the process than the broader affected community, whether they were consulted about the decision. Respondents stated:

“No one was asked – we had no one to lead us at that time, like a lawyer, because Morka [from SERAC] did not ask us anything and he was the only one they [the Inspection Panel] were listening to...”

“Morka came on July 4 before another meeting in Alausa and advised that since we had signed the agreement, then the investigation would be closed. We were crying out that this was not okay, that people are still really suffering, that we needed the investigation. But he said it was too late – we had already signed.”

We believe that the Panel’s decision to conclude the Pilot process did not reasonably adhere to the rules governing the process and contravened a crucial safeguard embedded in the Early Solutions approach – the ongoing consent and satisfaction of the Requesters with the process.

¹²⁸ *Ibid.*, para 31.

¹²⁹ Inspection Panel (March 2016), *op cit.*, Response to question 5.

5.2. Did the Pilot process incorporate procedural protections?

The victims of the forced evictions were in an extremely vulnerable state, described by the Panel as “desperate.”¹³⁰ The forced evictions were carried out by the Lagos State Government, which was also responsible for carrying out the measures to address the harms. Such power asymmetries must be addressed through procedural protections to ensure a non-coercive and fair remediation process. Necessary protections include access to information (such as prior access to the proposed RAP) in a form understandable to the affected people; ensuring awareness of rights, entitlements and options, including entitlements under the Involuntary Resettlement Policy and the option to use the usual Inspection Panel process; and free and open forums for dialogue about the measures proposed to address harms. In practice, the implementation of these procedural protections require the involvement of skilled and neutral facilitators, whom the affected communities trust sufficiently to freely express their views, and legal advisors. The remedial process is not fair if the affected people are not sufficiently informed, experience duress of any kind or fear retribution for expressing their views, including dissatisfaction with the measures put forward.

The principle procedural protection embedded in the Operating Procedures governing the pilot is the need for the consent of Requesters at all times. While this safeguard is crucial, the Lagos case underscores how the Operating Procedures are not equipped to deal with the question of the approval or satisfaction of large affected communities that are rarely homogenous in their interests and opinions. In the Lagos case, two of the Requesters representing at least 41 members of the affected community were denied this important procedural protection.

Inherent in the Early Solutions approach is that once the Inspection Panel initiates the process through the Notice to the Board, it steps back to give Management an opportunity to resolve the issues “in the interests of Requesters”. Unlike problem solving functions of other accountability mechanisms, which might, for example, deploy a neutral facilitator or mediator, it does not play an active role in the process and therefore cannot take steps to ensure its fairness. Moreover, unlike the Panel’s normal compliance review function, the Early Solutions process does not attempt to ensure compliance with procedural or substantive standards set in the Bank’s safeguard policies.

The only real entry point for the Panel to try to ensure procedural protections as the process plays out on the ground is through its decision to accept or reject the proposed actions put forward by Management to address the harms. In the Lagos case, Management’s proposal referred to the need for the RAP to be disclosed and consultation with community representatives and SERAC, and the importance of an

¹³⁰ Inspection Panel (July 2014), *op cit.*, para 27(a).

independent complaints handling and grievance process.¹³¹ However, the proposal did not reflect a recognition of the power imbalances and the potential for abuse of power by the Lagos State Government in implementing the RAP, or the potential for fear of retribution by affected people, and did not incorporate commensurate procedural protections. It did not place sufficient emphasis on the challenges of ensuring that such a large community of affected persons was informed to the extent necessary to effectively engage, through representation, in a meaningful dialogue to reach agreement on the measures set forth in the RAP.

In its Notice of Non-Registration, the Panel touches on the notion that procedural protections may have been missing, but reduces this to the need for all stakeholders, especially government authorities to respect the role of Requester's representative. It notes that SERAC was not sufficiently kept informed and, even after Management's interventions, remained for much of the process a "distant witness".¹³² In its response to our questions, the Panel added that another lesson it drew from the Lagos case is the need for "clearly defined and accepted procedures for consultation and representation and willingness of all stakeholders to abide by the established process."¹³³

The Panel explained, in response to our questions, that during the Lagos pilot it did play a more active role than the Operating Procedures suggest. Its office maintained "constant communication with the Requesters through their representative in order to be informed almost on a daily basis about progress in payments and what actions were being undertaken to solve problems that arose."¹³⁴ The Panel was also "in constant contact with both Management and the Requesters through their representatives to get updates...in order to gauge possible retribution against affected people" and that this was later verified through the field visit.¹³⁵

Yet, the letter sent to the Panel by the lawyer on behalf of two Requesters and 41 affected people prior to the Panel closing the case, describes a process that "failed, at all significant moments, to offset the tremendous inequality of bargaining power between affected persons and the Lagos State Government."¹³⁶ The letter refers to the failure to disclose to affected people documentation necessary for informed participation and fair negotiations. It also describes the "observer" role of Bank management at various meetings, at which affected people felt "alone in negotiations with the Lagos State Government."¹³⁷ Payments were reportedly presented as a "take-it-or-leave-it" offer, with attempts by the affected community to negotiate better

¹³¹ World Bank (October 2013), *op cit.*, para 9, 10

¹³² Inspection Panel (July 2014), *op cit.*, paras 28-29.

¹³³ Inspection Panel (March 2016), *op cit.*, Response to question 16.

¹³⁴ *Ibid.*, Response to question 12(a).

¹³⁵ *Ibid.*, Response to question 12(b).

¹³⁶ *Ibid.*

¹³⁷ *Ibid.*

terms rejected by authorities.¹³⁸ Moreover, the amount offered reportedly dropped after the initiation of the pilot process, and became conditional on the affected persons waiving their right to pursue any further claims.¹³⁹

These assertions are consistent with the findings of our field research. Eighty-nine percent of affected people interviewed said they did not feel that the remedial process, as they experienced it, was fair.

One of the community representatives, during a focus group discussion related how she was forced to "agree" to sign the RAP against her better judgment because she was visited at her home three times; the first two times she refused, but the last time she was prevailed upon by all of the people who still had nowhere to stay ten months after the demolition and who wanted this to end. In her own words:

"We were suffering. Our people were still outside, our children, our old people. Women. People were dying. We needed something to eat, and we could not wait even more months – we had already waited."

"The people who were impacted just wanted to be paid so they could eat. That is what really happened. But we did not think stopping the investigation was fair – we signed because we needed help, not because the money was enough."

Another community representative interviewed about the process explained as follows:

"I have to say, the RAP was a sole project of the government, which was handed down to the community, and which we had no choice and we had to accept – people were already dying. People were hungry... A hungry man – you give him a piece of bread, do you think he will explain it is small while it is being handed to him? No, he will eat it first and then complain about the size, and that is what is happening now. It was a big problem. When the RAP came, instead of agitating, some were even thanking god that something had come at least. Even those who protested – nothing happened. Look at what is happening now. So many people still have no money."

During the focus group discussions with the community leaders, one respondent said:

"All I know was that the World Bank was not directly involved, there was no information from the World Bank, the World Bank abandoned us. After so much work, we were abandoned."

¹³⁸ *Ibid*; and Amnesty International, *op cit.*, p. 5.

¹³⁹ *Ibid*.

The lack of visibility of the World Bank to the affected people is not surprising. By its nature, the Early Solutions approach calls for a passive role for the Panel during the process, and Management's course of action was, as is normal for the Bank, centered around supervision of the implementation of the RAP by the Lagos State Government. Neither the Panel nor Management played an effective role in ensuring that the remedial process would be fundamentally fair in a context of extreme power imbalances and in which the affected people were highly vulnerable. The Panel does not have the mandate to play such a role and Management was not in a neutral position to do so given its financing relationship with the Lagos State Government. Thus, affected community members and their representatives were left to fend for themselves in navigating an inherently unfair grievance redress process.

6. Evaluation of the Pilot Outcomes

To evaluate the outcome of the pilot, we asked whether the outcomes were consistent with the objectives of the Involuntary Resettlement Policy, and in particular, the objective of ensuring that displaced persons are “assisted in their efforts to improve their livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.”¹⁴⁰ We use this objective of restoration as the standard against which to measure whether the harms of displacement were addressed. We undertook our own analysis of whether the measures outlined in the RAP were likely to meet the objective and conducted interviews to obtain a sample of the affected people’s experiences and perceptions of whether this objective was met.

It should be noted here that while the outcome of a Panel investigation should be an assessment of compliance with the Bank’s policies followed by a Management Action Plan to bring the project into compliance, according to the Operating Procedures, the Early Solutions approach does not aim to ensure that safeguard policy objectives are met. Instead, it aims to address alleged harms “in the interests of Requesters.”¹⁴¹ The Operating Procedures do not provide any standards against which to measure whether this objective has been achieved. Nonetheless, we also discuss at the end of this section whether it can be said that use and outcome of the pilot was “in the interests of Requesters.”

6.1. The RAP and the Involuntary Resettlement Policy

In the Lagos case, the outcomes were determined by the measures set out in the RAP. The decision to use the Early Solutions approach meant that, unless the Panel ultimately decided to register the Request, no investigation would be done on whether the RAP met the standards of the Involuntary Resettlement Policy and whether project affected people were ultimately accorded their entitlements under the policy. As a result, the most that the displaced families would get would be the measures outlined in the RAP, whether or not it complied with the Bank’s policy.

The requirements of the Involuntary Resettlement Policy, while not perfect,¹⁴² are based on decades of sociological research and are aimed at avoiding the manifestation of identified impoverishment risks of physical and economic

¹⁴⁰ OP 4.12, para 2 (c).

¹⁴¹ Inspection Panel (April 2014), *op cit.*, Annex 1, paras 2, and 3.

¹⁴² In IDI’s submissions to the World Bank review of its safeguard policies, we set out areas in which the policy needs to be strengthened to ensure people who are displaced are not made worse off and instead supported in their own development efforts.

displacement.¹⁴³ Based on this scientific foundation, the policy sets out the measures necessary to meet the objective of ensuring that the livelihoods and living standards of affected people are restored. The policy calls on Bank clients to provide a multifaceted resettlement, compensation and livelihood support package based on consultations with affected people and baseline socio-economic studies of their livelihoods, productive resources and skill sets, among other household and community characteristics. A principal tenet of the policy, based on volumes of empirical research, is that compensation alone does not prevent impoverishment of displaced households, especially those that are already poor.¹⁴⁴

Yet, Management's proposed course of action was clearly centered around the provision of monetary compensation to displaced people. Management wrote in its memo to the Panel that the sum of monetary compensation would be "consistent with and using the same valuation methodology as in the 2012 RAP,"¹⁴⁵ even though the Request for Inspection had described that compensation as "insufficient to offset the harms suffered" by people evicted during the 2012 demolitions.¹⁴⁶ Management was aware of the problem of relying on compensation vis-à-vis the policy, and said in its memo:

*The Bank team also explained to the Government that, in accordance with OP 4.12, the RAP addendum would need to explain why people could not be relocated to another site and why the Government was offering only the option of cash compensation. The Government representatives further agreed to ensure that the PAPs were provided with skills training, micro-credit, and employment opportunities since cash compensation only was being offered.*¹⁴⁷

Yet, the RAP, which was finalized in November 2013, continues to rely on the payment of compensation, mainly for destroyed assets.¹⁴⁸ Resettlement entitlements, in their entirety, for displaced persons from Badia are described in the RAP as follows:

¹⁴³ OP 4.12 is meant to address and mitigate the following "impoverishment risks": production systems are dismantled; people face impoverishment when their productive assets or income sources are lost; people are relocated to environments where their productive skills may be less applicable and the competition for resources greater; community institutions and social networks are weakened; kin groups are dispersed; and cultural identity, traditional authority, and the potential for mutual help are diminished or lost.

¹⁴⁴ See: Michael Cernea, "Compensation and Investment in Resettlement: Theory, Practice, Pitfalls, and Needed Policy Reform," in *Can Compensation Prevent Impoverishment?* (2008), Eds. Michael Cernea and Hari Mohan Mathur.

¹⁴⁵ World Bank (October 2013), *op cit.*, para 8(b).

¹⁴⁶ Request for Inspection, *op cit.*, para 3(e).

¹⁴⁷ World Bank (October 2013), *op cit.*, para 8(b).

¹⁴⁸ Lagos State Government Technical Committee on Badia East, Reviewed Resettlement Action Plan (RRAP) for Displaced Persons in Badia East.

- ❑ Compensation for Owners of Structure – Valuation for Structure and Valuation for Household Assets.
- ❑ Compensation for Tenants – Valuation of Household Assets, Rent for months prior to implementation of RAP, a Year Rent plus Agreement and Agency Fee.¹⁴⁹

The RAP provides a methodology for calculations for small (approx. US\$611), medium (\$998) and large (\$1305) structures and provides a set amount for loss of household assets (approx. \$250) and rent (approx. \$10 per month).¹⁵⁰

The explanation provided as to why people could not be relocated to another site was that “in view of the number of affected persons, provision of physical resettlement does not appear feasible.”¹⁵¹ In relation to skills training, the RAP states that the Lagos State Government, “through her various Skill Acquisition Development Centres... will continue to encourage affected persons to take advantage of the opportunities offered at these centres.”¹⁵² The RAP does not contain any other substantive assistance, support or compensation measures.

In light of the Inspection Panel’s mandate, it is noteworthy that it did not mention in its Notice of Receipt of Request that the Management’s proposed course of action would be unlikely to meet the standards of the Involuntary Resettlement Policy. Once the RAP was finalized in November 2013, the Inspection Panel still did not make any comment on the fact that it fell far below the requirements of the policy, and that the reliance on (low) compensation amounts meant that there was a high degree of risk that the evictees would remain destitute. The Panel did not, for example, use the opportunity of its Interim Note on the pilot in March 2014, when it extended the pilot period to give Management more time, to alert the President and the Board to this risk.

When the Inspection Panel issued its Notice of Non-Registration in July 2014, it did include a section that comments on failures of the project to comply with Bank policy and protect against forced eviction.¹⁵³ It noted that “a major shortcoming of the implementation process has been that the RAP was prepared and implemented ex-post”¹⁵⁴ and that the retroactive nature of the RAP meant that the fulfillment of some policy requirements, such as baseline surveys and prior consultation on resettlement, was not possible.¹⁵⁵ The Panel rightly commended Management for including in the financing agreement protections for people who would be resettled for city-wide

¹⁴⁹ *Ibid.*, p. 4.

¹⁵⁰ USD estimates at November 2015 exchange rates.

¹⁵¹ Lagos State Government Technical Committee on Badia East, *op cit.*, p. 16 and 23. The RAP sets the figure of affected households at 2,252, constituting an average of seven persons.

¹⁵² *Ibid.*, p. 34.

¹⁵³ Inspection Panel (July 2014), *op cit.*, para. 27.

¹⁵⁴ *Ibid.*, para. 27(d)

¹⁵⁵ *Ibid.*, para. 27(e) and (f).

upgrading programs, but noted that Management did not thereafter provide the “substantive support measures” necessary to give effect to this provision.¹⁵⁶ The Panel concludes that the Bank therefore “fell short of protecting the poor and vulnerable communities against forceful evictions”, insinuating that the Bank may not have complied with its policies on supervision and investment financing.¹⁵⁷

While its commentary in this respect is important, the Panel did not highlight in this section the fact that effective and durable remedies in line with the Involuntary Resettlement Policy were clearly not being provided or underscore the danger that this presented to the lives of thousands of displaced people. Instead, this important fact was obfuscated by praise for an “effective” process that facilitated the speedy provision of cash to the majority of households in “urgent need for immediate relief.”¹⁵⁸ The critical notion that the payment of compensation for lost assets is only one component of the package of entitlements owed to affected people and only one component of an effective remedy for physical and economic displacement was not addressed by the Panel.

It is noteworthy that the Panel wrote in its Notice of Non-Registration:

...without a proper baseline it is very difficult to assess whether or not the payments received are fair and sufficient to restore the livelihoods of affected people as mandated in bank Policy. Many of the affected people interviewed by the Panel in Badia East complained that payments were totally insufficient for them to restore their previous livelihoods. On the other hand, the Bank engaged two independent experts specifically to determine proper compensation amounts based on current market rates.¹⁵⁹

In its response to our questions, the Panel acknowledged the fact that the independent experts hired by the Bank could only have been assessing current market rates for structures, personal possessions and rental payments – not lost livelihoods,¹⁶⁰ which the RAP never set out to compensate. It is disappointing that the Panel did not acknowledge the veracity of the testimonies of the affected people, even though their telling of the experience is consistent with the empirical research on displacement worldwide that shows that compensation alone – even if it included lost income will not restore livelihoods.¹⁶¹ The Panel stated in its response to our questions for this evaluation that livelihood restoration “was catered for through provision by the Lagos State Government of training opportunities at State Vocational Centers.”¹⁶² However, at the time the Notice of Non-Registration was issued there

¹⁵⁶ *Ibid.*, para. 27(i).

¹⁵⁷ *Ibid.*, para. 27(i).

¹⁵⁸ *Ibid.*, paras. 32 and 33.

¹⁵⁹ *Ibid.*, para 27(g)

¹⁶⁰ Inspection Panel (March 2016), *op cit.*, Response to question 13(b).

¹⁶¹ M. Cernea, *op cit.*

¹⁶² Inspection Panel (March 2016), *op cit.*, Response to question 13(b).

was no evidence that affected people had or were likely to participate in or benefit from these training programs, and this remains the case today as discussed further below. The Panel acknowledges in its response that “although the resettlement assistance provided relief for the evictees, it may not have been sufficient for restoring pre-displacement livelihoods. Thus it can’t be stated that the objectives of the Policy were fully achieved.”¹⁶³

6.2. The outcomes for affected people in Badia East

Our field research, conducted in July 2015, one year after the Panel closed the case, sheds light on the outcomes of the pilot as experienced by affected people.

Among survey respondents, 92% ultimately received financial assistance under the RAP. Of these, only 7% said they knew in advance how much they would receive, while 93% of respondents said they either did not know in advance the amount they would receive or they received less than they had thought they would. None said they agreed to the amount.

When asked the question, “*Was the compensation enough to put you back to your pre-demolition situation?*” almost 95% of persons compensated said, “No.”

Meanwhile, none of the survey respondents said they received the skills or job training promised in the RAP: 64% said they did not, while 36% said they did not know. During the focus group discussion, one of the community leaders explained:

“There was also a promise for vocational training. We were asked to write names for a committee listing who would be interested and the type of training. We submitted 124 names. The committee then said the persons had to [have certain education levels,] so we re-submitted the list, but the result was that only 23 people were selected. But, to date, still no response. We keep trying, but there is no response from the Lagos State Government – they have said that the Deputy Governor has the list and asked if we think we really get to bother her.”

Ninety seven percent of survey respondents reported that they were homeless for some period of time after the demolition: 12% for a few months; 16% for between 3 to 6 months; 26% for 6 months to a year; 14% for more than a year; and almost one third (29%) of respondents were still homeless at the time of interview, nearly two and a half years after the demolition and one year of the Inspection Panel declared the pilot “both efficient and effective at redressing the grievances of affected people.”¹⁶⁴

¹⁶³ *Ibid.*, Response to question 14.

¹⁶⁴ Inspection Panel (September 2014), *op cit.*

Among survey respondents who had accommodation at the time of the survey, **83% reported the accommodation was worse than their shelter prior to the demolition**; 8% reported it was “much worse,” while 6% described it as roughly “the same”. Only 3% described their current accommodation as “better” than their pre-demolition shelter. While 42% of survey respondents said that they owned their housing structures at the time of the demolition, only 8% of respondents owned their own structure at the time of interview.

All but one of the interview respondents said that they have been unable to replace the personal belongings that they lost during the demolition.

Among survey respondents who had school-aged or pre-school-aged children at the time of the demolition, **93% reported that their children had to stop schooling for some period because of the demolition** (3% for a few weeks, 5% for a month, 23% for a semester, 7% for two semesters, 15% for 1 year, 8% for more than 1 year, and 32% had children who were still unable to resume school 2.5 years after the demolition). **Sixty-eight percent said that their pre-school children had to delay starting school because of the demolition** (1% for a few weeks, 3% for a month, 19% for a semester, 5% for two semesters, 18% for a year, and 22% had children who had still not been able to start 2.5 years after the demolition). The major reasons cited were lack of money, followed by lack of housing, and due to moving.

More than half (53%) of respondents reported experiencing separation from family (spouse, children, parents, etc.) after the demolition. **Fifty-four percent of persons who experienced separation from family still remained separated 2.5 years after the demolition.**

Almost 80% of respondents reported losing income due to the demolition. Of those who had a source of income at the time of interview, 97% described their present work as “worse” or “much worse” than before the demolition. Almost all reported earning less than before the demolitions: 49% reported earning less and another 49% reported earning much less, while only 2% reported earning the same and no one reported earning more. Sixty-four percent of respondents reported owing money as a result of the demolition.

While our field research was limited to 73 respondents, and we believe that a full audit of the situation of affected people should be conducted, the data provides a clear indication that the objective of the Involuntary Resettlement Policy was not met. Efforts were clearly insufficient to improve, or at least restore the livelihood and standards of living to pre-displacement levels. The data provides evidence that the measures did not sufficiently address the harms raised in the Request for Inspection.

It also calls into question whether the use of the pilot approach was in fact “effective” and “in the interests of the Requesters.”¹⁶⁵

6.3. Was the use and outcomes of the pilot in the “*interests of the Requesters*”?

It is clear that the Inspection Panel was of the firm view that the use of the Early Solutions approach was in the best interests of the Requesters and other project affected people because of their desperate and immediate need for cash, which the Panel's normal investigative function would not provide. The Panel repeatedly emphasized the “urgency of the situation” of the evictees, and “the need for compensation,”¹⁶⁶ and the “important relief” that was provided.¹⁶⁷

The affected people were undeniably in desperate need of humanitarian support, and the urgency of responding to this need cannot be understated. However, the Panel's conclusions that monetary payments were a positive outcome and that “no remedy would have been provided” if it had registered the Request and proceeded with its standard operating procedures, deserve pause.¹⁶⁸

First, it is important to be clear that in making its decision, the Panel substituted the comprehensive package of entitlements under the Bank's Involuntary Resettlement Policy to restore livelihoods and living standards for what was essentially, badly needed humanitarian relief. Whether this was in the interests of the Requesters depends on whether it is true that they would have received nothing at all if the Panel had registered the Request.

There were two points at which the Panel could have registered the Request: upon receiving it and reviewing whether the criteria for initiating the Early Solutions were met, and upon reviewing progress of the pilot in order to decide whether to close the case or register.

At the time the Panel received the Request, Management was already in the process of working with the Lagos Government to prepare the RAP. It is unclear why Management could not have continued its efforts, altering them to take into account the concerns expressed in the Request, at the same time as the Panel proceeded with its mandated role of assessing the Request's eligibility and, if warranted, carrying out an investigation. This would have fallen squarely into the standard procedures as set out in the Board's resolution establishing the Panel and subsequent clarification, under which the Management can respond to a complaint by admitting non-

¹⁶⁵ Inspection Panel (April 2014), *op cit.*, Annex 1, 3(a).

¹⁶⁶ Inspection Panel (July 2014), *op cit.*, para. 11.

¹⁶⁷ *Ibid.*, para. 27(b)

¹⁶⁸ Inspection Panel (March 2016), *op cit.*, Response to question 5.

compliance and providing an explanation of how it intends to rectify it.¹⁶⁹ This would have allowed the Panel, through its normal functions, to assess the various actions of Management, including its supervisory efforts to rectify problems that emerged, and the adequacy of the retroactive RAP vis-à-vis Bank policy. Under this scenario, Management, aware that the Panel would be scrutinizing its remedial efforts and reporting to the Board, may have been more incentivized to provide full remedy for harms in line with its safeguard policies. In turn, the Bank could have used the impending investigation, and the potential for a more favorable public investigation report, to encourage the Lagos Government to implement measures that were more likely to achieve the objective of the Involuntary Resettlement Policy. Through its traditional function, the Panel could have played an important role in securing effective remedies and holding the Bank accountable to its operational policies.

Both the Panel and Management claim that, had the Panel registered the complaint, the Bank's resources would have been diverted from its remedial efforts into defending the allegations against it.¹⁷⁰ In our view, the appropriate response to the Bank's tendency towards defensiveness is not to remove scrutiny and accountability. It is unclear why the World Bank would not be capable of both providing a constructive written response to the allegations in the complaint, while at the same time continuing efforts on the ground to address grievances, even as the Inspection Panel goes about its work.

However, if the Panel believed that registering would have obstructed Management's actions at the time the Request was received, it had a second opportunity to register the Request several months later, at a time when the majority of payments were made. With the evidence before it that the RAP fell well short of the policy and that many affected people felt that the payments were "totally insufficient for them to restore their previous livelihoods,"¹⁷¹ this would appear to have been the prudent course of action, consistent with the Panel's mandate.

Two other reasons presented by the Panel for considering the pilot's outcome as positive are that "evictees [were] considered illegal squatters by local law" and that the evictions "were not directly caused by activities financed under a World Bank project", but rather the obligations arose from the provisions in the financing agreement that extended protections for people who would be resettled for city-wide upgrading programs.¹⁷² While these factors make the situation on the ground undeniably complex, neither justifies the decision to cast aside the Involuntary Resettlement Policy principles and entitlements and the contractual obligations between the Bank and the project implementer.

¹⁶⁹ World Bank Board of Directors (1999), *op cit.*, para. 3.

¹⁷⁰ For example, during the Policy Session on the Early Solutions Pilot, October 10, 2014, CSO Forum at the World Bank/IMF Annual Meetings.

¹⁷¹ Inspection Panel (July 2014), *op cit.*, para. 27(g)

¹⁷² Inspection Panel (March 2016), *op cit.*, Response to question 7 and 8(b).

As the Panel well knows, the law in many of the Bank's client countries are inconsistent with human rights and fail to protect people without formal title from forced eviction, and the Bank's Involuntary Resettlement Policy is explicit in stating that such people should be provided resettlement assistance.¹⁷³ Further, Management's efforts to contractually require such protections for all people to be evicted for city-wide upgrading, regardless of the source of financing for the particular project, makes sense from a development perspective and should be expected from the World Bank, particularly in light of the fact that nearly 70 percent of the Lagos population live in slums¹⁷⁴ and the history of forced evictions.¹⁷⁵ Although the Bank directly financed only specific infrastructure upgrading, the project provided a package of support to Lagos government with the aim of upgrading services and infrastructure across the city, including through building the capacity of the relevant Lagos authorities to plan and execute city-wide upgrading.¹⁷⁶ Resettling people in a manner consistent with the Involuntary Resettlement Policy should be viewed as an essential component of a metropolitan development project of this kind. The stark failure to comply with the contractual provision should not have been met by acquiescence by the Bank and the Panel to a weaker standard for dealing with evictees, but rather a remediation process to bring the project into compliance with appropriate financial and technical support from the Bank.

Lastly, the Panel also raises the issue of the Bank's limited leverage to influence the Lagos Government because the project had closed on the same day the Request was filed. In its response to our questions, the Panel noted that "this left very little maneuvering space for the Bank to influence the situation."¹⁷⁷ However, this is unconvincing since the Bank was in the process of preparing two new policy reform operations for Lagos State for a total of US \$400 million, both of which have been approved by the Bank since that time.¹⁷⁸ Management itself noted in its memo to the Panel the good relationship between the Bank and the Lagos Government, which is "embedded in a strong on-going lending program with the State."¹⁷⁹

Ultimately, while we are skeptical, it is impossible to conclude with any certainty whether the payments provided under the Early Solutions approach constituted the best outcome the affected people could have gotten under the particular political circumstances at play. However, the reasoning behind the Panel's determination that the pilot process and the decision not to register the Request was in the best interests

¹⁷³ OP 4.12, para. 15(c) and 16.

¹⁷⁴ World Bank (June 2006), *op cit.*, para. 7.

¹⁷⁵ Inspection Panel (July 2014), *op cit.*, para. 27(i)

¹⁷⁶ World Bank (June 2006), *op cit.*, p. 5-6.

¹⁷⁷ Inspection Panel (March 2016), *op cit.*, Response to question 8(b).

¹⁷⁸ World Bank, Nigeria Lagos Second State Development Policy Credit (approved March 2014) and Third Lagos State Development Policy Operation (approved June 2015) World Bank, Nigeria Lagos Second State Development Policy Credit (approved March 2014) and Third Lagos State Development Policy Operation (approved June 2015).

¹⁷⁹ World Bank (October 2013), *op cit.*, para 17.

of the Requesters is neither solid nor in line with its mandate or Operating Procedures, and thus treads in the unfamiliar territory of expedient negotiated solutions that the Panel is not equipped to traverse. We believe that the safeguard policy objectives should continue to serve as the measure of a successful outcome that is in the interests of the Requesters. Moreover, the people who are best placed to assess whether the outcome was in the best interest of the Requesters are the Requesters themselves. As described above, two of the three original Requesters, and many other affected people, did not agree with the Panel's conclusion that the outcome was in their best interests.

7. Conclusions and Recommendations

The Inspection Panel is an essential part of the system of accountability at the World Bank. It has been a pioneering body in accountability in development finance, setting the standard for IAMs that have since been established at other multilateral development banks and similar institutions. The Panel has done remarkable work over the past two decades to contribute to grievance redress and strengthen the accountability of the World Bank to project affected people. And these achievements have been made within a complex political environment, in which Bank management and staff are often uneasy with the Panel's role in scrutinizing and assessing their work and Bank's clients are sometimes hostile to the principles of citizen-driven accountability that the Panel exists to defend. At the same time, the affected communities and civil society place high expectations on the Panel's contribution to effective remedy and institutional accountability.

The Inspection Panel is hampered in its work by a limited mandate and toolbox for achieving its accountability mission, which has not been significantly updated since the Panel was established in 1993. Panel members and secretariat staff, motivated to contribute to effective outcomes for aggrieved communities, have adjusted their Operating Procedures to create more flexibility to achieve results in the highly complex situations that arise in their cases. Most recently, the Panel added new components to its procedures so that it could share its findings with Requesters at the same time as its Investigation Report is submitted to the Board and Management and to allow it to facilitate the tracking of progress in implementing Management Action Plans and share the information publicly.¹⁸⁰ These are examples of important ways the Panel is seeking to improve its role and work within the confines set by the rules established in the Board Resolution and clarifications.

The Early Solutions approach is an attempt to expand the Panel's toolbox to achieve better results by facilitating swift recourse for harms suffered by project affected people. It was the product of constraints imposed upon the Panel by the Board resolution establishing it and, in particular, the absence of a problem-solving function.

Yet, the findings of this evaluation underscore the dangers of leaving attempts at problem solving to the parties involved – often the perpetrators and victims of human

¹⁸⁰ The Inspection Panel website, "Updates to Panel Operating Procedures", available at: <http://ewebapps.worldbank.org/apps/ip/Lists/NewsFromThePanel/NewsFromThePanelDisp.aspx?ID=234&Source=/apps/ip/Pages/Home.aspx>; and Inspection Panel (April 2014), *op cit.*, (with Annex 2 added in February 2016), Annex 2.

rights violations – without a facilitated process with protections in place to balance power asymmetries and ensure fundamental fairness.

In the Lagos case, more than 90 percent of the victims of the Badia East evictions we interviewed received payments by the end of the Management supervised process. But one third of the affected people interviewed remained homeless some two and half years after the evictions and one year after the Panel closed the case. Almost all of the evictees reported being in a significantly worse situation than their previous pre-displacement condition, which by all accounts was very poor. Sadly, in September 2015, the Lagos State Government carried out another forced eviction in the remaining portion of Badia East, this time affecting some 10,000 residents of the community. Some of the victims of the earlier evictions were displaced yet again.¹⁸¹ The outcome of the Early Solutions pilot in Lagos clearly falls well below the objectives set by the Bank’s safeguard policies. It is also difficult to conclude that it is truly in the interests of Requesters. If this outcome is regarded by the World Bank Board, Management and Inspection Panel as a successful result of an accountability process, then the standards of this development institution must be seriously called into question.

In its 2014 Operating Procedures, the Panel describes two important accountability functions that it serves:

- ❑ It provides a forum for people, including those who are often poor and vulnerable, to seek recourse for harm which they believe result from Bank-supported operations. As such, the Panel is a “bottom-up” or citizen-driven accountability mechanism that responds to grievances and demands for redress. This promotes more inclusive and sustainable development by giving project-affected people a greater voice in Bank-financed projects that impact them.
- ❑ It provides an independent and impartial assessment of claims about harm and related non-compliance with Bank policies as a check-and-balance for the Board and other concerned stakeholders. This contributes towards institutional learning and helps to improve development effectiveness of World Bank operations.¹⁸²

Our evaluation suggests that in the Lagos case, neither of these functions were effectively fulfilled. The affected people that we interviewed reported that they felt compelled to accept payment offers under conditions of duress, including the desperation of their situation, and that they did not feel that the process was fair. This

¹⁸¹ Nicholas Ibekwe and Ben Ezeamalu, “Anguish, sorrow, tears as Lagos descends on Badia East again, brutally evicting residents”, September 29, 2015, *Premium Times*, available at: <http://www.premiumtimesng.com/news/headlines/190752-anguish-sorrow-tears-as-lagos-descends-on-badia-east-again-brutally-evicting-residents.html>

¹⁸² Inspection Panel (April 2014), *op cit.*, para. 2.

does not reflect a grievance redress process that gave project-affected people a voice in decision-making.

In terms of institutional lesson learning and accountability, the Panel did not carry out a full assessment of policy compliance and cannot be said to have meaningfully acted as a check-and-balance on Bank Management, though it did provide a brief assessment of policy compliance in its Notice of Non-Registration. In response to our questions about institutional lesson learning, the Panel explained that the shortcomings vis-à-vis policy compliance have been clearly outlined in the documentation and to the Board's committee on development effectiveness (CODE).¹⁸³ The Panel also pointed to Management's study that examined issues of slum renewal in big cities in Africa, which contains key lessons resulting from the resettlement experience in Lagos as follows:

- “(i) An integrated approach to slum upgrading and involuntary resettlement (especially avoiding that involuntary resettlement becomes an afterthought or an add on to the project);
- (ii) Better understanding of the complexity between the legal/policy framework, the institutional arrangement, the political economy and implementation capacity; and
- (iii) To the extent feasible, an upfront dialogue and treatment of involuntary resettlement issues, including negotiations about its avoidance, eligibility and compensation of project affected persons, resettlement and livelihood restoration options, etc.”¹⁸⁴

While we agree with the value of such a study by Management, it is no substitute for a full independent and impartial investigation of the harms and policy compliance by the Inspection Panel.

The following recommendations seek to ensure that the World Bank and the Inspection Panel are better able to achieve institutional accountability and provide recourse to people harmed by World Bank-financed operations.

7.1. Recommendations on Problem-Solving Processes:

- **Any problem-solving processes between Requestors, the Bank, and its client should ensure the application of predictable rules and a range of protections to ensure fairness, recognizing the power imbalances that exist between the Bank, its clients and affected people, who are often poor and vulnerable.** These protections should include, *inter alia*:

¹⁸³ Inspection Panel (March 2016), *op cit.*, Response to question 9.

¹⁸⁴ Inspection Panel (March 2016), *op cit.*, Response to question 5.

- An impartial third-party facilitator whom the aggrieved party trusts sufficiently to freely express their views;
- Full access to relevant information in a form understandable to the affected people;
- Awareness-raising of rights, entitlements and options, including entitlements under safeguard policies and the option to access the compliance review function of the Inspection Panel;
- Free and open forums for dialogue about options and measures proposed to address harms without fear of retribution;
- Respect for the involvement of legal advisors; and
- The right for Requesters at any time to withdraw from the problem-solving process and have their complaint addressed through the standard compliance review procedures of the Panel.

- **The decision to use a problem-solving process should not preclude a policy compliance investigation, either at the same time or following the conclusion of the problem-solving process where simultaneous processes are not feasible.** A compliance investigation need not become an obstacle to problem-solving and Management should not stop productive activities to address harms and grievances when an investigation is initiated by the Panel. The Panel should take into account progress made in problem-solving efforts in its investigation. The Panel's findings should be used to improve the problem-solving efforts in order to ensure to the extent possible that safeguard policy objectives are met.
- **The World Bank's safeguard policies should form the basis of problem-solving processes.** This gives due recognition that the objectives and measures set out in the safeguard policies are ultimately aimed at ensuring that project affected people do not face adverse impacts as a result of development projects.

7.2. Recommendations for Further Research:

- **Evaluations of other Early Solutions pilots and similar cases should be conducted.** This report only evaluates the pilot in the Lagos case. A similar evaluation of the second pilot of the Early Solutions approach in the Paraguay case would be useful to inform whether the tool may be better suited to other types of cases and if so, what conditions must be present for the approach to lead to a genuinely successful outcome in line with the Bank's safeguard policies. Similarly, research on the outcomes of the cases in which the Panel has deferred its decision on the eligibility of Requests for Inspection may also provide valuable information about approaches leading to effective outcomes for complainants and institutional accountability.

- **A broader study should be conducted on the effectiveness of dispute resolution processes in the public sector context.** Several Independent Accountability Mechanisms have the mandate to conduct facilitated problem-solving processes involving complainants and public sector clients, including by using third party neutral facilitators. The conditions for a successful process involving public sector clients may vary from those involving private sector clients. More research is needed to understand how IAMs can successfully conduct problem solving or dispute resolution processes involving government bodies.

7.3. Recommendation for Remedial Action in the Badia Case:

- The World Bank should use its ongoing budget support relationship with the Lagos State Government to implement a comprehensive plan to restore and improve the livelihoods and living conditions of the victims of Badia East evictions in line with the objectives of the Involuntary Resettlement Policy and basic human rights standards.

Appendix 1 Inspection Panel Comments on the Draft Evaluation by IDI and SOMO of Lagos Pilot

1. The Inspection Panel thanks Inclusive Development International (IDI) and the Centre for Research on Multinational Corporations (SOMO) for conducting the evaluation of such an important case and for providing this space for its comments. The evaluation is based on empirical research and is well argued, and the Panel agrees with many of its conclusions. The Panel emphasizes that this evaluation will provide valuable input into its independent assessment of the Pilot approach to be conducted in the future.
2. The Panel re-emphasizes that the Pilot approach does not change its mandate and function, as it does not involve amendments to the Panel Resolution or its Clarifications. The Pilot was developed as a result of internal and external consultations leading to the Panel's 2014 Operating Procedures. Those discussions identified instances in which there was a need to deal with urgent grievances by implementing a problem-solving approach within the scope of the Panel's mandate. The Pilot should not be perceived as an alternative to the regular Panel process nor as a form of mediation, since it is only invoked in very specific cases. (For all practical purposes, the Pilot simply delays the Registration decision when Bank management is already implementing an existing action plan, and the Requesters have agreed to it.) The Pilot approach has been applied to only two cases since it was launched as part of the Revised Operating Procedures in 2014.
3. The Lagos LMGDP was the first such case. There, the Panel recognized the serious humanitarian situation associated with the evictions, a dire circumstance that should never be repeated and which left thousands homeless overnight. In exercising its judgment to apply the Pilot, the Panel took into account several factors, including that: the overarching concern of the Requesters was the need for compensation payments to evictees given their desperate situation post-evictions; many people had left the site after the evictions; many had no identification cards; most of those affected were illiterate; and most did not have bank accounts. These factors pointed to the need for the relief to be provided immediately, and given these unique factors the Panel is of the view that applying the Pilot to the Lagos case was the best option under the circumstances. The State of Lagos set up an effective system to identify

evictees, provide them with ID cards and Bank accounts, and transfer payments promptly.

4. The Panel emphasizes that the evictions were not triggered by any World Bank project, but rather there was an obligation assumed by the State of Lagos arising from provisions in a Financing Agreement that all resettlement activities state-wide would follow the principles of the Bank's Policy on Involuntary Resettlement, regardless of funding source. Therefore, Lagos state was obligated to follow Bank policy even though the Bank was not involved in the evictions.
5. As per the Pilot procedures, the Pilot was implemented (in lieu of a full investigation) at the explicit petition from the Requesters. Requesters were aware of the differences between the Pilot and a full investigation, and consciously chose to follow the Pilot route.
6. Even though a full investigation was not conducted and therefore a full compliance review of the adequacy of the Resettlement Action Plan (RAP) was not undertaken, the Panel recognized that the retroactive nature of the RAP implied that socioeconomic studies were not conducted, nor was baseline information collected on the livelihoods or standards of living of affected people. This retroactive RAP process essentially meant that proper consultation on resettlement was entirely lacking. Furthermore, the lack of a baseline made it very difficult to assess whether the payments received were fair and sufficient to restore the livelihoods of affected people as mandated by Bank policy. The Panel estimates, therefore, that although the resettlement provided relief for the evictees, it may not have been sufficient for restoring pre-displacement livelihoods and living standards. These obvious shortcomings in the process have been acknowledged in a variety of documents pertaining to the Pilot prepared by the Panel, and are openly acknowledged on the Panel's website. (<http://ewebapps.worldbank.org/apps/ip/Pages/ViewCase.aspx?CaseId=94>)
7. The Panel ensured that all observations about the Pilot were explicitly communicated to the Board of Directors through an extensive Notice of Non-Registration. ([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)). Furthermore, the Panel organized a session at the 2014 International Monetary Fund/World Bank Group Annual Meetings to discuss the Pilot experience in an open and transparent manner.
8. A major outcome of the Panel process was Bank management's commitment to commission a study on the challenges of slum upgrading in African mega-cities. Regarding compensation, the latest information received from Management indicates that as of May 2015 the entire 2,296 beneficiaries cleared by the

Technical Committee (i.e., 100%) have received payment. Once again, the Panel recognizes the difficult situation in which these beneficiaries find themselves, where even though they received compensation, its level was likely not sufficient to fully restore their livelihoods and living standards. According to this report, the resulting homelessness remains a dire situation to many, a situation which is quite concerning and requires long term and sustainable solutions.

9. Going forward and as explained in the Notice of Non-Registration, it remains important to reflect on the lessons resulting from the application of this Pilot -- notably ensuring that the mandate given to the Requester's representative is made clear to all stakeholders, that procedures for consultation and representation need to be clearly defined and accepted, and that all stakeholders need to be willing to abide by the established process. In addition, the Panel notes the significance of a field visit to meet the Requesters to assess the Pilot's results and ensure the satisfaction of the Requesters prior to making a determination on the case. These lessons were incorporated in the second Pilot, which was conducted in Paraguay:
<http://ewebapps.worldbank.org/apps/ip/Pages/ViewCase.aspx?CaselId=100>
10. The Panel has reviewed the recommendations proposed in the evaluation. As regards the recommendations relating to problem-solving processes, the Panel agrees that if a full-fledged problem solving or mediation function is to be included in the Panel's mandate, it should be based on agreed upon principles and best practice as outlined in the evaluation. Regarding the recommendations for further research, as stated at the outset, the Panel will ensure the incorporation of the results of this evaluation into its independent assessment of the Pilot.
11. The Panel wishes once again to express its gratitude to IDI and SOMO for this valuable work and appreciates the value it brings to improving the effectiveness of the Panel's work.

Response provided: 29 April 2016

An Evaluation of the Inspection Panel's Early Solutions Pilot in Lagos, Nigeria

In early 2014, the World Bank Inspection Panel added a new tool to its operating procedures known as the "Early Solutions approach." Through this process, the Panel plays a passive problem-solving role, giving the World Bank and project affected people additional time to resolve grievances before the Panel decides whether or not to register the Request for Inspection. The Early Solutions approach was first piloted in a case in Lagos, Nigeria in which some 9000 people were forcibly evicted from the Badia East urban poor settlement. This report evaluates the fairness of the process used and based on empirical research, whether the outcomes were in the best interests of affected people and consistent with World Bank safeguard policies. The report makes recommendations for improving institutional accountability whilst ensuring the provision of effective remedies to people harmed by World Bank-financed projects.

