

# **Minimization of Social Risks During Total Oil Operations**

Report\*

\* This report is envisaged for the general public. A program-related report will be submitted to the Open Society Institute- Assistance Foundation in March 2005.

The Citizens` Labor Rights Protection League commenced the implementation of the project entitled **Minimization of Social Risks During Total Oil Operations** on March 1, 2004 with financial support from the Open Society Institute- Assistance Foundation. The key objective of the project, which is scheduled for implementation over a period of 12 months, was given this title.

The main responsibility of the *information and legal assistance centers* established in Baku and Ganja under the project is to render legal assistance to employees involved in oil operations and the BTC pipeline construction. This includes those landowners whose land plots have been leased for the implementation of the construction. Further objectives include obtaining and disseminating information regarding construction. Major activities are focused on BTC Main Export Pipeline construction despite the project covering the entire oil sector. The following brief information on the construction is brought to your attention.

A 443 km section of the 1,769 km-long BTC pipeline passes through the Azerbaijan Republic. Approximately 2,600 of the 18,000 employees involved in construction activities work in Azerbaijan. At present, the total number of employees working on the Azeri section of the pipeline is 2,492. Of these employees, 1,756 are Azeri nationals. Overall, 3,274 local employees have been recruited since the commencement of construction activities. Moreover, 340 of 392 employees working for subcontractor organizations of CCIC, which executes the construction activities, are local employees.

A 2,522.2ha area of the Azerbaijan Republic has been taken on long-term lease for the implementation of construction activities. Of the leased land plots, 796.162ha (31.6%) are state-owned, 921.961ha (36.6%) are privately owned and 804.039ha (31.8%) are municipality owned.

### **Activity Directions**

The key methods used to achieve the project`s objectives are as follows:

- Providing legal consultations;
- Attempting to restore violated rights through the court including creating precedents via litigations;
- Eliminating breaches with the help of regular correspondences and meetings with BTC Co., CCIC, which is the senior contractor for BTC pipeline construction and the operator (BP);
- Resolving problems by means of correspondence and negotiations with state authorities (State Land and Cartography Committee) and local executive authorities (executive authorities and self-governing bodies of oil pipeline-crossed territories);
- Public campaigns (press conferences, roundtable discussions, etc.).

There are no plans to conduct monitoring under the project. However, the agreements signed with foreign companies and their compliance with the international standards supported by Azerbaijan and their countries` constitutions have been analyzed.

### **Legal Assistance**

As a rule, Citizens` Labor Rights Protection League renders free legal assistance to the needy and poor layers of society. Thousands people have been provided with legal assistance in public reception rooms throughout Baku and other regions. Legal assistance has also been rendered to

many individuals unrelated to oil operations despite the beneficiaries of the project being employees involved in oil operations and landowners of pipeline-crossed territories.

However, the groups in focus have been employees involved in BTC Main Export Pipeline construction and landowners whose land plots were taken on lease for pipeline construction. The appropriate centers have been established in Baku and Ganja to provide legal assistance.

The organization was obliged to face two problems while commencing project implementation. These problems were the following:

◆ A number of NGOs had implemented multiple projects under the name of monitoring prior to the commencement of the Minimization of Social Risks During Total Oil Operations Project by the Citizens` Labor Rights Protection League. These NGOs repeatedly interviewed landowners whose rights were violated but they did not render any assistance to them, as their aim was to study the situation. As a result, landowners do not believe NGOs.

◆ Organizations implementing the project do not believe in NGOs among the aforementioned companies and make severe statements against them without attempting to resolve problems with BTC Co, construction contractors and the main operator (BP). Therefore, these companies have started to occupy a careful position regarding cooperation with NGOs.

Firstly, the organization offered concrete legal assistance to landowners whose rights were violated to resolve the problem, prepared claim documents for 37 proprietors and submitted them to the relevant district courts and assumed acting as the defendant in these courts.

Other landowners were also provided with appropriate legal assistance. This process is ongoing. Certain achievements were reached in this sphere despite courts being impartial or independent. Currently, this process continues.

However, a number of claims are still kept in court and are not being considered.

While investigating cases regarding violating the rights of proprietors, it became known that the State Land and Cartography Committee and the executive authorities and municipalities of the respective districts were the key authorities guilty in the violation of these rights. In a number of cases, other persons deceived proprietors and, consequently, they could not receive compensation.

We may arrive at the following conclusions by grouping the landowner complaints:

- In a number of cases, land plots were not evaluated accurately and the compensation paid to the proprietor was not a fair compensation;
- Compensation was paid either to another person or the land plots were recorded as municipality-owned land plots although in the State Act and other documents it is indicated that the land plot belongs to a concrete individual (we would like to point out that the compensations given to municipalities are of symbolic character and are small);
- Several persons were advised of the pipeline-crossed territories by an unknown source in advance. These persons purchased their land plots from landowners at very low prices and leased them to BTC Co. at very high prices;
- Landowner complaints are often unfounded, as they try to receive any possible compensation.

The tripartite commission (SLCC, Executive Authorities and BTC Co.; the latter's participation in the commission is merely of technical character), which had to resolve all issues associated

with landowners, has not worked efficiently. Consequently, the rights of hundreds of people have been violated.

Payment of salaries to employees involved in oil operations and BTC Main Export Pipeline construction:

- Signing of Employment Contracts

When signing employment contracts, primary construction contractor CCIC did not use the exemplary copy of the Employment Agreement (Contract) described in Attachment 1 of the Labor Code of the Azerbaijan Republic as a basis. These employment contracts are not at variance with the exemplary copy. However, a number of terms and conditions have been incorporated into the contracts and do not comply with the principles of the Labor Code.

For example, the term of the contract determined for employees in Article 2 of the contract is three months in a number of cases. This term, however, could be reconciled with the duration of construction activities on a particular territory. Another case relates to an employee's temporary disability. The contract says: *"Employee is provided with a sick leave in the event of illness provided that he/she or any person on his/her behalf immediately contacts the company."*

Similar terms and conditions are not envisaged according to the respective laws of the country. The Employment Contract authorizes the employer to determine the salary unilaterally. This differs with the legislation of Azerbaijan.

The work and rest regimes determined in the Employment Contract and annual leave salaries are not at variance with the legislation of the country.

- Salary Payment

There are differences between the salaries paid to local and foreign employees. But there is no concrete data regarding these differences. Companies keep them confidential.

- Labor and Health Protection

The terms and conditions envisaged in the Employment Contract contribute to protecting employee labor. However, we have received information of cases detailing deviations from the contract. However, the company has not created the necessary conditions to allow our organization to inspect these facts. Safety regulations are strictly followed and, therefore, the number of accidents is few in light of the scope of the construction activities.

Regardless, we have received information regarding certain differences between the meals given to foreign and local employees and their living conditions. During talks with the company management, we were told that these differences exist only in respect to an employee's position.

Appropriate mechanisms are available to consider complaints associated with individual employee labor disputes. However, only a few complaints are filed with the management and external authorities. This is related to employee fear of their future prosecution. Various employees prefer to lodge complaints only upon terminating their employment contracts. A number of collective protests and conflicts have been recorded during the implementation of construction activities.

## **Second Problem**

Disbelief in NGOs is observed within oil companies including the main BTC MEP construction operator and contractor companies. They substantiate this disbelief by stating that NGOs exaggerated the issue. Several severe statements were made instead of cooperating to resolve the issue.

A sustainable dialogue has been established between the organization and companies within the frameworks of the project implemented by the Citizens` Labor Rights Protection League. It has been possible to resolve a number of general problems as a result of this dialogue. BP, BTC Co. and CCIC have responded operatively to all of the issues raised by the organization. Multiple meetings have been held as a result of joint initiatives. However, it should be noted that certain issues have not been settled although they were raised. As a result, they have been left completely or partially unresolved.

**Relations with state authorities and local authorities** are also not satisfying.

Unlike foreign companies, state authorities and local executive authorities have refrained from any dialogues and meetings. Most legal proceedings have been repeatedly postponed due to the absence of SLCC representative. Local executive authorities have been guilty in breaching landowner rights. However, they have demonstrated complete carelessness to restore their rights. In a number of cases, they have posed obstacles for our employees, who were trying to assist in the restitution of the rights of the proprietors.

### **Environmental Impact of Construction**

Monitoring of the environmental impact of construction activities is not envisaged under the project. However, the following may be mentioned on the basis of the observations conducted by various organizations.

Any technological process causes adverse environmental impact. Therefore, BTC pipeline construction is not an exception. There are actions envisaged by the project to prevent pipeline leakages and serious environmental damage from oil spills. The most serious problem is related to the protection of soil layer on pipeline-crossed areas. The activities performed for this purpose are not satisfactory despite the fact that the construction operator and company executing construction activities have undertaken commitments to protect the soil layer.

### **Impact of Construction on Population**

Complaints have been lodged regarding the operation of machines beyond the leased land plots and heavy machines used to implement construction activities. It is reported that heavy machines operating beyond the leased land plots have caused partial damage to arable lands and pasturing areas. Vibrations stirred by the heavy machines have fractured the walls of some houses. The noise and dust generated by the heavy machines caused an adverse impact on individuals and sick people.

### **Conclusion**

Large-scale oil operations implemented in Azerbaijan with the participation of foreign oil companies, as well as the construction of the oil pipeline have a positive impact on economic development, security and the increasing geopolitical importance of the country.

However, adverse environmental impacts and human rights violations also occur during these operations. Opportunities to eliminate these faults have not been depleted. Therefore, it would be

advisable to take complex measures based on the joint will of the government, population and foreign and local companies involved in oil operations.

The payment of large-sum compensations (in comparison with country data) to thousands of people on pipeline-crossed territories has a positive impact on the welfare of the people of the provinces and reduces poverty therein. The utilization of local employees during pipeline construction and the payment of high salaries (in comparison with the average salaries in Azerbaijan) continue to have a positive impact on overall employment. Local manpower will also be used during the operation of the pipelines in the future. This will allow a segment of the population to be provided with long-term workplaces. This construction is also of great importance for the development of infrastructure along the pipeline.

## **Proposals**

The key objective of the Citizens` Labor Rights Protection League while commencing the implementation of the Minimization of Social Risks During Total Oil Operations Project with financial support from the Open Society Institute– Assistance Foundation was to render free legal assistance to employees involved in oil operations and in the construction of the BTC MEP and the landowners and to provide them with needed information.

Community groups around Baku and Ganja have been rendered more efficient assistance as a result of the support provided under the project. This was connected with the activities of specific centers in these cities. Other regions have not been able to derive full benefit from the project due to the long distance between them and the centers. Therefore, the establishment of Public Reception Rooms rendering free legal and informative assistance not only to employees involved in oil operations but the local population along the pipeline would be very efficient. The participation of the oil companies in funding similar reception rooms is also necessary. In this case, confidence and belief in the companies will undoubtedly increase.

The establishment of permanently operating monitoring stations may have a positive impact on the implementation of public control over the pipeline. Such stations might record the impact of pipeline construction and operation on the environment and communities and the status of protecting employee rights. Moreover, these stations would cooperate with the companies and the government to eliminate breaches.

The companies involved in oil operations have their own social investment programs. However, funding of small social programs by these companies using the resources of local community and local NGOs would have a positive impact on development in the regions and civil society.

Company cooperation with specialized NGOs is necessary. In this case, their most bitter criticism and statements can be avoided.

Public awareness remains a topical issue in Azerbaijan. Public awareness actions would have a positive impact on eliminating a number of social problems including issues related to poverty reduction and prevention human rights violations.

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