

A Case of Irresponsible Asset Return?

The Swiss-Kazakhstan
\$48.8 million



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1. Introduction

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Executive Summary

A significant volume of national wealth stolen by kleptocrats, corrupt state officials, and white-collar criminals is syphoned offshore through complex legal vehicles. These vehicles draw upon international financial infrastructure which is concentrated in the United Kingdom, Switzerland and the United States. This places a special responsibility on these states presiding over the global financial centres to take proactive steps with respect to freezing, seizing and returning stolen assets to their country of origin. Ultimately, so these stolen assets can benefit citizens denied access to essential goods, services and opportunities.

An emerging set of principles have developed for governing the restitution process, which aim to ensure assets are returned in an inclusive, accountable and transparent manner that benefits victim populations, rather than corrupt officials. This has sometimes required inventive return methods in countries that remain systemically and systematically impacted by corruption at the highest levels.

The Government of Switzerland and World Bank have each taken a leading role promoting responsible asset return in principle and practice. One of the most well-known examples involves the restitution of \$115 million to Kazakhstan in 2007-8.¹ In this case, an independent third-party foundation was used to ensure that the restituted money was returned to the people of Kazakhstan in a transparent manner, without government interference. Less well known is a second tranche of \$48.8 million that was returned to Kazakhstan in 2012 by the Government of Switzerland via the World Bank, in a restitution process that is expected to finish in December 2020.

Grating against the principles of responsible asset return which the Swiss Government and the World Bank have committed to, this \$48.8 million was returned through a series of transactions that served to conceal their origins in a Swiss criminal investigation. The restituted funds belonging to the people of Kazakhstan were then distributed through a series of lax governance arrangements that have seen the assets benefit the ruling Nur Otan party, and party cadre, a political organ that underpins a despotic regime that is widely regarded as a kleptocracy.

This report sets out the results of an investigation into the return of the \$48.8 million, focusing on a \$21.76 million tranche employed to fund a youth development programme known as Youth Corps. The report also makes a series of recommendations for the Swiss Government and World Bank on steps that can be taken to address the abuses observed in this case.

Key factual findings include:

- The restituted assets were returned through a series of transactions that served to obscure their origins. Both the World Bank and Government of Kazakhstan misleadingly framed the restituted funds as Swiss development aid.
- After being repackaged as Swiss aid by the World Bank and Government of Kazakhstan, the assets were restituted through a high-risk return procedure, which lacked the safeguards responsible return would ordinarily require. This saw the funds pass through a series of state and parastatal institutions in Kazakhstan, a country where systemic and systematic corruption is well evidenced.
- Oversight measures employed to safeguard the restituted assets were inadequate. They have been unable to prevent the funds from being distributed through patrimonial circuits essential to the reproduction of political power in Kazakhstan. Additionally, they have proven unable to detect fraud and other abuses within the return process.
- Evidence for the above assertions are present within the Youth Corps project.
- The implementing body for this project is the Ministry of Education and Science, a department which lacks the public financial management procedures or capacities to responsibly administer the returned assets.
- Day to day operation of the Youth Corps Programme was entrusted to a consortium of “gongos” (government-organised, non-government organisation). The lead gongo is headed by the President’s daughter, who is a senior member of the ruling Nur Otan party.

¹ \$ denotes United States Dollars.

- Each organisational member of the consortium is made up of senior executives who are strongly tied to Nur Otan party and its youth wing Zhas Otan.
- Restituted assets distributed through various components of the Youth Corps Programme, funded Zhas Otan organisations, in addition to private companies paid to produce state propaganda.
- Some of the Youth Corps Programme paid for by the restituted assets involved projects that aimed to promote the President's official ideology with vulnerable young people. This could further entrench the anti-democratic forces underpinning Kazakhstan's autocratic regime.
- The returned assets were at most risk of abuse during procurement and sub-granting, where the funds were impacted by patrimonialism, and fraud, in violation of Kazakh procurement law.
- Over \$1 million of the restituted assets have been earmarked for promotions and PR related activities.
- Nearly 40% of all non-consultancy contracts have gone to a single Kazakh company, with a cumulate value of \$763,799.46.
- Evidence provided during fieldwork suggests that sub-granting competitions for host organisation awards have been affected by fraud.
- The World Bank failed to adhere to its own Governance and Anti-Corruption Action Plan. It also oversaw spending that may be in violation of its Charter which prohibits interference in the political affairs of a country.

As a result of these findings of fact the report concludes that the Government of Switzerland and World Bank have returned assets through a set of measures that have led to violations of norms governing responsible asset return, recently encoded in the *GFAR Principles for the Disposition and Transfer of Confiscated Stolen Assets in Corruption Cases*. Most seriously for the World Bank these abuses potentially violate its own Charter which forbids Bank funds from being used for political purposes.

To remedy the abuses and violations uncovered during this investigation the report makes a series of recommendations. They include:

- An immediate stop should be placed on all non-essential expenditure associated with the \$48.8 million in restituted assets.
- An independent, arms-length inquiry must be launched into the expenditure of returned assets in order to document the full impact fraud and political favouritism has had on the restituted funds.
- A clear roadmap should be developed for safeguarding the remaining funds to ensure all applications of the restituted assets meet *GFAR Principles for the Disposition and Transfer of Confiscated Stolen Assets in Corruption Cases*.
- The Government of Switzerland and World Bank should undertake to develop in collaboration with the research community and civil society, methods of return to countries seriously impacted by corruption, that prevent this abuse from reoccurring in future return processes, such as, the impending return of assets to neighbouring Uzbekistan.

Part 1: Background

Global Asset Recovery Benchmarks and the case of Kazakhstan I and II

In December 2017 the United States and the United Kingdom hosted the first Global Asset Recovery Forum (GFAR) in Washington DC. Established to strengthen and promote international asset recovery, GFAR is one of the chief multilateral forums for combatting grand corruption and the porous transnational financial corridors that permit such activity to thrive. A critical document emerging from the 2017 meeting is the *GFAR Principles for the Disposition and Transfer of Confiscated Stolen Assets in Corruption Cases* (herein GFAR principles).² It sets out ten principles that establish a global benchmark for responsible asset return.

A number of benchmarks focus on good governance standards that should be upheld during asset repatriation. Principle four on transparency and accountability states:

Transferring and receiving countries will guarantee transparency and accountability in the return and disposition of recovered assets. Information on the transfer and administration of returned assets should be made public and be available to the people in both the transferring and receiving country.

Principle five establishes a benchmark designed to ensure that asset return benefits those harmed by corruption:

Where possible, and without prejudice to identified victims, stolen assets recovered from corrupt officials should benefit the people of the nations harmed by the underlying corrupt conduct.

Principle nine extends this concept further by stating:

All steps should be taken to ensure that the disposition of confiscated proceeds of crime do not benefit persons involved in the commission of the offence(s).

These principles echo guidance produced by civil society organisations working on international asset recovery and grand corruption.³ At the heart of these global efforts is an ambition to ensure assets are recovered in a timely and efficient manner, and returned in ways that are both transparent and beneficial to those who have endured the harmful impacts of grand corruption. These principles also recognise the risks present within the political realities that mediate asset return. When assets are returned, receiving governments may still suffer from serious deficits in democracy, accountability and transparency, with corruption remaining a pervasive issue. There is also a risk that transferring states – who often enjoy disparities in power – will use the asset return process as leverage to pursue foreign policy objectives, in ways that may not align with the interests of those impacted by corruption in the receiving country. As a result, strong international standards are required to uphold the integrity of the asset return process.

² Global Forum on Asset Recovery, 'Global Forum on Asset Recovery Communiqué', *Stolen Asset Recovery Initiative*, 4-6 December 2017, https://star.worldbank.org/sites/star/files/20171206_gfar_communique.pdf (accessed 27 November 2018).

³ One of the most notable examples was published by the UNCAC Coalition's Civil Society Working Group on Accountable Asset Return. See: https://uncaccoalition.org/en_US/civil-society-statement-for-the-global-forum-on-asset-recovery/ (accessed 27 November 2018).

⁶ The Swiss-Kazakhstan \$48.8 million

Table 1: Responsible Asset Return Standards

Responsible Asset Return: The International Standard

To assist state parties responsibly return stolen assets, the UNCAC Coalition’s Civil Society Working Group on Accountable Asset Return has issued guiding principles. Drawn from international law and human rights norms, they are designed to ensure restituted funds benefit victims and are not further abused by corrupt regimes.

Standard 1:

Stolen assets that are recovered should be returned to the country of origin, in line with UNCAC Article 51.

Standard 2:

Returning and receiving countries agree to apply the highest possible standards of transparency at all stages of the recovery and return process.

Standard 3:

Both returning and receiving countries should commit to apply the highest possible standards of accountability in the management and disposal of recovered and returned stolen assets.

Standard 4:

Returned stolen assets should be used to remedy the harm their theft caused, including by providing planned services or procurements lost through their removal and in line with SDG 16.

Standard 5:

Where regular budgeting and accounting processes lack transparency and accountability and where a receiving country is non-compliant with UNCAC Articles 9, 10 and 13, resulting in a lack of effective oversight of returned funds, returning and receiving countries should in consultation with a broad spectrum of relevant experts and non-state actors find alternative means of managing the stolen assets.

Set against this backdrop the Government of Switzerland has positioned itself as a global leader in responsible international asset return. A Swiss Government publication entitled *No Dirty Money* observes:

Today Switzerland plays a leading role in the hunt for dirty money worldwide. Its commitment is underpinned with rigorous action. Switzerland has returned some two billion dollars to plundered countries, more than any other financial centre. World Bank experts estimate that this amount is equal to nearly half of all recovered assets worldwide.⁴

Joining the Swiss Government at the policy and practical frontlines of international asset recovery is the World Bank, which has acted both as an intermediary in asset return cases, and a disseminator of best practice. Together the Swiss Government and World Bank have been involved in pioneering innovative solutions to the complex problems responsible asset return presents.

Kazakhstan is one region that has benefited from innovation. Notably in 2007/08, \$115.2 million in assets were restituted to Kazakhstan through a multilateral scheme that employed a third-party body, known as the BOTA Foundation. This scheme was developed through cooperative efforts of the Governments of Switzerland, United States and Kazakhstan, with support from the World Bank. The third-party mechanism was designed to safeguard the restituted assets from abuse in a receiving country still impacted by systemic corruption. It was also established to ensure that the restituted funds were applied in ways that benefitted marginalised sectors of the population who have suffered from the harmful impacts of corruption. This third-party return process is sometimes referred to in asset return circles as Kazakhstan I.

During 2017, the Corruption & Human Rights Initiative was alerted to another asset return effort involving Switzerland, Kazakhstan and the World Bank, which will be referred to in this report as Kazakhstan II. Under Kazakhstan II it was proposed that \$48.8 million in frozen assets would be returned to Kazakhstan through two programmes focusing on energy efficiency and youth development. In notable contrast to Kazakhstan I, the funds were transferred through a series of transactions that served to repackage the restituted assets as Swiss development aid. There was also, relatedly, greater appetite for riskier return methods that eschewed the safeguards and measures used in BOTA. In particular, the returned funds were directly managed by the Government of Kazakhstan under the World Bank's watch. Subsequent investigation revealed that the funds have been used in ways that violate the GFAR benchmarks, and potentially Kazakh law, with inadequate oversight measures in place to detect or prevent such abuse.

This report will document the risks posed by the method of return adopted by the Government of Switzerland and World Bank in Kazakhstan II. The report will also share findings emerging from investigative fieldwork focusing on the Youth Corps Programme, which is being employed to distribute a \$21.76 million tranche of the returned assets. Fieldwork consisted of two components: first on the ground investigation in Kazakhstan, where researchers followed the money trail and consulted with inside sources. This was complimented by desk-based research that used open source intelligence methods to identify documentary sources essential to understanding the case. During the investigation the corruption investigative framework was employed to collect, collate and analyse the data.⁵

⁴ Swiss Federal Department of Foreign Affairs, 'No Dirty Money: The Swiss Experience in Returning Illicit Assets', *Swiss Federal Department of Foreign Affairs Presence Switzerland*, 2016, p.4, https://www.eda.admin.ch/dam/eda/en/documents/aussenpolitik/voelkerrecht/edas-broschuere-no-dirty-money_EN.pdf (accessed 27 November 2018).

⁵ K. Lasslett, 'Uncovering the Transnational Networks, Organisational Techniques and State-Corporate Ties Behind Grand Corruption: Building an Investigative Methodology', *International Journal for Crime, Justice and Social Democracy*, vol.6, no. 4, 2017, pp.29-54.

The data collected reveals that the restituted assets are being used to fund patrimonial relationships and propagandistic activity which helps underpin the autocratic power enjoyed by Nur Otan party and its leader President Nazarbayev. This data also contains evidence that the restituted funds have potentially been impacted by abuse and fraud during the procurement and sub-granting process. It is concluded, as a result, that the return process' integrity has been undermined by the flawed design engineered by the Swiss Government and World Bank, with immediate action required to rectify the situation and prevent reoccurrence.

To initiate this close examination of the return process. Part one of the report will begin by outlining some of the innovations that were used in Kazakhstan I to safeguard funds in a high-risk returning environment. The general design of Kazakhstan II will then be presented, with attention paid to the absence of essential safeguards. In part two of the report, the institutional structure used in Kazakhstan for managing the restituted assets distributed through Youth Corps will be mapped; the significant risk posed by this managerial framework will be pointed to. Part two will also set out the programme thematic components of the Youth Corps project. Then in part three evidence of abuse and fraud will be presented. Finally, part four sets out recommendations for remedying the documented abuses and defects. In addition, it also enumerates steps that need to be taken in order to ensure the shortcomings documented in Kazakhstan II are not replicated elsewhere.

Safeguarding Returned Assets in a High-Risk Environment: The BOTAF Foundation and Kazakhstan I

Kazakhstan I is distinguished by the unique safeguards that were used to uphold the integrity of the asset restitution process in a high-risk environment. The return process can be traced back to 2007, when US law enforcement filed a forfeiture action targeting \$84 million in assets that had been frozen in Switzerland during 1999. The frozen assets were connected to a high-profile case often referred to in the media as 'Kazakhgate'.⁶ According to the US Justice Department the funds were "allegedly the proceeds of illegal bribe payments to senior Kazakh officials in exchange for oil transactions and property involved in money laundering".⁷ The bribe payments were said to have been made by American businessman, James H. Giffen, and his company, Mercator.⁸ Case documents suggest that the frozen \$84 million arose from payments made between 1996 and 1998 linked to a series of six oil deals struck by American companies. A significant portion of the funds was said to have been diverted by Giffen into Swiss bank accounts which, prosecutors allege, were controlled by the President of Kazakhstan, Nursultan Nazarbayev, and the then Kazakh Minister of Oil, Nurlan Balgimbayev.

⁶ RadioFreeEurope/Radioliberty, 'After Seven Years, 'Kazakhgate' Scandal Ends With Minor Indictment', *Radio Free Europe/Radio Liberty*, 10 August 2010, https://www.rferl.org/a/After_Seven_Years_Kazakhgate_Scandal_Ends_With_Minor_Indictment_/2123800.html (accessed 2 December 2018)

⁷ US Department of Justice, 'Justice Department Settlement Successfully Releases More than \$115 Million in Alleged Corruption Proceeds to People in Kazakhstan', *Office of Public Affairs (News)*, 9 December 2015, <https://www.justice.gov/opa/pr/justice-department-settlement-successfully-releases-more-115-million-alleged-corruption> (accessed 27 November 2018).

⁸ Ibid.

During 2003 Giffen was indicted in the US. He faced 65 counts of financial crime.⁹ Giffen was ultimately only found guilty in 2010 of a single bribery count against his company, Mercator. Giffen's defence team controversially claimed that his actions were sanctioned by the US government. It was maintained that Giffen was a Central Intelligence Agency asset.¹⁰ No Kazakh official, including Nazarbayev and Balgimbayev, faced criminal proceedings in any country.

This left the issue of what to do with the \$84 million frozen in Switzerland. It had grown to over \$115.2 million by 2007 due to interest.¹¹ A settlement reached that year established a landmark restitution mechanism. It saw the creation of a foundation named BOTA. BOTA was administered by international NGOs working alongside the World Bank, and the Governments of Switzerland, Kazakhstan and the United States. The NGOs in question – IREX and Save the Children – managed the foundation's programs, which focused on giving assistance to parents, families with disabled or underprivileged children, and youth seeking higher education.

Following the project's conclusion in 2014, a report published by BOTA stressed the high-level of oversight used to safely apply the funds. It observed: "Corruption is always a risk – the strictest financial controls need to be in place coupled with constant monitoring".¹² Owing to the high-risk environment associated with entrenched transactional corruption – a major problem within developing post-Soviet countries such as Kazakhstan – a Memorandum of Understanding signed between the three governments explicitly prescribed that BOTA:

Shall be independent of the Government of the Republic of Kazakhstan, its officials, and their personal or business associates ... Neither the funds nor any property of the BOTA Foundation shall be used for payments or other benefits, directly or indirectly... to the Government of the Republic of Kazakhstan, its officials, or their personal or business associates.¹³

We see this core stipulation entrenched in BOTA's management structures. Decisions were taken by a Board of Trustees, made up of seven individuals: one appointed by the US Government, one by the Swiss Government, and five members from Kazakhstan's civil society, "all of whom were completely independent of the GoK [Government of Kazakhstan], its officials and their personal and business associates".¹⁴

The \$115 million was disbursed during 2009-2014. It helped more than 200,000 poor children and young people in Kazakhstan. A monitoring organisation, Oxford Policy Management, was contracted by BOTA in 2011 "to conduct an independent assessment of the effectiveness and efficiency of BOTA's programme".¹⁵ It concluded: "Overall the qualitative evaluation has confirmed that the BOTA programmes have been implemented across all three activities with high levels of effectiveness for those that receive the benefit".¹⁶

⁹ Indictment. United States of America v. James H. Giffen et al., Case No: 03-CR-404-WHP (S.D.N.Y. July. 02, 2004). See also: <https://www.courtlistener.com/opinion/2416762/united-states-v-giffen> (accessed 27 November 2018).

¹⁰ S. Levine, 'Was James Giffen telling the truth?', *Foreign Policy*, 19 November 2010, <http://foreignpolicy.com/2010/11/19/was-james-giffen-telling-the-truth/>(accessed 27 November 2018).

¹¹ US Department of Justice, 'Justice Department Settlement Successfully Releases More than \$115 Million in Alleged Corruption Proceeds to People in Kazakhstan', *Office of Public Affairs (News)*, 9 December 2015, <https://www.justice.gov/opa/pr/justice-department-settlement-successfully-releases-more-115-million-alleged-corruption> (accessed 27 November 2018).

¹² The BOTA Foundation, 'The BOTA Foundation: Final Summative Report', *IREX and Save the Children*, 12 February 2015 (submitted), p.6, <https://www.irex.org/sites/default/files/node/resource/bota-foundation-final-report.pdf> (accessed 28 November 2018).

¹³ *Ibid*, p.7; Governments of the United States of America, the Swiss Confederation, and the Republic of Kazakhstan, 'Memorandum of Understanding', *US Department of State*, 1 December 2006, para. 1.3(a). (See also para. 2.6).6)

¹⁴ The BOTA Foundation, 'The BOTA Foundation: Final Summative Report', *IREX and Save the Children*, 12 February 2015 (submitted), p.8, <https://www.irex.org/sites/default/files/node/resource/bota-foundation-final-report.pdf> (accessed 28 November 2018).

¹⁵ *Ibid*, p.11.

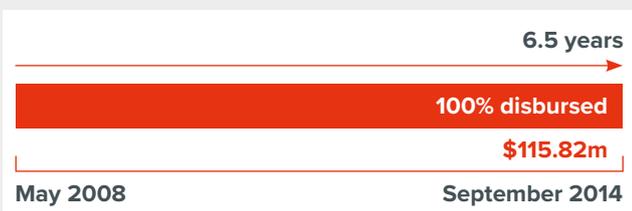
¹⁶ *Ibid*, p.61.

Table 2: Comparing Kazakhstan I and II

Why Not BOTA II?

Kazakhstan I (BOTA) timeline

Established May 2008, finished September 2014



Kazakhstan II (Youth Corps) timeline

Established December 2012



The Government of Switzerland justified opting out from a BOTA style arrangement, arguing: “Restitution through a foundation proved to be administratively cumbersome”.

Source: No Dirty Money: The Swiss Experience of Returning Illicit Assets

Risky Business: The Making of Kazakhstan II

In 2011, the Swiss Government confiscated \$48.8 million, following a criminal investigation conducted by Geneva judicial authorities. It was decided to return these confiscated assets back to the citizens of Kazakhstan. Asset restitution took place through a series of transactions that publicly obscured the funds origins in a Swiss criminal investigation.

First, the confiscated assets were placed under the stewardship of the Swiss Agency for Development and Cooperation. The funds were then transferred to the World Bank through a Trust Agreement signed between the Swiss Agency for Development and Cooperation and the World Bank.¹⁷ The agreement stipulates the funds will be employed in two Kazakh based projects – the Energy Efficiency Project and the Youth Corps Programme. The World Bank would act as an intermediary and a fiduciary for the funds. During 2014-2015 a series of grant agreements were then signed between the Kazakh Government and World Bank.¹⁸ This allowed the funds to be repatriated back to Kazakhstan for application in the two stipulated programmes. The restituted assets would be managed by the Kazakh Government, with World Bank oversight.

The Swiss Government publicly acknowledged the existence of Kazakhstan II in an article published on the government portal several days before Christmas in 2012,¹⁹ although little information was disclosed on the nature or source of the funds. The article only states that “restitution of Kazakh assets takes place within the context of a criminal investigation initiated by the Geneva judicial authorities on suspicions of money laundering. In 2011, the proceedings led to the confiscation of the assets that are now to be returned”.²⁰

It is currently unknown which individuals/organisations were targeted by the Geneva criminal investigation, or if Kazakh state officials were implicated in the relevant transactions. However, the 21 December 2012 article does make mention of Switzerland’s proactive role in the “restitution of money stolen *by politically exposed persons* (PEPs) to the countries of origin” (italics added).²¹

Kazakhstan II also features in a paper entitled ‘Switzerland’s Experience in Repatriating Illicitly Acquired Assets by *Politically Exposed Persons*’ (italics added), which is available on the Swiss Department of Foreign Affairs website.²² This indicates that the confiscated money may be connected to a politically exposed person(s). A current or recent Kazakh government official, a member of the parliament, a state company official, a member of their family and close associates would all qualify.

The Government of Switzerland’s 2012 article also notes that the money was confiscated after “the parties involved in the proceedings reached an agreement” to return the \$48.8 million.²³ The terms of this agreement are not publicly available. Given that the identity of those implicated in the Geneva investigation has not been disclosed to the Swiss or Kazakh public, it may be this agreement was premised on some form of non-disclosure that in effect shields the implicated parties from public censure. As a result, it is impossible to verify if the persons implicated in this case are currently serving in the Kazakh government, or are family members of state officials.

¹⁷ Trust Fund Administration Agreement between the Government of the Swiss Confederation and the International Bank for Reconstruction and Development concerning the Single-Donor Trust Fund for the Energy Efficiency and Youth Corps Programme (TF No. 071882), 14 December 2012.

¹⁸ Grant Agreement (Energy Efficiency Project) between Republic of Kazakhstan and International Bank for Reconstruction and Development (acting as administrator of the Single Donor Trust Fund for the Energy Efficiency and Youth Corps Programme), 18 June 2014; Grant Agreement (Youth Corps Project) between Republic of Kazakhstan and International Bank for Reconstruction and Development (acting as administrator of the Single Donor Trust Fund for the Energy Efficiency and Youth Corps Programme), 10 September 2015.

¹⁹ Swiss Federal Ministry of Foreign Affairs, ‘Switzerland and the World Bank sign agreement on the restitution of Kazakh assets’, *Federal Department of Foreign Affairs*, 21 December 2012, <https://www.admin.ch/gov/en/start/dokumentation/medienmitteilungen.msg-id-47337.html> (accessed 28 November 2018)

²⁰ Ibid, para. 1.

²¹ Ibid, para. 3.

²² Swiss Federal Ministry of Foreign Affairs, ‘Switzerland’s Experience in Repatriating Illicitly Acquired Assets by Politically Exposed Persons (PEP)’, *Swiss Federal Ministry of Foreign Affairs*, https://www.eda.admin.ch/dam/eda/en/documents/aussenpolitik/finanzplatz-wirtschaft/09-cas-de-restitution_en.pdf (accessed 28 November 2018).

²³ Swiss Federal Ministry of Foreign Affairs, ‘Switzerland and the World Bank sign agreement on the restitution of Kazakh assets’, *Federal Department of Foreign Affairs*, 21 December 2012, para. 2, <https://www.admin.ch/gov/en/start/dokumentation/medienmitteilungen.msg-id-47337.html> (accessed 28 November 2018)

Once the \$48.8 million was transferred into the World Bank Trust Fund, its origins in a criminal investigation have been obscured by a series of misleading press releases and public statements. In particular, the \$48.8 million in restituted assets has been explicitly repackaged by the World Bank and Government of Kazakhstan as Swiss development aid. For example, in a press release announcing the Youth Corps Programme, the World Bank commented that the funds were “provided by the Swiss Agency for Development and Cooperation through the World Bank-administered Trust Fund”.²⁴ Any mention of the criminal investigation is omitted. As a result, the public in the transferring and receiving countries are led to believe that this is international aid money, rather than assets confiscated as part of a criminal investigation.

Similarly, at the time of writing no information could be located on Kazakh Government websites acknowledging that the funds are restituted assets. In one remark, Kazakh Minister for Education, Aslan Sarinzhapov, suggests the funding came about after intense lobbying from the Kazakh Government on youth issues: “As a result of working with the World Bank for 2 years we managed to attract grants in the amount of \$21 million on an irrevocable basis”.²⁵ The Youth Corps project’s FAQ page only states that “the grant for its realization was provided by the Swiss Development and Cooperation Agency via a Trust Fund managed by the World Bank.”²⁶

Serious questions arise over this failure to be transparent with respect to the \$48.8 million’s origins. It is possible that legal rulings prevent individuals/organisations at the centre of the criminal proceedings from being revealed. However, nothing would prevent the World Bank or the Kazakh Government from making clear to the public that these are restituted assets. The failure to disclose this essential fact *violates GFAR principle four on transparency and accountability*.

This violation has a number of significant consequences. By failing to acknowledge the money’s origins, the Government of Kazakhstan escapes any form of public censure or stigmatisation, a process which can act as a prompt for reform.²⁷ Second, once the money had been in effect rebranded ‘development aid’ a context was created for restituting the assets without the sort of safeguards that were employed with Kazakhstan I. Such safeguards are required in high-risk environments to secure assets for the benefit of victim populations. This meant that the funds being returned through the Energy Efficiency and Youth Corps Programmes have been rendered more vulnerable to abuse.

²⁴ The World Bank, ‘World Bank to Support Youth Corps Development in Kazakhstan’, *The World Bank News*, 10 September 2015, para. 5, <http://www.worldbank.org/en/news/press-release/2015/09/10/world-bank-to-support-youth-corps-development-in-kazakhstan> (accessed 28 November 2018).

²⁵ Премьер-министр Республики Казахстан, ‘Всемирный банк предоставил МОН РК свыше 20 млн долларов на грантовое финансирование’, *Премьер-министр Республики Казахстан, Официальный Сайт*, 13 January 2016, <https://primeminister.kz/ru/news/11/vsemirnyj-bank-predostavil-mon-rk-svyshe-20-mln-dollarov-na-grantovoe-finansirovanie-> (accessed 28 November 2018).

²⁶ Zhas Project, the World Bank ‘General Questions on the Project’, *Zhas Project, The World Bank*, <https://zhasproject.kz/en/news/general> (accessed 28 November 2018).

²⁷ Indeed, one media article posted on the Youth Corps website implies the project is funded by the Government of Kazakhstan. See “Правительство РК выдаст гранты на 20 млн. долларов молодежи в регионах [The Government of the Kazakhstan will award a grant of \$20 million to youth in the regions]. See: Zhas Project, the World Bank, ‘Правительство РК выдаст гранты на 20 млн. долларов молодежи в регионах’, *Zhas Project, The World Bank*, 30 January 2016, http://zhasproject.kz/ru/news/smi_o_nas/41 (accessed 28 November 2018).

Table 3: From Restituted Assets to Swiss Aid

Development Grant or Returned Assets? An Ambiguous “Restitution”

During 2011 Swiss authorities confiscated \$48.8 million in assets allegedly stolen from the Kazakh public. It was announced on 21 December 2012 that the assets will be restituted in order to ‘benefit the people of Kazakhstan’.

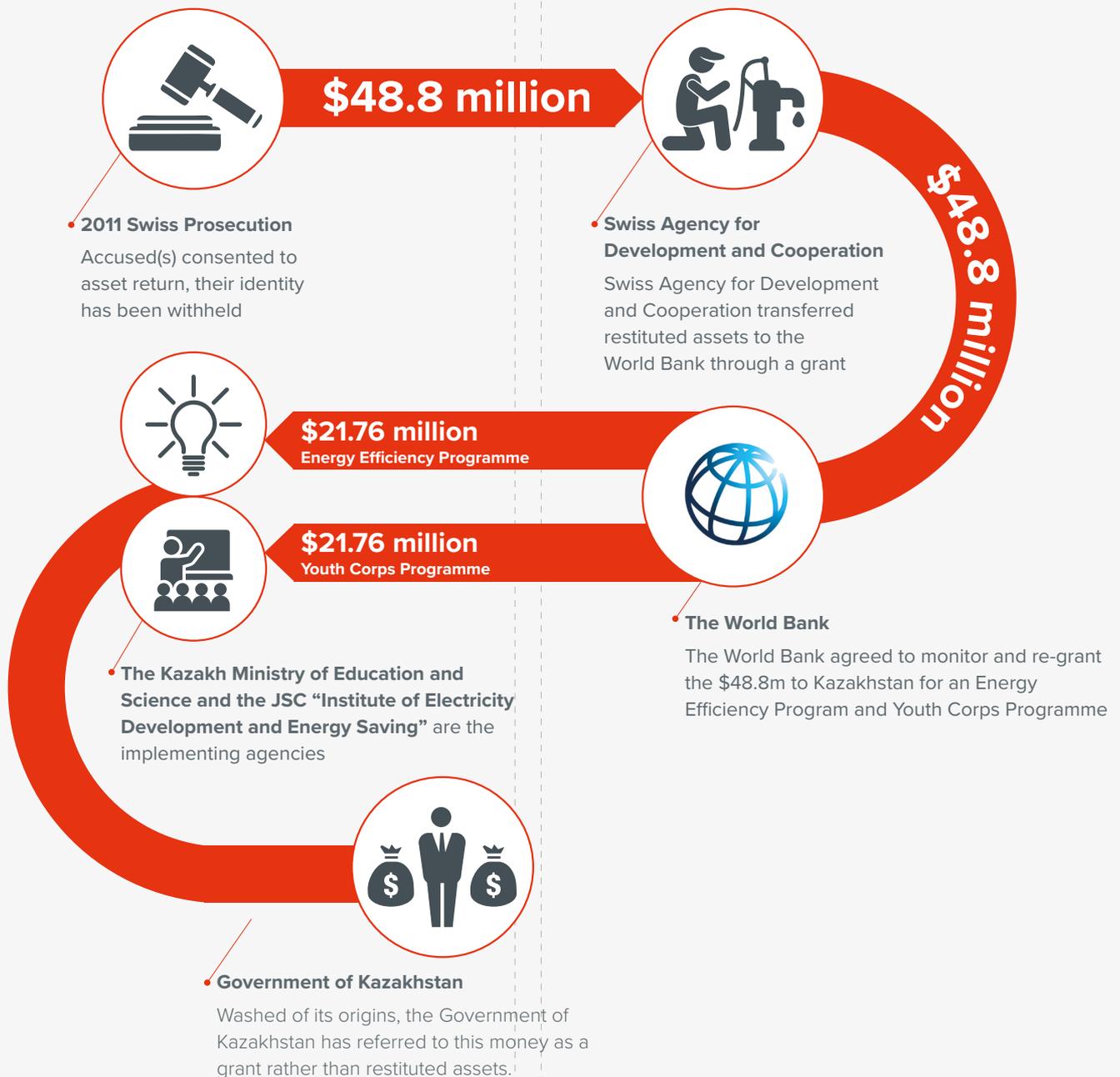




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Part 2: The Youth Corps Return Framework

Method of Return

The Kazakhstan II return process is being facilitated using two on-the-ground projects, established through agreements signed between the World Bank and Government of Kazakhstan. This report focuses on the Youth Corps Programme.

No details are publicly available on the process that led to these particular projects being selected as mediums for facilitating asset restitution to Kazakhstan. However, some context was located in an unpublished letter dated 8 September 2011 from World Bank Acting Regional (Central Asia) Director Sebnem Akkaya to then Kazakh Prime Minister Karim Massimov. Akkaya states:

We are writing in reference to a discussion we had on potential projects using proposed Swiss Trust Fund on February 27, 2011 on sidelines of the Brainstorming. [World Bank Regional Director] Mr. Konishi presented you with an outline of these potential projects to be implemented using approximately US \$40 million from the Swiss Trust Fund that is expected to be established. You had selected two projects: the Youth Corps Project and Energy Efficiency Project.

This correspondence suggests that the projects were specifically set up as vehicles for returning the \$48.8 million in assets. Furthermore, the World Bank appears to have provided a menu of choices for the Kazakh Government to select from. There does not seem to have been a wider consultation process that might engage views from civil society and victim communities.

This broad process for selecting the means of return in Kazakhstan II is similar in nature to the approach which led to BOTA's creation. The latter's establishment was preceded by a World Bank assessment on the type of projects that would be suitable in Kazakhstan. In that instance, the World Bank, in the words of BOTA's Executive Chairman, "assumed the role of 'honest broker'",²⁸ and suggested that programmes benefitting the underprivileged in Kazakhstan could be agreeable to all parties.

While the programme element of Kazakhstan I and II seem to share a common point of conception, following conception the two asset repatriations start to diverge in practice. Turning first to Kazakhstan I, according to a report authored by BOTA's Executive Chairman, Aaron Bornstein, the World Bank spent hundreds of hours at very senior levels examining amongst other issues, "due diligence on the capabilities of existing local Kazakhstani foundations to determine whether they had the capacity and independence to 'handle' the asset return".²⁹ The due diligence, completed in 2006, established that there was no viable Kazakh foundation in existence. Key factors underpinning this conclusion, included, a lack of experience managing large sums of money, and "lack of independence from the government of Kazakhstan – an essential requirement of the U.S. and Swiss governments".³⁰

Bornstein goes on to explain that as there was no existing Kazakh institution able to manage, in the World Bank's view, the substantial sum with transparency and accountability, the only alternative was to establish a new entity – this conclusion precipitated the BOTA Foundation's creation. Following BOTA's creation, the World Bank conducted an open, competitive bidding process to select a Programme Manager organisation, which would be overseen by an independent BOTA Board of Trustees. This tender was won by IREX,³¹ an international, non-profit organisation with a 50-year history specialising in global education and development. IREX partnered with the charity, Save the Children Fund, whose history working on children's rights in developing countries dates back to 1919.

By contrast, in the case of Kazakhstan II the World Bank signed an agreement in 2015 with the implementing agency selected for the Youth Corps Programme, Kazakhstan's Ministry of Education and Science, which would be responsible for project governance. As a result, the agency with ultimate oversight over the programme would be a Kazakh government department. Day-to-day project management would be the responsibility of a project coordinator, named the Coordinating Agency.³² Any possibility that this agency would operate independently from government was effectively ended in January 2017, when a tender for the position of Youth Corps Coordinating Agency was convened with World Bank oversight.

²⁸ A. Bornstein, 'The BOTA Foundation: A Model for the Safe Return of Stolen Assets?', *Philanthropication thru Privatization Project*, 2016, p.3, http://p-t-p.org/wp-content/uploads/PTP_Bota-Foundation-Case-Study_Bornstein.pdf (accessed 28 November 2018).

²⁹ Ibid, p.4.

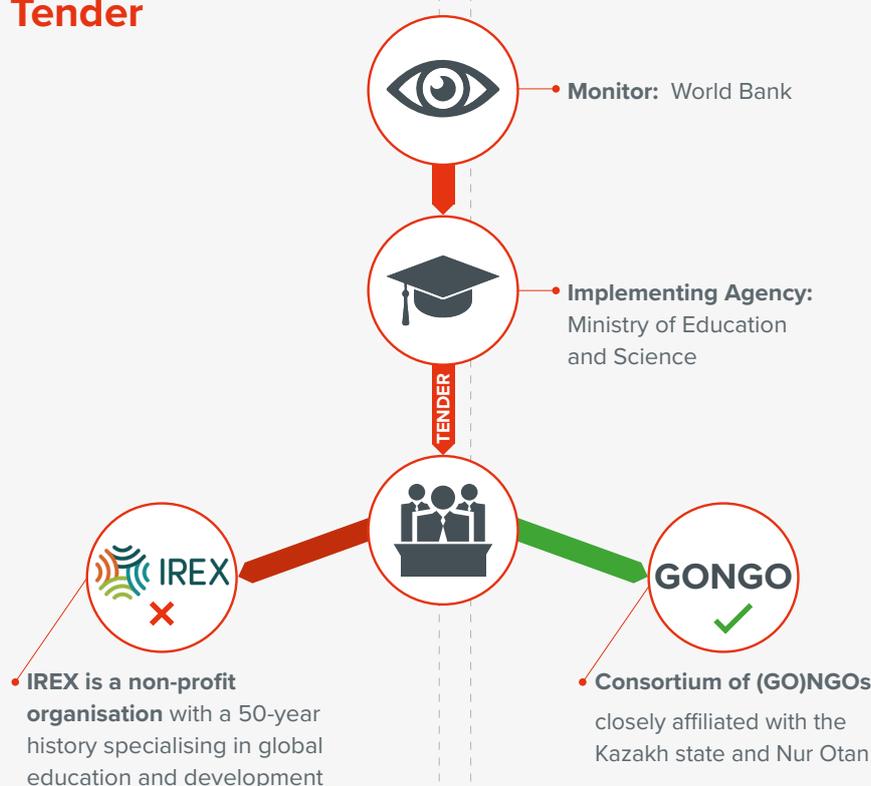
³⁰ Ibid, p.13

³¹ Ibid, p.7.

³² The World Bank, 'Youth Corps Programme', *Project Coordinating Agency*, (25 March 2014), p.16, <http://projects.worldbank.org/procurement/noticeoverview?lang=en&id=OP00040693> (accessed 28 November 2018).

Table 4: Coordinating Agency Tender

Project Coordinator Tender



A bid from IREX was rejected in favour of a consortium, made up of three government-organised non-governmental organisations (gongo) (see below). The lead gongo in this consortium – the Youth Congress of Kazakhstan – is chaired by the President’s daughter, Dariga Nazarbayeva, a politician in her own right, who was previously Deputy Prime Minister and now heads the Kazakh Senate’s International Affairs, Defence, and Security Committee. World Bank documentation indicates that in an assessment of their bids, IREX scored 83.1 compared to the Kazakh organisations’ 86.0.³³ Another bidder, made up of two Kazakh organisations, came third with a score of 65.3. Three other bidders were shortlisted but not evaluated.

³³ World Bank, ‘Youth Corps Programme’, *Project Coordinating Agency*, <http://projects.worldbank.org/procurement/noticeoverview?lang=en&id=OP00040693> (accessed 28 November 2018). Click on ‘Details’ to see the various bids’ scores. NB. The Kazakh organisations’ bid was considerably cheaper 160.2 million KZT versus 303.1 million KZT.

The three Kazakh organisations scored higher than IREX in three categories: Specific Experience, Training, and Local Input. Just three years before the tender, IREX had overseen similar work on youth issues in Kazakhstan through the BOTA Foundation, with results judged to be positive by an independent evaluator. Surprisingly IREX was ranked lower on “Specific Experience” compared to three relatively new organisations, the oldest of which was founded in 2002. Indeed, two aspects of the Youth Corps project – the promotion of volunteering and the distribution of funds through local organisations – seem almost identical to the work done by BOTA.

The Kazakh consortium making up the winning consortium had some experience of dealing with programme and budget management through existing projects in Kazakhstan (for example, one of the groups was granted over \$4 million by the government in 2015). However, managing a \$20 million fund of confiscated money emerging from criminal proceedings is a substantively different prospect. Not only are the sums involved of a much larger scale, but an onerous international obligation exists on transferring and recipient parties to ensure that the repatriation is conducted responsibly in a way that benefits victims, and guards against any further abuse.

While it may be argued that the tender was fair and based on an arms-length application of the evaluation criteria, key questions remain unanswered. They include:

1. Why was independence from government apparently excluded from the evaluative criteria?
2. If independence from government had been “an essential requirement”³⁴ for the Swiss with respect to BOTA’s structure, what had changed in the few intervening years that led to an abandonment of this stipulation?
3. Was it appropriate to award the project coordinator contract to an organisation chaired not only by a senior politician, but the daughter of Kazakhstan’s President, Nursultan Nazarbayev, who was at the centre of the Kazakhgate scandal?

The Danger Gongos Present to Responsible Asset Return

It was noted in the previous section that the consortium selected to act as Coordinating Agency in the Youth Corps Programme – overseen by the implementing agency (Ministry of Education and Science) – was made up of three organisations. The consortium lead is The Congress of Youth of Kazakhstan, the other two supporting organisations are Zhasyl El and the National Volunteer Network. While their association with the Kazakh state and the ruling Nur Otan party differs in degrees, all three appear to fit within the definition of a gongo.

It is important, in this respect, to distinguish a gongo from an NGO. NGOs are legal entities that are primarily created to address a social or political issue. They operate independently of any government, and usually have their own board, managerial team and constitution. A gongo – government-organised non-governmental organisation – by contrast is either initiated or sponsored by government, and have senior personnel closely linked to the state. Gongos tend to flourish in autocratic countries. They are used by undemocratic governments to either promote a particular message, often akin to propaganda, and/or maintain a level of control over the organisation’s personnel and beneficiaries.

US Permanent Representative to the OSCE Ambassador Daniel B. Baer commented in September 2016:

Repressive regimes have found that because they are often unable to convincingly answer the criticism voiced by citizens who join to form bona fide civil society organisations, they can set up their own fake organisations that will shill for the government in an attempt to distract from repressive failings.³⁵

³⁴ A. Bornstein, ‘The BOTA Foundation: A Model for the Safe Return of Stolen Assets?’, *Philanthropication thru Privatization Project*, 2016, p.13, http://p-t-p.org/wp-content/uploads/PtP_Bota-Foundation-Case-Study_Bornstein.pdf (accessed 28 November 2018).

³⁵ D. Baer, ‘Mind the GONGOS: How Government Organized NGOs Troll Europe’s Largest Human Rights Conference’, *US Mission to the OSCE*, <https://osce.usmission.gov/mind-gongos-government-organized-ngos-troll-europes-largest-human-rights-conference/> (accessed 28 November 2018).

Not all gongos will be involved in propagandistic activities. Some may perform work that is beneficial to society, under close government supervision. Others may perform some good while also acting as a government ‘shill’. *Foreign Policy* editor Moisés Naím commented in 2007:

Some gongos are benign, others irrelevant. But many... are dangerous... [and] use the practices of democracy to subtly undermine democracy at home... They have become the tool of choice for undemocratic governments to manage their domestic politics while appearing democratic. In many countries of the former Soviet Union, government-backed NGOs are crowding out and muddling the voices of the country’s legitimate civil society.³⁶

The fine line between social benefit and propaganda/parastatal activities is one that needs to be kept in mind when looking at the consortium that won the tender to act as Youth Corps’ Coordinating Agency.

The consortium arrangement is notably different to BOTA. The latter was managed by the international non-profit IREX, along with Save the Children. Both bodies were governed by BOTA and its Board of Trustees, which was made up of five Kazakh appointees taken from independent sections of civil society, along with two appointees selected by the Swiss and US Governments. It was stipulated that all trustee were to be “completely independent of the GoK”³⁷ and “its officials and their personal and business associates”.³⁸ This – along with the fact that the Government of Kazakhstan had limited power over the board – looked to remove any ideological or parastatal element from BOTA’s decision-making process.

This arrangement further signposts the careful line that must be walked when returning assets to a nation presided over by an authoritarian regime that denies citizens fundamental civil and political rights, and where corruption is systemic. Indeed, the Memorandum of Understanding establishing BOTA explicitly prescribed that this new foundation “shall be independent of the Government of the Republic of Kazakhstan, its officials, and their personal or business associates”.³⁹ To safeguard this requirement, protocols were put in place:

Before any employee was hired it was important to establish that s/he had no conflicts of interest, including no connection to the Government of Kazakhstan and no family already working at BOTA, and forms were signed to this effect.⁴⁰

This was to done “due of concerns related to safeguarding the funds... [T]he need to be independent of the Government of the Republic of Kazakhstan was born out of concern that the GoK would influence how the money was spent or even benefit from the funds”.⁴¹

These stipulations, which echo the guiding principles formalised at GFAR during 2017, automatically ruled out the involvement of any “gongo” in BOTA owing to the risk that the restituted assets could be abused, or applied in ways that were not transparent or beneficial to victims. The Youth Corps’ Coordinating Agency is, by contrast, marked by this risk. The three organisations making up this consortium will now be scrutinised, specifically focusing on their independence or lack thereof from the Government of Kazakhstan.

³⁶ N. Moisés, ‘Democracy’s Dangerous Impostors’, *The Washington Post*, 21 April 2007, <http://www.washingtonpost.com/wp-dyn/content/article/2007/04/20/AR2007042001594.html?noredirect=on> (accessed 28 November 2018).

³⁷ A. Bornstein, ‘The BOTA Foundation: A Model for the Safe Return of Stolen Assets?’, *Philanthropic thru Privatization Project*, 2016, p.18, http://p-t-p.org/wp-content/uploads/PtP_Bota-Foundation-Case-Study_Bornstein.pdf (accessed 28 November 2018).

³⁸ *Ibid.*, p.22.

³⁹ Governments of the United States of America, the Swiss Confederation, and the Republic of Kazakhstan, ‘Memorandum of Understanding’, *US Department of State*, 1 December 2006, para. 1.3(a), <https://www.state.gov/documents/organization/108887.pdf> (accessed 28 November 2018). See also para. 2.6.

⁴⁰ The BOTA Foundation, ‘The BOTA Foundation: Final Summative Report’, *IREX and Save the Children*, 12 February 2015 (submitted), p.9, <https://www.irex.org/sites/default/files/node/resource/bota-foundation-final-report.pdf> (accessed 28 November 2018).

⁴¹ The BOTA Foundation, ‘The BOTA Foundation: Final Summative Report’, *IREX and Save the Children*, 12 February 2015 (submitted), p.52, <https://www.irex.org/sites/default/files/node/resource/bota-foundation-final-report.pdf> (accessed 28 November 2018).

Gongo I: The Congress of Youth of Kazakhstan

The lead organisation in the Youth Corps consortium is The Congress of Youth of Kazakhstan. According to its website, the blueprint underpinning The Congress of Youth's foundation came from President Nazarbayev himself in 2001.⁴² A year later, leaders of the country's youth organisations decided to establish an entity based on the President's idea,⁴³ and the Congress of Youth of Kazakhstan was born.

The Congress' strong ties to the Kazakh leadership is no secret within Kazakhstan. As Kazakh journalist Rozlana Taukina explains: "The Congress of Youth of Kazakhstan holds youth rallies congratulating President Nazarbayev on his [election] victory. This organisation fulfils political briefs set by the authorities in support of the President. This is unambiguously a project of President Nazarbayev's administration".⁴⁴

According to the Director of the Kazakhstan International Bureau for Human Rights and Rule of Law, Yevgeniy Zhovtis, speaking specifically about the Congress of Youth of Kazakhstan and another of the organisations that make up the Coordinating Agency, the National Volunteer Network:

They are absolutely loyal organisations which are like [those] in the Soviet Union, where you would have youth organisations which are following a certain line which are controlled by [certain] Ministries... We don't have [Soviet Youth organisation] Komsomol but it's something like that. They are not independent. We have practically two independent youth organisations only... All others are created by the top, all controlled from the top.⁴⁵

The close relationship between senior Congress of Youth personnel, the government and Nur Otan party would appear to support these statements. From 2016, the Chairperson of the Congress of Youth of Kazakhstan has been Dariga Nazarbayeva, the President's eldest daughter.⁴⁶ Nazarbayeva is an important political figure in Kazakhstan, and a member of the President's ruling Nur Otan party, which oversees a political system where no substantive political opposition is tolerated. Nazarbayeva has served as the Vice Chairman of the Mazhilis (Kazakh Parliament) and Deputy Prime Minister. She is currently a Senator, heading the Senate's International Affairs, Defence, and Security Committee.

⁴² Конгресс Молодёжи Казахстана, 'История о нас', *Конгресс Молодёжи Казахстана*, <https://www.zhascongress.kz/history> (accessed 28 November 2018). The statement in Russian reads: "Идея создания Конгресса молодежи Казахстана принадлежит Главе государства Нурсултану Назарбаеву". In English: The idea of the creation of the Congress of Youth of Kazakhstan belongs to the head of state Nursultan Nazarbayev.

⁴³ In Russian: Конгресс Молодёжи Казахстана. In English: The Congress of Youth of Kazakhstan. See: Конгресс Молодёжи Казахстана, 'История о нас', *Конгресс Молодёжи Казахстана*, <https://www.zhascongress.kz/history> (accessed 28 November 2018).

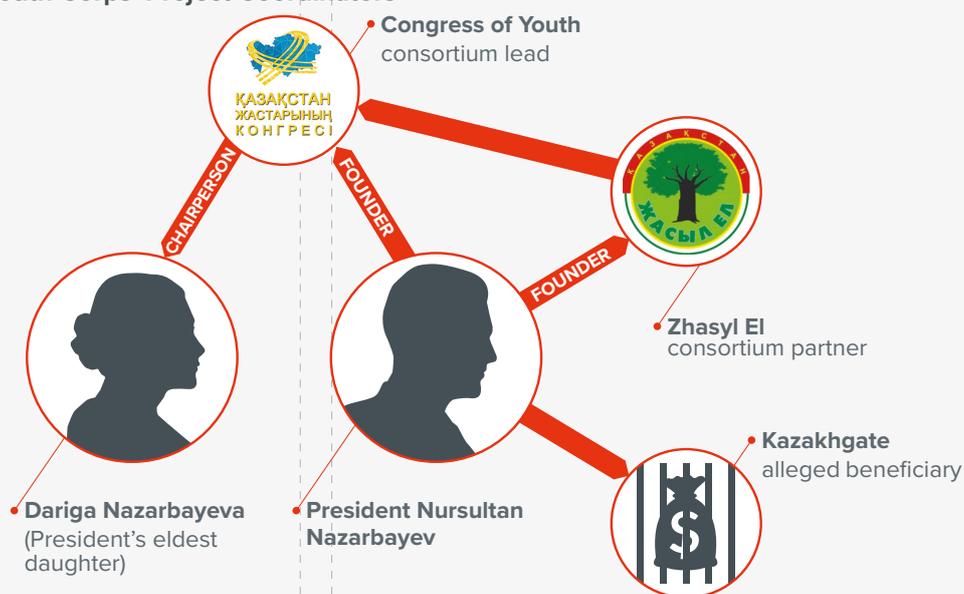
⁴⁴ Rozlana Taukina, Personal Communication, 6 June 2018.

⁴⁵ Yevgeniy Zhovtis, Personal Communication, 28 May 2018. Zhovtis had not previously heard of Zhasyl El.

⁴⁶ Е. Иргалиев, 'Дарига Назарбаева провела совещание Конгресса молодежи', *365 Info.KZ*, 20 January 2017, <https://365info.kz/2017/01/dariga-nazarbaeva-provela-soveshhanie-kongressa-molodezhi/> (accessed 28 November 2018)

Table 5: Nazarbayev Family and Youth Corps

Keeping it in the family - Youth Corps' Project Coordinators



There are numerous further links to the government (both regional and national) and Nur Otan. The Congress' own website gives information about the organisation's current and former directors. They include:

- **Aryn Orsariyev** (Chairman, Congress of Youth of Kazakhstan, 2002-2016⁴⁷). Orsariyev worked as a senior expert for the Analytical Centre of the Security Council of the Presidential Administration. From February 2012 to April 2015, he worked as Deputy Akim⁴⁸ of Pavlodar region.⁴⁹
- **Nurlan Uteshev** (Executive Director, Congress of Youth of Kazakhstan, 2002-2005). Uteshev is Director of the Department of Educational Work and Youth Policy of the

Ministry of Education and Science, and worked as Secretary of the Committee on Youth Affairs under the government of Kazakhstan.⁵⁰ A Kazakh news website reports that Uteshev joined the Nur Otan party in June 2007.⁵¹ At the time Uteshev is reported to have said: "We see the possibility of building a successful Kazakhstan through the consolidation around Nur Otan, which consistently implements the policy of the Head of State [President Nazarbayev], aimed at socio-economic and political development of our country".⁵² Another media article suggests that Uteshev worked in the Central Office of Nur Otan as Director of the Department of Youth Policy and External Relations from April-July 2008, and was appointed in May 2008 as Executive Secretary of Nur Otan's youth wing, Zhas Otan.⁵³

⁴⁷ Конгресс Молодёжи Казахстана, 'Антология Конгресса Молодежи Казахстана', *Конгресс Молодёжи Казахстана*, <https://www.zhascongress.kz/ministries> (accessed 28 November 2018). The Congress' website has not been updated to include Orsariyev's departure and Dariga's appointment as chair in 2016.

⁴⁸ An *Akim* is the head of a local government. They are appointed directly by the President. Deputy Akims are appointed by the President following agreement with the relevant Akim.

⁴⁹ Конгресс Молодёжи Казахстана, 'Антология Конгресса Молодежи Казахстана', *Конгресс Молодёжи Казахстана*, <https://www.zhascongress.kz/ministries> (accessed 28 November 2018).

⁵⁰ Ibid, para. 3.

⁵¹ Nomad, 'Пополнились ряды НДП "Нур Отан"', *Nomad*, <http://nomad.su/?a=3-200706280322> (accessed 29 November 2019).

⁵² Kazinform. Webpage no longer available, original reference was: "Партия «Нур Отан» последовательно реализует политику Главы государства — Н. Утешев. Казинформ. Проверено 17 августа 2010. Архивировано 7 мая 2012 года."

⁵³ Today.kz; Kazakhstanskaya Pravda. Webpage no longer available, original reference was: "Утешев Нурлан Сулейменович. Today.kz. Checked 17 August 2010. Archived 07 May 2012, and Казахстанская правда. Checked 15 June 2010. Archived 18 August 2011.

- **Madiyar Kozhamet** (Executive Director, Congress of Youth of Kazakhstan, 2005-2006). From December 2014 to present, Kozhamet holds the post of the head of the apparatus of the Akim of the North Kazakhstan region.⁵⁴
- **Nursultan Karimbaev** (Executive Director, Congress of Youth of Kazakhstan, March 2007 - August 2007). From 2004-2005, he held various positions in the Ministry of Culture and Information and the Ministry of Education and Science.⁵⁵
- **Nurlan Sydykov** (Executive Director, Congress of Youth of Kazakhstan ULE, 2007-2010). From 2012 to 2015, Sydykov worked as a Secretary in Zhas Otan, the youth wing of the ruling Nur Otan party.⁵⁶
- **Shakhmardan Baymanov** (Executive Director, Congress of Youth of Kazakhstan ALE, 2007-2010). From September 2015 to present, he holds the post of Chairman of Zhas Otan. Baymanov is also a member of the Central Council of Zhas Otan.⁵⁷
- **Gani Duishenov** (Executive Director, Congress of Youth of Kazakhstan, 2014-2015). From 2008 to 2009, he served as Chief Expert in the Socio-Political Department and was Executive Secretary of Zhas Otan in the Kyzylorda regional branch of Nur Otan. He worked as the head of the Secretariat of the Council on Youth Policy under the President of the Republic of Kazakhstan in the period 2013 to 2014.⁵⁸
- **Aidan Sabytov** (Executive Director, Congress of Youth of Kazakhstan, 2015-2018). He worked as the Head of the Department for International Cooperation in the Secretariat of the Council on Youth Policy under the President of Kazakhstan. According to a source in Kazakhstan, Sabytov left the Congress in May 2018 in order to join Zhasyl El as a Director.

Had the 2012 repatriation followed the same rules established by BOTA, the numerous clear links between the Youth Congress of Kazakhstan, the government and an autocratic ruling party, would have automatically disqualified it from being involved in either the disbursement of the money or the receiving of such funds. World Bank documentation suggests that the Congress of Youth of Kazakhstan received \$539,557 for implementing the Youth Corps project.

An inspection was conducted of the Congress of Youth's registered address in Kazakhstan, which until October 2018 was 9/13 Gumileva Street in Astana. On visiting this location a researcher found no office belonging to the Congress. Many small companies have no physical address but use proxy addresses with mail forwarding services, although this does not seem to be the case here as the address in question is a small residential property. Using a proxy address is not illegal in Kazakhstan, though it is an administrative offence, and it also makes the organisation less accountable: letters sent to the Youth Congress at this address will not, it appears, be delivered.

Attention was also given to the organisation's tax record. According to information available from the Kazakh state, the Congress of Youth paid only 98,200 KZT (Kazakh tenge), approximately \$290, in tax during 2016, suggesting that the organisation was not particularly active that year. Its 2017 tax payment was 12.037 million KZT (\$35,800).⁵⁹

⁵⁴ Конгресс Молодёжи Казахстана, 'Антология Конгресса Молодежи Казахстана', *Конгресс Молодёжи Казахстана*, <https://www.zhascongress.kz/ministries> (accessed 28 November 2018). para 4.

⁵⁵ Ibid, para 5.

⁵⁶ Ibid, para. 6.

⁵⁷ Ibid, para. 7.

⁵⁸ Ibid, para 9.

⁵⁹ Information from State Revenue Committee of the Ministry of Finance of the Republic of Kazakhstan.

Gongo II: Zhasyl El

Zhasyl El also fits the description of gongo set out above. It was created by the Government of Kazakhstan⁶⁰ after President Nazarbayev announced that the state would provide students with work during vacations. Like the Congress of Youth, its inception was inextricably linked to Presidential policy. A website that promotes President Nazarbayev's 'Kazakhstan 2050 Strategy', notes that Zhasyl El receives significant state financial support. For example, the government planned to provide 800 million KZT (approx. \$4.4 million) to Zhasyl El in 2015.⁶¹ The Kazakhstan 2050 website also claims that over 200,000 youth have been involved in Zhasyl El projects since the organisation's creation in 2005.

In some respects, Zhasyl El appears to fall into the 'benign', or potentially 'beneficial' gongo category. It provides Kazakh youth with useful activities over the summer months – planting trees, collecting litter and so on. However, some of the group's rhetoric veers toward the nationalistic, which has quite specific connotations in an authoritarian regime. One government website states that Zhasyl El is, "providing youth with creative work for the benefit of the Motherland".⁶² Other taglines such as "the flourishing of the village, the flourishing of Kazakhstan!",⁶³ bring to mind Soviet era slogans.⁶⁴

Indeed, the main Zhasyl El twitter page features a picture of Kazakh youth dressed in identical uniforms, flying the same flags and balloons,⁶⁵ in images reminiscent of the Soviet Komsomol (Young Communist League). One news article concerning a programme that Zhasyl El participated in speaks of the following objective, "the nurturing in young people a feeling of patriotism".⁶⁶

Although Zhasyl El professes to hold no particular political viewpoint, the links to the ruling party are apparent. Almaty's regional Zhasyl El twitter page features a propaganda image of President Nazarbayev watering the ground with a Zhasyl El watering can.⁶⁷ To use another example, Zhasyl El launched a project in 2010 working with the Kazakh Ministry of Education and Science in support of public initiatives. Slogans for the project included, "we are one team" and "in the team of the President for a strong Kazakhstan".⁶⁸ Perhaps not surprisingly then at least two of the above-mentioned Executive Directors of the Congress of Youth of Kazakhstan previously worked or went on to work for Zhasyl El.⁶⁹

⁶⁰ Правительство Республики Казахстан, 'Постановление Правительства Республики Казахстан от 25 июня 2005 года N 632, 'Об утверждении Программы "Жасыл ел" на 2005-2007 годы', *Правительство Республики Казахстан*, 25 June 2005, http://ru.government.kz/docs/p050632_20050625.htm (accessed 28 November 2018).

⁶¹ Казахстан 2050 Наша сила, "Жасыл ел" - уникальная возможность для трудоустройства молодежи Казахстана (ФОТОРЕПОРТАЖ), *Казахстан 2050 Наша сила*, 1 August, <https://strategy2050.kz/ru/news/11566> (accessed 28 November 2018).

⁶² Управление по вопросам молодежной политики Павлодарской области, 'Бойцы молодежных трудовых отрядов очищают от мусора здание для будущего центра экстремальных видов спорта', *Управление по вопросам молодежной политики Павлодарской области*, 20 June 2017, <http://www.uvmp-pvl.gov.kz/news/337/> (accessed 28 November 2018). In Russian: "Приобщить юное поколение к созидательному труду на благо Родины". Translated by author.

⁶³ Kazinform Международное Информационное агентство, 'В Карагандинской области стартовал марафон-эстафета «Расцвет села - расцвет Казахстана»', *Kazinform Международное Информационное агентство*, 18 May 2011, https://www.inform.kz/ru/v-karagandinskoy-oblasti-startoval-marafon-estafeta-rascvet-sela-rascvet-kazahstana_a2380773 (accessed 28 November 2018).

⁶⁴ One Soviet era poster from 1957 announces "Vote for the further flourishing of our cities and villages!" ("голосуйте за дальнейший расцвет наших городов и сел") using the same word расцвет (flourishing) as in the Zhasyl El campaign. See: https://softsalo.com/soviet_45_poli_agi_59.html

⁶⁵ РШМТО Жасыл Ел, Республиканский штаб молодежных трудовых отрядов, <https://twitter.com/zhasylkz> (accessed 28 November 2018).

⁶⁶ In Russian: "Воспитание у молодежи чувства патриотизма". See: Kazinform Международное Информационное Агентство, 'В Карагандинской области стартовал марафон-эстафета «Расцвет села - расцвет Казахстана»', *Kazinform Международное Информационное Агентство*, 18 May 2011, https://www.inform.kz/ru/v-karagandinskoy-oblasti-startoval-marafon-estafeta-rascvet-sela-rascvet-kazahstana_a2380773 (accessed 28 November 2018).

⁶⁷ Жасыл Ел, 'Жайнай бер, жасыл өлкем - Қазақстан!', *Twitter*, https://twitter.com/zhasylel_aof (accessed 28 November 2018).

⁶⁸ КГУ «Қоғамдық келісім» аппарата акима Карагандинской области, 'Открытие сезона работы студенческих строительных и молодежных трудовых отрядов «Жасыл ел»', КГУ «Қоғамдық келісім» аппарата акима Карагандинской области, 2 June 2010, <http://kelisim.kz/ru/news-region/id/3317> (accessed 28 November 2018)

⁶⁹ According to the website of the Youth Congress of Kazakhstan, Nursultan Karimbayev worked as the head of the Republican Staff of the Youth Work Groups Zhasyl El in 2007 and Nurlan Sadykov worked as a PR-manager in the Almaty city headquarters of Zhasyl El as a student, and then held the post of the head in the period from 2006 to 2007; See: Конгресс Молодёжи Казахстана, 'Антология Конгресса Молодежи Казахстана', *Конгресс Молодёжи Казахстана*, <https://www.zhascongress.kz/ministries> (accessed 28 November 2018).

When viewed through this lens, Zhasyl EI appears less benign. It is not simply an organisation set up to promote environmentalism and civic activity. These activities are a forum for an exercise that is, in part, focused on drilling into Kazakh youth a culture of obedience to authority, and patriotism in the precise authoritarian sense of ‘duty to the motherland’. As journalist Rozlana Taukina sums up: “Student detachments are created with the idea of controlling student youth groups so that they do not participate in rallies and other protest actions. The authorities’ idea is to control and regulate student activities to prevent them from participating in protest actions of the civilian population”.⁷⁰

In another parallel with the Youth Congress, no office for Zhasyl EI was to be found at its registered address (House 52/1 Imanova Street) in Almaty. Zhasyl EI paid 25.735 million KZT (\$76,550) and 18.937 million KZT (\$56,330) tax in 2016 and 2017 respectively.⁷¹

Gongo III: The National Volunteer Network

The third organisational member of the Youth Corps Coordinating Agency consortium is the National Volunteer Network.⁷² It was established in 2010 to create, support and develop a culture of volunteerism, volunteer initiatives and activities among citizens, civil society institutions, the business sector and government agencies. It has a weaker web presence than the other two organisations, but further investigation illustrated that the organisation is similar in nature to the Congress of Youth and Zhasyl EI.

Its two founders are:

1. The Temirtau Youth Club, whose website features announcements demonstrating a close tie with the Nur Otan party;⁷³ and
2. The Social Volunteer Centre,⁷⁴ an organisation with many regional wings, one of whom describes its purpose as working “within the framework of the action plan for the implementation of the state youth policy”.⁷⁵

One Kazakh source describes the Social Volunteer Centre as, “very loyal to the structures of government programmes”.⁷⁶ Of course, it is still possible that the Centre conducts its operations with professionalism and for the public benefit. For instance, the same source remarked that the Social Volunteer Centre is trusted by independent NGOs who actively cooperate with it.

Reflecting more broadly on the National Volunteer Network, its work appears to straddle the line between ‘beneficial’ and ‘in the interests of the ruling party’. A second source, Rozlana Taukina observes:

⁷⁰ Translated from Russian by the author.

⁷¹ Information from State Revenue Committee of the Ministry of Finance of the Republic of Kazakhstan.

⁷² In Russian: Национальная волонтерская сеть.

⁷³ НДП “Нур Отан”, ‘Проведение-Республиканского-конкурса-партии-«Нур-Отан»«Лучшая-первичная-партийная-организация», *ТМК-МК*, <http://www.tmk-mk.com/single-post/2018/05/25/> (website no longer available, but was accessed May 2018).

⁷⁴ In Russian: Социально-волонтерский центр.

⁷⁵ *Vkontakte*, Социально-волонтерский центр Павлодарской области, *Vkontakte*, <https://vk.com/volontery.pavlodar> (accessed 28 November 2018). Translated by the author.

⁷⁶ In Russian: “Очень лояльная к правительственным программам структура.” Personal Communication with individual knowledgeable of the Kazakh NGO sector. Translated from Russian by author.

Initially, the National Volunteer Network was organised to service the first Asian games held in Kazakhstan – the idea being it was a free youth force that could be used for holding and servicing major events (EXPO, Asian Games, OSCE Summit, Universiade, etc). As the workforce consists of unpaid volunteers, this allows officials to pocket the allocated monetary resources. At the same time, the National Volunteer Network is starting to develop other reasonably good projects (for example, giving assistance to veterans, etc.), but these are small competitions from the ground up, and mostly fulfil the tasks of state bodies and officials.⁷⁷

The head of the National Volunteer Network is Vera Kim.⁷⁸ Kim's biography states that she has a strong background in youth affairs, acting as a member of a working group to discuss the draft law "on Voluntary Activities". She is a member of the Council on Youth Policy,⁷⁹ an entity at which the former Executive Director of the Congress of Youth, Aidan Sabytov, also worked (see above).⁸⁰

In January 2017, Kim was selected to head the Youth Corps Project's Coordinating Agency. This means that she is the person ultimately responsible for overseeing the funds distributed through the Agency. Sources speak of Kim's excellent credentials as a self-made manager, though in the opinion of Yevgeniy Zhovtis, Kim's appointment presupposes party loyalty, rather than independence.⁸¹ For example, several months after Kim was selected as Coordinating Agency head, she officially joined Nur Otan as a party member.⁸²

A researcher visited the registered address of the National Volunteer Network: 191/2 Sholpan Imanbaeva Street, Almaty. There was no indication or signage that the National Volunteer Network was physically located at the address, and no-one answered the intercom. It paid 1.453 million KZT (\$4,300) tax in 2017.⁸³

⁷⁷ Translated from Russian by author.

⁷⁸ Электронная биржа труда, 'Объединение юридических лиц «Национальная Волонтерская Сеть»', *Электронная биржа труда*, <http://www.enbek.kz/docs/ru/node/385>, (accessed 28 November 2018).

⁷⁹ Assembly of people of Kazakhstan, 'Kim Vera Aleksandrovna', *Assembly of People of Kazakhstan*, <http://assembly.kz/en/kim-vera-aleksandrovna> (accessed 28 November 2018).

⁸⁰ Конгресс Молодёжи Казахстана, 'Антология Конгресса Молодежи Казахстана', *Конгресс Молодёжи Казахстана*, <https://www.zhascongress.kz/ministries> (accessed 28 November 2018).

⁸¹ Yevgeniy Zhovtis, Personal Communication, 28 May 2018.

⁸² З. Мостовой, '«Нур Отан» вручил партбилеты 18 новым членам', *365 Info.KZ*, 04 July 2017, <https://365info.kz/2017/07/nur-otan-vruchil-partbiletu-18-novym-chlenam/> (accessed 28 November 2018).

⁸³ Information from State Revenue Committee of the Ministry of Finance of the Republic of Kazakhstan.

Neo-patrimonialism and Preferential Treatment

The previous sections established that the consortium which won the tender to act as the Youth Corps Coordinating Agency exhibits key traits indicative of a gongo. In most cases the organisations were initiated by the President, whilst their executive officers enjoy close ties to Nur Otan party and the government. Additionally, they promote loyalty to the President, and attempt to instil in Kazakh youth a particular brand of nationalistic ideology promoted by Nur Otan and President Nazarbayev.

Human rights advocate, Yevgeniy Zhovtis, argues that in Kazakhstan's neo-patrimonial system of political power, preference is given to those organisations that are tied to the President, his party, Nur Otan, and other major patrons, including immediate family members of Nazarbayev. Through this patrimonial system, funds pumped into civil society by the government are steered towards those individuals and organisations loyal to Nur Otan, the President and his inner circle. When these resources are used to faithfully promote Presidential policy and ideology, such fealty is rewarded with further funding and support.

As a result of this system, there is a higher risk that the gongo consortium charged with sub-granting the restituted funds will give preference to individuals and organisations allied to the President and his party. Beneficiaries, in turn, will pay back this patronage by exhibiting their loyalty to the President, his party and its policies through their proposed programme. Zhovtis explains:

If you have some money and you could spend this money for the benefit of your friends and relatives and close allies [who are] absolutely loyal to the government with the support of the local authority, you are going to do that ... Only problem here is that you have the Swiss government and the World Bank [involved].⁸⁴

It is, nonetheless, reasonable to hypothesise that the risks associated with pumping restituted assets into a neo-patrimonial system could be mitigated through strong oversight and accountability measures – such as a BOTA Foundation style oversight model. However, they are noticeably absent in the project's governance structure.

Youth Corps Programme Governance

In Kazakhstan I, it was observed, the consortium charged with coordinating BOTA's day-to-day activities were independent of the Kazakh Government. Additionally, the Board of Trustees overseeing the consortium was appointed through strict protocols that were designed to ensure their independence from government and the ruling party. By contrast in Kazakhstan II the gongo consortium responsible for managing the Youth Corps Programme, which in itself presents a greater risk to the restituted assets, are not accountable to an independent body. Instead oversight is provided by the Ministry of Education and Science.

The World Bank observes in the project appraisal document:

On behalf of the Government of Kazakhstan, the CYA [Committee of Youth Affairs] under the MOES [Ministry of Education and Science] will be the implementing agency for the project... [While] day-to-day project implementation for Component 1 will be the responsibility of the Coordinating Agency, which will... work under the supervision and monitoring of the CYA/PMU [Project Monitoring Unit].⁸⁵

The Committee of Youth Affairs (CYA), cited above, was established within the Kazakh Ministry of Education and Science during August 2012.⁸⁶ However, it was disbanded just two years later in 2014, several months after the publication of the World Bank project appraisal.⁸⁷ This highlights one problem associated with implementing a project in an autocratic state where reshuffles and restructuring frequently hinder the smooth running of effective government.

⁸⁴ Yevgeniy Zhovtis, Personal Communication, 28 May 2018.

⁸⁵ Eastern Europe and Central Asia Human Development Unit (Education Department), 'Project Appraisal Document on a Proposed {LOAN/ CREDIT} in the Amount of \$21.763 Million To The Republic of Kazakhstan for a Youth Corps Project', *The World Bank*, 25 March 2014, p.16, <http://documents.worldbank.org/curated/en/696991468272385072/pdf/771310P1279660D0RVP0Package0CLEAN.pdf> (accessed 28 November 2018)

Following the CYA's liquidation, the Government of Kazakhstan opted to transfer the Department of Youth Affairs to the newly established Ministry of Religion and Civil Society. Despite this change, responsibility for the Youth Corps project stayed with the Ministry of Education and Science (MOES).

The World Bank claims: "An institutional assessment of the MOES was conducted in September 2014 and it was confirmed that the MOES has adequate capacity to fulfill the technical and fiduciary responsibilities for implementing the project".⁸⁸ No further information is provided on this assessment, including what was assessed and how it was assessed. Given that the project was already seriously delayed, further deferment to scrutinise MOES, it can be deduced, would have been undesirable.

The World Bank further notes:

In 2016 the World Bank received a formal letter confirming that despite the structural change, the Youth Corps Project would remain under the MOES under the direct supervision of a Vice Minister. A ministerial order has confirmed the arrangement. Thus the existing Grant Agreement remains in effect and there is no need for a project restructuring.⁸⁹

This change places even more power in the hands of the Kazakh Government. Whereas before the project was to be monitored and supervised by a Committee within the Ministry – a government body, but one tasked solely with looking at youth affairs – it now falls, due to government restructuring, under the direct supervision of a Vice Minister, one whose ministry is not even responsible for the country's youth affairs.

Under this arrangement MOES is responsible for the following functions:

- Provide technical supervision and oversight of the Coordinating Agency.
- Carry out fiduciary responsibilities including financial management/reporting and procurement.

- Project monitoring and evaluation.
- Ensure coordination and communication with other ministries and agencies.
- Conduct a mid-term review.
- Management of components 2 and 3 of the Youth Corps Programme (see below). The gongo consortium is responsible for managing component 1 of the Youth Corps Programme.

One potential safeguard is the World Bank.

⁸⁶ Tengri News, 'Комитет по делам молодежи создан в Казахстане', *Tengri News*, 30 July 2012, https://tengrinews.kz/kazakhstan_news/komitet-po-delam-molodeji-sozdan-v-kazhstane-218073/ (accessed 28 November 2018).

⁸⁷ Tengri News, 'Комитет по делам молодежи ликвидирован в Казахстане', *Tengri News*, 14 August 2014, https://tengrinews.kz/kazakhstan_news/komitet-po-delam-molodeji-likvidirovan-v-kazhstane-260193/ (accessed 28 November 2018).

⁸⁸ World Bank, Kazakhstan - Youth Corps programme P127966 (29 May 2015), *The World Bank*, p.2, <http://documents.worldbank.org/curated/en/466001468047794483/pdf/ISR-Disclosable-P127966-05-29-2015-1432948730743.pdf>, (accessed 28 November 2018).

⁸⁹ World Bank, Kazakhstan - Youth Corps programme P127966 (1 December 2016), *The World Bank*, p.2, <http://documents.worldbank.org/curated/en/273151480628721070/pdf/ISR-Disclosable-P127966-12-01-2016-1480628701415.pdf> (accessed 28 November 2018).

World Bank Oversight

The World Bank's oversight role is set out in a 2014 Project Appraisal. In it the protocols reflect an accountability assessment (PEFA) of Kazakhstan conducted in 2009. Drawing on this assessment, the Youth Corps appraisal report observes:

The overall fiduciary risk in Kazakhstan is assessed as substantial. According to the PEFA report, various key elements of the country's public finance management (PFM) system, including accounting, internal audit, financial reporting and external audit are still weak. The country also scores poorly in the Transparency International's Corruption Perception Index, which is an indication of high perceived corruption. The project will thus be implemented in an environment of weak PFM capacity and significant fiduciary risk due to high perceived corruption. Ring-fencing of project activities will, therefore, be implemented, including additional reporting requirements and independent audits of the project financial statements by auditors satisfactory to the Bank.⁹⁰

As a result, the Youth Corps project's overall financial management risk is deemed 'moderate' after mitigation measures. 'Inherent and control risks' are rated 'substantial' before, and 'moderate' after mitigation measures.⁹¹

While the World Bank rates overall risk as 'moderate', there is no discussion in the project appraisal report of the specific risks that emerge from project implementation through a government that is systemically corrupt and deeply authoritarian in nature. Instead the risk analysis focuses on the potential low capacity of Kazakh organisations and the lack of procedural experience. The World Bank observes, "it is a programme [Youth Corps] that benefits youth and enjoys adequate GOK [Government of Kazakhstan] support and linkages to other government-run programmes. Project preparation, which included a

thorough implementation assessment and focus groups with stakeholders, is expected to minimize implementation risks".⁹² To further mitigate risks the World Bank undertakes in the project appraisal to provide on the ground support and assistance, both directly, and through the facilitation of consultants. Additionally, it is noted, the Youth Corps project will adhere to the World Bank's Anti-Corruption policies as set forth in published guidelines.⁹³

To facilitate transparency, the project appraisal document sets out certain essential reporting requirements for the Youth Corps Programme, which the World Bank will oversee. For example, independent annual audits of the project financial statements will be provided to the World Bank within six months after the end of each fiscal year and at project closing.⁹⁴ Additionally, the Kazakh Ministry of Education and Science is expected to publicly disclose independent audit reports within one month after receipt of these reports from external auditors, and the World Bank will also make them publicly available.

A local Kazakh firm, IAC Centeraudit-Kazakhstan LLP, was appointed to take on the auditor role. Given that auditing firms are licensed by the Kazakh government, it is not clear whether the auditor has the requisite freedom to provide independent oversight of a project led by a consortium headed by the President's daughter and closely linked to Nur Otan. Furthermore, it seems IAC Centeraudit-Kazakhstan's mandate is limited to financial audits. There does not appear to be any scope for conducting an investigative audit that would detect evidence of potential fraud, misappropriation, and other forms of malfeasance, through scrutinising a sample of original records kept by the implementing and coordinating agencies.

In addition to the audit report noted above, procurement plans, advertisements, and contract awards for the Youth Corps Programme, will also be publicly available according to the project appraisal document. Finally, it is stipulated that the Ministry of Education and Science will provide quarterly interim unaudited financial reports to the World Bank, who will also undertake regular risk-based financial management missions.⁹⁵

⁹⁰ Eastern Europe and Central Asia Human Development Unit (Education Department), 'Project Appraisal Document on a Proposed [LOAN/CREDIT] in the Amount of \$21.763 Million To The Republic of Kazakhstan for a Youth Corps Project', *The World Bank*, 25 March 2014, p.23, <http://documents.worldbank.org/curated/en/696991468272385072/pdf/771310P12796600D0RVP0Package0CLEAN.pdf> (accessed 28 November 2018).

⁹¹ Ibid.

⁹² Ibid, pp.50-53.

⁹³ Ibid, pp.45-46. See also: World Bank, "On Preventing and Combating Fraud and Corruption in Projects financed by IBRD Loans and IDA Credits and Grants."

⁹⁴ World Bank (25 March 2014 Eastern Europe and Central Asia Human Development Unit (Education Department), 'Project Appraisal Document on a Proposed [LOAN/CREDIT] in the Amount of \$21.763 Million To The Republic of Kazakhstan for a Youth Corps Project', *The World Bank*, 25 March 2014, p.43.

⁹⁵ Ibid, p.22.

These oversight mechanisms for the high-risk return methodology may be robust enough to safeguard returned assets in a country where there already exists a reasonable track record of transparency, oversight, and rule of law. However, the light-touch approach adopted here, which places significant trust in the implementing institution and coordinating organisations, takes place in a political context marked by endemic corruption. Yevgeniy Zhovtis explains:

If you have a totally corrupted state system – and it is absolutely corrupted [in Kazakhstan] – it is not the problem of personality, it is the problem of the system. The whole system is corrupted and this is corruption culture. It is way the whole state system works.⁹⁶

To mitigate the associated risks of systemic corruption in the BOTA case, Zhovtis – who was a board member of the BOTA Foundation – says that strict protocols were needed:

They [the Government of Kazakhstan] did not have any kind of access to this money in any possible way. And from my point of view that [BOTA] system was much better than this one [Youth Corps] because in the case of BOTA it was clearly Kazakh civil society that was involved in the management issues. Because these five individuals [on the Board of Trustees] were representatives of [independent] civil society.⁹⁷

Set against this backdrop of lax governance arrangement, one particular transactional space where the risks associated with Kazakhstan II are most likely to manifest as abuse is during procurement and subcontracting.

The GAN Business Anti-Corruption Portal lists a range of problems associated with procurement in Kazakhstan:

Corruption is rampant throughout the country's political circles, and networks of patronage and clientelism negatively affect the country's business environment... Public procurement carries a high risk of corruption for business investing in Kazakhstan. Bribes and irregular payments are widespread in the process of awarding contracts and licenses.... Likewise, two in every ten companies expect to give gifts to procurement officials.... Companies report that public funds are often diverted to individuals or companies due to corruption... Large funds have reportedly been embezzled through fraudulent public contracts.... Companies find favouritism to be widespread among procurement officials... Government regulations allow unfair benefits for domestic companies, and for state intervention in foreign companies' operations related to public procurement.⁹⁸

These views are echoed in a survey of 313 senior executives working in the Europe-Caucasus-Asia region. Kazakhstan was the worst national performer when executives were asked:

Do you believe that, over the last year, your company lost business – whether a specific transaction or market share more generally – to a competitor because the competitor provided improper payments, gifts, favors, services, or anything else of value to a government entity or employee?⁹⁹

⁹⁶ Yevgeniy Zhovtis, Personal Communication, 28 May 2018.

⁹⁷ Yevgeniy Zhovtis, Personal Communication, 28 May 2018.

⁹⁸ Business Anti-Corruption Portal, 'Kazakhstan Corruption Report', *Business Anti-Corruption Portal*, <https://www.business-anti-corruption.com/country-profiles/kazakhstan/> (accessed 28 November 2018).

⁹⁹ Miller & Chavalier (2018), 'Europe-Caucasus-Asia Corruption Survey', *Miller & Chavalier*, <https://www.millerchevalier.com/sites/default/files/resources/2018-ECA-Corruption-Survey-Full-Report.pdf> (accessed 28 November 2018).

These concerns raised over procurement and contracting in Kazakhstan are assessments that the World Bank broadly agrees with. For example, a 2009 World Bank report – cited in documentation for the Youth Corps project – highlighted “excessive use of less competitive procurement methods and single-source procurement”.¹⁰⁰ The World Bank thus rates the procurement risk for the Youth Corps project as ‘high’, following application of its Procurement Risk Assessment and Management System.¹⁰¹

To mitigate against this risk, the World Bank states that “an experienced Procurement Specialist familiar with Bank procurement procedures will be hired by the CYA for the PMU [Project Monitoring Unit]”.¹⁰² Additionally, tender winners will be publicly published. As this report notes in part four, the other bidders are not always published. This means that the competitiveness and ultimate fairness of the process itself cannot be examined in full. Furthermore, as corporate disclosure in Kazakhstan does not require the publication of all shareholders or beneficial owners, it is impossible to independently verify whether successful bidders have a conflict of interest, or whether winning companies are owned by politically exposed persons.

Given then that procurement and sub-granting are the most vulnerable points in the transactional chain underpinning asset return in Kazakhstan II, all publicly available data was collated to detect whether the responsible parties are publishing requisite information, and whether disclosed in this information is data that might point to inappropriate activity. Additional, on-the-ground investigations were conducted in an attempt to gain further insights into the procurement and sub-granting process. The results of this inquiry are presented in the next section. Before these results are presented, a brief overview of the three Youth Corps programme components, against which budgets have been set, will be given.

Where is the Youth Corps Money Going?

Component I. Support Community-Based Service Learning and Life Skills: \$20 million

The Youth Corps project is made up of three components. The vast majority of the money (just under 92 percent of the funds set aside for the project – \$20 million out of \$21.763 million¹⁰³) is earmarked for Component 1. This is broken down further into four subcomponents.¹⁰⁴

1.1. Subproject Grants and Subsistence Stipends for Community. Estimated cost \$15 million.

This sub-component will finance subproject grants to two sets of potential recipients:

- (i) host organisations, and
- (ii) groups of young people.

1.2. Life Skills Development and Project Management Training. Estimated cost \$3.5 million.

1.3. Outreach to Vulnerable Young People. Estimated cost \$0.5 million.

1.4. Coordination, Communication, and Accountability. Estimated cost \$1 million.

This includes two main activities:

- (i) Information and Communication Campaign, and
- (ii) Feedback and Resolution Mechanism.

¹⁰⁰ Eastern Europe and Central Asia Human Development Unit (Education Department), ‘Project Appraisal Document on a Proposed (LOAN/CREDIT) in the Amount of \$21.763 Million To The Republic of Kazakhstan for a Youth Corps Project’, *The World Bank*, 25 March 2014, p.24.

¹⁰¹ *Ibid*, p.44.

¹⁰² *Ibid*, p.24, p.44.

¹⁰³ K. Inoue, ‘Implementation Status & Results (Kazakhstan): Kazakhstan - Youth Corps programme (P127966)’, *The World Bank*, 11 May 2014, <http://documents.worldbank.org/curated/en/382291468292842751/pdf/ISR-Disclosable-P127966-05-11-2014-1399810460510.pdf> (accessed 28 November 2018).

¹⁰⁴ Eastern Europe and Central Asia Human Development Unit (Education Department), ‘Project Appraisal Document on a Proposed (LOAN/CREDIT) in the Amount of \$21.763 Million To The Republic of Kazakhstan for a Youth Corps Project’, *The World Bank*, 25 March 2014, pp. 8-14, <http://documents.worldbank.org/curated/en/696991468272385072/pdf/771310P12796600DORVPOPackage0CLEAN.pdf> (accessed 28 November 2018).

Component II. Support Institutional Development of the Committee on Youth Affairs (CYA): \$0.763 million

This component is also broken down into further elements:

- 2.1.** Support the Development of an Institutional Framework for Youth Policy Implementation, Coordination, and Evaluation Activities. Estimated cost \$0.463 million.
- 2.2.** Support the Development of a Training Programme for, and Outreach to, Senior Secondary Students. Estimated cost \$0.3 million.

As highlighted above the Committee on Youth Affairs was disbanded before the Youth Corps project commenced. Institutional support will now, therefore, be provided to the Ministry of Education and Science (MOES).

Component III. Project Management, Monitoring & Evaluation Activities: \$1 million.

This component requires the setting up of a small Project Management Unit (PMU). The World Bank states that the PMU's task is "to manage the fiduciary aspects of the project, supervise the Coordinating Agency, and ensure adequate project monitoring".¹⁰⁵

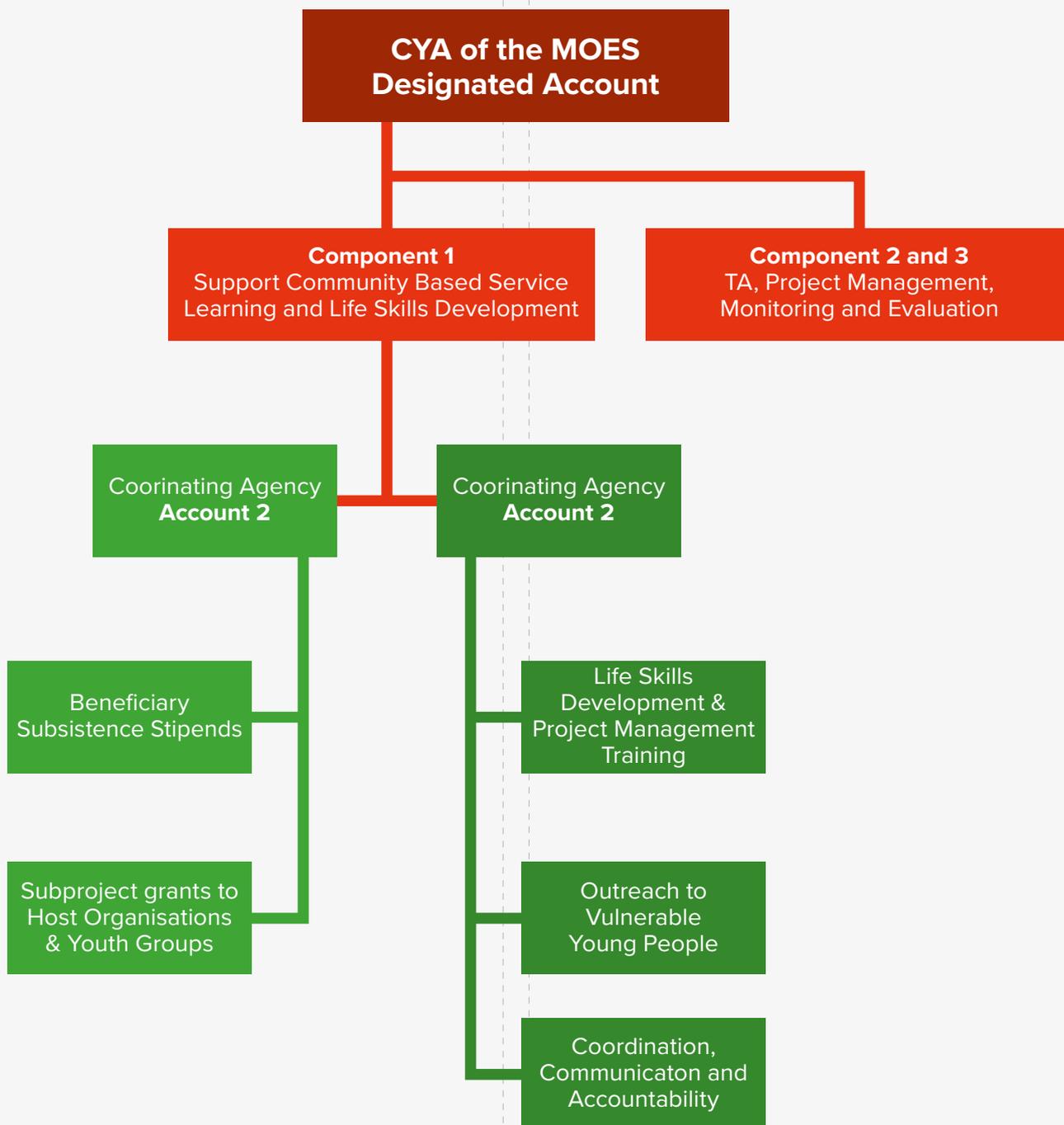
Originally the PMU was to be situated within the Committee of Youth Affairs which operates under MOES. However, following the Committee's disbanding in 2014, the PMU is to be linked directly to the MOES.

Component 3 of the programme will also finance an annual audit.¹⁰⁶

¹⁰⁵ Ibid, p.15.

¹⁰⁶ Eastern Europe and Central Asia Human Development Unit (Education Department), 'Project Appraisal Document on a Proposed {LOAN/CREDIT} in the Amount of \$21.763 Million To The Republic of Kazakhstan for a Youth Corps Project', *The World Bank*, 25 March 2014, p.16, <http://documents.worldbank.org/curated/en/696991468272385072/pdf/771310P12796600D0RVP0Package0CLEAN.pdf> (accessed 28 November 2018).

Table 6: Flow of funds from designated accounts¹⁰⁷



¹⁰⁷ Ibid, p.23.

Part 3: Investigation

This section analyses what is known so far about the implementation of the various project components, the management of money, the winners of tenders and the oversight of the programme. As the Youth Corps project is ongoing, some of the issues raised concerning a lack of information regarding certain aspects of the programme may be rectified by disclosures in the future by the World Bank and/or the Kazakh Ministry of Education and Science (MOES).

a) Violation of Kazakh Procurement Law

According to the Law on Public Procurement in Kazakhstan, all public procurement procedures, including the submission of tender documentation, the submission of bids, and the tender process itself, should be carried out electronically through a web portal.¹⁰⁸ The publication of the announcement of the tender and consideration of applications is a key part of this process. However, it appears that these steps have not been fully observed in the Youth Corps project. Instead, the overriding protocol appears to be the World Bank's guidelines for the procurement of goods, works and non-consulting services by the World Bank borrowers for loans and grants.

According to the World Bank, for goods contracts with an estimated budget less than \$100,000, at least three written quotations need to be obtained from qualified suppliers.¹⁰⁹ Concerning purchases made in 2017, the Youth Corps website has published announcements detailing the winning contractor, and their bid amount, as chosen by the Coordinating Agency in accordance with the World Bank guidelines. However, no information is given regarding the other bidders. Nor is any detail given about the purchase – for example length or terms of contract, amount and quality of goods to be provided, and so on – apart from a short summary (i.e. 'office equipment').

For instance, we learn that a Kazakh company called 'Saiet' won a tender in April 2017 to create and promote the information portal (presumably the Youth Corps website) for 16.5 million KZT (around \$49,500).¹¹⁰ We also discover that the 'Fund of Communicative Initiative and Strategy'¹¹¹ won the tender for 29.7 million KZT (around \$89,000) to provide logistic support for orientation seminars that will be attended by potential participants and partners in four pilot regions.¹¹² However, no information is provided about what the contract actually involves, or which verifies that other legitimate bids were considered. Accordingly, there is no way for the public to evaluate whether the tender was competitive, and whether the contract represents value for money.

'Saiet' went on to win a second contract in May 2018, this time in the amount of 30.5 million KZT (around \$91,350), for the finalisation and promotion of the project information portal.¹¹³ The names of the other participants and their failed (i.e. higher) bids are given on this occasion. But no terms of reference are provided which would give more details, and explain for example, why the cost of this contract is so much higher than the 2017 tender that 'Saiet' won.

¹⁰⁸ See Clause 3 of Article 13 of the Kazakh Law on Public Procurement, p.9.

¹⁰⁹ Eastern Europe and Central Asia Human Development Unit (Education Department), 'Project Appraisal Document on a Proposed {LOAN/CREDIT} in the Amount of \$21.763 Million To The Republic of Kazakhstan for a Youth Corps Project', *The World Bank*, 25 March 2014, p.45 <http://documents.worldbank.org/curated/en/696991468272385072/pdf/771310P12796600D0RVP0Package0CLEAN.pdf> (accessed 28 November 2018).

¹¹⁰ Р. Албаев, 'Информация об итогах закупок по приобретению и продвижению информационного портала Координационного Агентства', *Zhasproject.kz*, <https://bit.ly/2O9ZSMI> (accessed 28 November 2018).

¹¹¹ In Russian: *Фонд Коммуникативной Инициативы и Стратегии*.

¹¹² Р. Албаев, 'Информация об итогах закупок услуг по логистическому обеспечению ориентационных семинаров для потенциальных участников и партнеров Проекта в 4 пилотных регионах', *Zhasproject.kz*, <https://bit.ly/2CWwWSn> (accessed 28 November 2018).

¹¹³ Zhas Project.kz, 'Информация об итогах закупок услуг по доработке и продвижению информационного портала проекта (KZYCP-CA/S-SH-16)', *Zhasproject.kz*, <https://bit.ly/2O9QacV> (accessed 28 November 2018).

In general, there is more information on the 2018 tenders, and there are some examples where full information is given: i.e. the announcement of the tender and application form, the technical specification of the contract, contract length, terms and conditions, and information on the bidders and their bids. Thus, for example, we learn that out of the four participants bidding for a particular contract regarding the provision of services and logistics for orientation seminars, a Kazakh company called 'Servise Group Ltd' made the winning bid of 17.1 million KZT (around \$51,200).¹¹⁴ However, the information for other 2018 contracts remain incomplete. For instance, a tender announced on 13 July 2018 requests bids for mentoring work.¹¹⁵ Despite the fact that the closing date is the 24 July, no information appears to have been provided on the successful bidder.¹¹⁶ There are other deficiencies: some links do not work, or links are provided to pages that are no longer available.¹¹⁷ One page entitled 'Database of participants in 2017' is still 'under construction' as of November 2018.¹¹⁸

Some further information about Youth Corps tenders is available on the government portal.¹¹⁹ A separate filter can be used for World Bank specific projects. However, again the information is incomplete and thus does not comply with Kazakh law.

The information provided on the MOES website is as equally confused as the Youth Corps website, with a haphazard list of tender requests and results given in seemingly random order.¹²⁰ Further information was published on other pages only after

tenders had been concluded. For example, the MOES website states that the Ministry issued an invitation for groups to submit proposals regarding the position of Coordinating Agency in September 2016. The tender was concluded in January 2017. Yet a note regarding the companies shortlisted for the role was only published in August 2017.¹²¹

After this report was initially drafted the World Bank publicly released a Procurement Plan around August 2018. It includes basic data on contracts awarded for goods and services.¹²² The data published in this document raises a range of concerns that will be discussed further below. One particular fact worth noting here relates to non-consultancy services. Of the 36 contracts awarded, 14 went to one company, Servise Group. The cumulative value of these contracts was US\$763,799.46, which if tendered as a single contract would have required the more demanding International Competitive Bidding procedure. The authors were unable to locate all the relevant tender and award announcements, which suggests a failure to adhere to transparency requirements. It is concerning that nearly 40% of all non-consultancy contracts went to one company, especially in light of the cumulative total of these awards. Additionally, of the 14 awards made to Service Limited there was no planned budget estimate for 8 of them.

¹¹⁴ Zhas Project, The World Bank, 'Закупки'. Zhas Project, *The World Bank*, See tender dated 25 April 2018, <https://zhasproject.kz/ru/news/zakup-2018?page=5> (accessed 28 November 2018).

¹¹⁵ Zhas Project, 'Запрос к выражению заинтересованности', *Zhasproject.kz*, 13 July 2018, <https://bit.ly/2x2Jyqd> (accessed 28 November 2018).

¹¹⁶ Zhas Project, 'Закупки'. Zhas Project, The World Bank, See tender dated 13 July 2018, <https://zhasproject.kz/ru/news/zakup-2018?page=3> (accessed 28 November 2018).

¹¹⁷ Has Project, 'Информация О Присуждении Контрактов', *Zhasproject.kz*, See the tender dated 10 August 2018. Link was down as of 11 September 2018. See <https://bit.ly/2x2JsPg>

¹¹⁸ Zhas Project, The World Bank, 'База данных участников в 2017 году. Страница на стадии заполнения', *Zhas Project, The World Bank*, http://zhasproject.kz/ru/page/Grant_recipients (accessed 28 November 2018).

¹¹⁹ Правительство Республики Казахстан, 'Государственные закупки Республики Казахстан', *Официальный сайт Правительства Республики Казахстан*, <https://goszakup.gov.kz/kz/> (accessed 29 November 2018).

¹²⁰ Официальный интернет-ресурс Министерство Образования и Науки Республики Казахстан, 'Закупки', *Официальный интернет-ресурс Министерство Образования и Науки Республики Казахстан*, http://edu.gov.kz/ru/deyatelnost/list.php?SECTION_ID=130 (accessed 28 November 2018).

¹²¹ Официальный интернет-ресурс Министерство Образования и Науки Республики Казахстан, 'Выпуск Приглашений к подаче предложения на Координационное агентство', *Официальный интернет-ресурс Министерство Образования и Науки Республики Казахстан*, 09 August 2017, http://edu.gov.kz/ru/deyatelnost/detail.php?ELEMENT_ID=631 (accessed 28 November 2018).

¹²² Kazakhstan Coordination Agency and Project Management Unit (2018), 'Procurement Plan', *The World Bank*, 17 April 2018, <pubdocs.worldbank.org/en/751981540981321002/pdf/KZYCP-PP-06-08-2018.pdf> (accessed 28 November 2018).

Alongside this it ought to be noted that the two single largest awards noted in the Procurement Plan went to Patriot Media and Kazbrand (\$300,000 respectively – this is the threshold before a more demanding international tendering process is required). It will be noted below that the former was contracted to produce what appear to be propaganda videos supportive of the ruling party and President (see (e) below), while the latter organisation it seems is led by a Director with conflicts of interest, that would require careful handling (see (b) below). On the basis of the Procurement Plan approximately \$1.02 million has been spent on promotions and PR.

Finally, it is worth noting that the World Bank intends to release more updates on the progress of the Youth Corps project in the future. Considerable work needs to be done, in this respect, to improve the transparency of the project across all the various components. For example, the World Bank states that \$300,000 is to be spent in order to “Support the Development of Training Programme for, and Outreach to, Senior Secondary Students” through the provision of technical assistance “most likely by an experienced NGO, for training programme development that targets senior secondary students and focuses on raising their awareness of community-based volunteering and service learning”.¹²³ A further \$3.5 million is to be spent on life skills development, as defined by subcomponent 1.2. According to the World Bank: “Although the Coordinating Agency will facilitate the life skills and project management training activities, the actual delivery of the training programmes is likely to be subcontracted”.¹²⁴ It is not clear from any website (World Bank, Youth Corps, MOES) if these projects have been tendered and if so, which organisations won the contract.

b) Problematic Tendering Process

According to World Bank documentation, the Coordinating Agency – made up of three gongos – is responsible for the disbursement of \$20 million in restituted assets, falling under Component 1. This covers service fees owing to the Coordinating Agency for day-to-day management of Component 1 activities, including the provision of necessary information and reports to MOES.¹²⁵

The vast majority of money (\$15 million) will be granted (through subcomponent 1.1) either to groups of up to five young people (The Youth Initiative Approach), or distributed to host organisations responsible for “community-based service learning subprojects suitable for young people”.¹²⁶

As noted above, there is a significant risk that procurement in Kazakhstan will be affected by uncompetitive and corrupt transactions. To mitigate this risk the World Bank states that:

The Bank’s procurement staff based in the country office will provide advice and assistance on a regular basis. The procurement manual for Grant Recipients will be prepared in order to foster competition. Wide and advance advertising will be carried out for procurement packages under the Grant Programme, and proactive search and contact of potential suppliers and consultants will be ensured.¹²⁷

A page on the Youth Corps website gives a list of criteria for potential host organisations wishing to apply for funding. It states: “Selection of host organisations will be carried out by an independent competitive commission”.¹²⁸ Further information published on the Youth Corps website indicates that this commission will be created and approved by the Coordinating Agency. It is to be made up of members of the Coordinating

¹²³ Eastern Europe and Central Asia Human Development Unit (Education Department), ‘Project Appraisal Document on a Proposed {LOAN/CREDIT} in the Amount of \$21.763 Million To The Republic of Kazakhstan for a Youth Corps Project’, *The World Bank*, 25 March 2014, p.14, <http://documents.worldbank.org/curated/en/696991468272385072/pdf/771310P12796600D0RV0Package0CLEAN.pdf> (accessed 28 November 2018).

¹²⁴ *Ibid.*, p.10.

¹²⁵ *Ibid.*, p.14.

¹²⁶ *Ibid.*, p.9.

¹²⁷ *Ibid.*, p.24.

¹²⁸ ‘Zhas Project, The World Bank, ‘Конкурс по отбору принимающих организаций’, *Zhas Project, The World Bank*, 22 April 2018, <http://zhasproject.kz/ru/news/news/20> (accessed 28 November 2018). In Russian: “Отбор принимающих организаций будет осуществляться независимой конкурсной комиссией”. Translated by author.

¹²⁹ Ministry of Education and Science of the Republic of Kazakhstan, ‘Приложение к приказу Министра образования и науки Республики Казахстан от «04» июня 2018 года № 250. Справочник По Закупкам Для Местных Сообществ’, 2018, *Zhas Project*, <http://zhasproject.kz/source/uploads/СПРАВОЧНИК/Справочник%20по%20закупкам%20для%20местных%20сообществ.pdf>, P9.

Agency, along with representatives from the Ministry of Science and Education, the Ministry of Religion and Civil Society (on agreement), and the Youth Corps Project Management Unit.¹²⁹

This again raises the issue of procedural impartiality. Not only is the Coordinating Agency itself made up of government-sponsored organisations, the commission tasked with choosing host organisations, features government officials. However, a source familiar with the process claims that short-cuts were taken, with the commission being bypassed in some cases when selecting host organisations. Evidently, this was due to time pressures. The process to select these host organisations for 2018 had yet to take place two weeks prior to the deadline of 20 May 2018 it is alleged, with a start date of July for the host' organisations to begin work. Meetings with various host organisations took place on May 5-6. However, rather than go through the process of selecting organisations via the competitive commission, the source alleges that a member of the Coordinating Agency selected suppliers personally.

More worrying still, the source claims that in order to preserve the appearance of a competitive tender, he was asked to provide the Coordinating Agency with 'fake' alternative bidders, other youth organisations from his region that could believably make an alternative proposal. The source was told: "Send them from different email addresses. Ones not linked to your name". In short, the direct evidence supplied by a credible source suggests that the tender process on this occasion was faked.

The World Bank states that external annual audits will include random spot checks of recipient host organisations.¹³⁰

It adds, host organisations and youth initiative groups will receive financial training, and keep records of cash flows and supporting documentation on a purchasing book.¹³¹ Though random spot checks may root out any organisations failing to perform as stipulated, if the grant competition itself was flawed, the project has already been compromised.

The successful 2018 host organisations were published on 22 May 2018 on the Youth Corps project website.¹³² The list provides us with the organisation's name and regional location. No information is given on organisational personnel. Some information is available, in this respect, from the Ministry of Justice. However, even then only information about the organisation's legal founders and directors is available. It is impossible, therefore, to independently verify whether successful organisations feature any conflicts of interest or politically exposed people – that is, a relative of a politician or a state official.

The importance of full disclosure is revealed by an example relating to component two of the Youth Corps Programme. One document available on the MOES website reveals that a Kazakh company called 'Kazbrand' was responsible for part of Component 2: "Increasing the participation of young people in socially useful activities and volunteering in Kazakhstan". This is only revealed at the top of the document itself. There is no information on the MOES website about the tender which led to Kazbrand creating this document.¹³³ After this report was drafted the World Bank issued a Procurement Plan which states that Kazbrand was awarded \$300,000 to undertake this task, though no further details are provided on the tender process.¹³⁴

¹³⁰ Eastern Europe and Central Asia Human Development Unit (Education Department), 'Project Appraisal Document on a Proposed {LOAN/CREDIT} in the Amount of \$21.763 Million To The Republic of Kazakhstan for a Youth Corps Project', *The World Bank*, 25 March 2014, p.9, <http://documents.worldbank.org/curated/en/696991468272385072/pdf/771310P12796600D0RVP0Package0CLEAN.pdf> (accessed 28 November 2018).

¹³¹ *Ibid*, p.22.

¹³² Zhas Project, The World Bank, 'Результаты конкурса принимающих организаций', *Zhas Project, The World Bank*, 22 May 2018, <http://zhasproject.kz/ru/news/news/218> (accessed 28 November 2018).

¹³³ Официальный интернет-ресурс Министерство Образования и Науки Республики Казахстан, 'О проекте', *Официальный интернет-ресурс Министерство Образования и Науки Республики Казахстан*, 23 July 2018, http://edu.gov.kz/ru/deyatelnost/list.php?SECTION_ID=23 (accessed 28 November 2018). An earlier version of the page mentioned Kazbrand as fulfilling this subcomponent, though this has now been deleted.

¹³⁴ Kazakhstan Coordination Agency and Project Management Unit (2018), 'Procurement Plan', *The World Bank*, 17 April 2018, pubdocs.worldbank.org/en/751981540981321002/pdf/KZYCP-PP-06-08-2018.pdf (accessed 28 November 2018).

Company information obtained from the Kazakh Ministry of Justice indicates that the director of Kazbrand is Ivan Arkadievich Koshlyak. This is important because the same individual is also listed as the founder of several other Youth Corps linked organisations. Included in this list is the Organisation of the Scout Movement of Kazakhstan,¹³⁵ which in turn, was the founder of the Congress of Youth of Kazakhstan, the consortium leader responsible for disbursing most of the Youth Corps project funds. Although the consortium is not responsible for disbursing Component 2 funds, the close links between the various groups involved in the Youth Corps Programme and the lack of information explaining how Kazbrand came to win the tender prompts further concerns over the project's integrity. This must be set against evidence already adduced which indicates there is a high risk in Kazakhstan that money controlled by the state will be distributed through patronage networks designed to secure fealty and reward loyalty. Finally, it should be noted that none of the above irregularities will be picked up by the independent auditor. Leaving aside the chilling effect associated with a licensing regime in a heavily politicised system of public administration, the auditors only conduct a financial audit. They do not conduct an investigative audit which would permit a close inspection of tender documents, with a view to detecting potential fraud. As a result, it would appear there is a high risk that a rigged tender, facilitated through decoy or sham bids, would not be detected.

c) Youth Wing of Kazakh Ruling Party Wins Tenders

The 2018 tender list published on the Youth Corps programme website provides information on those who won contracts for an awareness-raising campaign among vulnerable youth groups for six regions. In this instance, the winning and losing bids are published, but no information is provided on what the contract entails, the terms of reference and so on. The winner of the tender in Northern Kazakhstan is listed as the regional representative body of "Zhas Otan" with a winning bid of 8.694 million KZT (around \$26,000). Zhas Otan is the youth wing of the ruling party, Nur Otan, headed by President Nazarbayev. The Karaganda wing of Zhas Otan also won the right to be one of the host organisations in 2017 (see below).

This serves as a stark reminder of the problem with this kind of repatriation. Money of alleged illegal origin, frozen in Switzerland, linked almost certainly to a member(s) of the current Kazakh political elite belonging to the Nur Otan party, is returned to Kazakhstan and flows to the very same political party responsible for overseeing a corrupt and autocratic system of government. As the identity of the figure(s) whose funds were frozen has been kept out of the public domain, there is no way of telling whether this person still works within the Kazakh Government. Without further information, it is not possible to rule out that this person may still be benefitting – either personally or through his/her state entity – from the funds that were originally frozen by the Swiss.

¹³⁵ In Russian: *Организация Скаутского Движения Казахстана*.

d) Inflated PR Contracts

Subcomponent 1.4 requires that up to \$1 million is spent on campaigns relating to 'Information & Communication' and 'Feedback & Resolution'. The tenders for the information campaign should match the process ostensibly employed elsewhere in the Youth Corps project (if not followed in practice) with the winner being the company or individual who fulfils all the criteria and submits the least expensive viable bid. However, information published about this element suggests that the winners of the tenders will be paid a sizable 600,000 KZT (\$1,800) per article, with a total of 40 articles to be written. A slightly lower amount (500,000 KZT) is promised for a monthly placement of at least 10 posts on the internet scoring at least 150 likes on a social network. This means that a total of 29 million KZT (\$86,700) in restituted assets being supplied to Youth Corps will be spent on this communications campaign. For comparison, average monthly salaries in Kazakhstan are currently around 150,000-160,000 KZT (\$550).¹³⁶

According to Yevgeniy Zhovtis, by way of a further comparison the publication of an article about BOTA would receive around 30,000 KZT (\$90).¹³⁷ A source who enquired about the possibility of receiving a contract regarding the Youth Corps media campaign or similar work was told that such contracts are selected by the Ministry of Education and Science. No information could be found on the winners of these particularly lucrative tenders, a further potential violation of Kazakhstan procurement legislation, which heightens the risk that these premium items are being given to individuals or organisations tied to Nur Otan.

e) Youth Corps Money Spent on Propaganda

A page on the Kazakh Ministry of Education and Science's website indicates that part of Component 2 involves the creation of 60 video clips on themes such as, 'Beneficial Social Activity', 'Work and Professionalism' and 'Patriotism' among other topics.¹³⁸ One such video champions Kazakhstan's progress towards democracy by setting out the powers designated to parliament "in the interests of the people" through constitutional reform instigated by President Nazarbayev.¹³⁹ Another starts off with Nazarbayev extolling the virtues of "Eternal Nation" and features clips of the President with various world leaders, along with footage of a Kazakh workforce smiling happily, cut to rousing music.¹⁴⁰ An earlier version of the webpage indicates that a company called Patriot Media LLC was responsible for the videos. Neither the Youth Corps website nor MOES give information about the tender leading to this award. A later version of the same page expunges the mention of Patriot Media.¹⁴¹ After this report was drafted, the World Bank published a Procurement Plan which notes the award to Patriot Media, with the contract valued at \$300,000.¹⁴² However, not only are the restituted assets set aside for the World Bank Youth Corps project being spent on propaganda, it appears it is not money well spent – as of September 2018, some of these videos have under 10 views despite being uploaded in May 2018.¹⁴³

¹³⁶ Trading Economics, 'Kazakhstan Average Monthly Wages', *Trading Economics*, <https://tradingeconomics.com/kazakhstan/wages> (accessed 28 November 2018).

¹³⁷ Yevgeniy Zhovtis, Personal Communication, 28 May 2018.

¹³⁸ Официальный интернет-ресурс Министерство Образования и Науки Республики Казахстан, 'О проекте'. Официальный интернет-ресурс Министерство Образования и Науки Республики Казахстан, 23 July 2018, http://edu.gov.kz/ru/deyatelnost/list.php?SECTION_ID=23 (accessed 28 November 2018).

¹³⁹ Edugovkz, '19 Демократия, Паламентская Республика', *Youtube*, 14 March 2018, https://www.youtube.com/watch?v=5_Zgy2c3kUM&index=11&t=0s&list=PLPRuPCTg6hSbkNwO-wosDVMXDlaC0jNVm (accessed 28 November 2018).

¹⁴⁰ Edugov.kz, '20 Ценности «Мәңгілік ел»', *Youtube*, 14 March 2018, <https://www.youtube.com/watch?v=5V-QmfdnRCU&index=10&t=0s&list=PLPRuPCTg6hSbkNwO-wosDVMXDlaC0jNVm> (accessed 28 November 2018).

¹⁴¹ Официальный интернет-ресурс Министерство Образования и Науки Республики Казахстан, 'О проекте'. Официальный интернет-ресурс Министерство Образования и Науки Республики Казахстан, 23 July 2018, http://edu.gov.kz/ru/deyatelnost/list.php?SECTION_ID=23 (accessed 28 November 2018).

¹⁴² Kazakhstan Coordination Agency and Project Management Unit (2018), 'Procurement Plan', *The World Bank*, 17 April 2018, pubdocs.worldbank.org/en/751981540981321002/pdf/KZCPC-PP-06-08-2018.pdf (accessed 28 November 2018).

¹⁴³ Edugov.kz, '49 Абылай хан', *Youtube*, 14 March 2018, <https://www.youtube.com/watch?v=HxB5R60B88U&index=41&list=PLPRuPCTg6hSbkNwO-wosDVMXDlaC0jNVm&t=0s> (accessed 28 November 2018).

Table 7: PR and Propaganda



KZT 8.694m

• **Zhas Otan**

Youth wing of the President's ruling party Nur Otan, known as **Zhas Otan**, won an **8.694 million KZT** tender to conduct a Youth Corps awareness raising campaign. It has also been selected as a host organisation



• **\$1,800** is to be paid per article promoting Youth Corps, and **\$1500** per social media post with 150+ likes. **BOTA** paid approx. **\$90** for similar services

\$1,800 versus **\$90** for similar service



• **Kazakh Patriots**

Kazakh Patriots is a Youth Corps host organisation. Its head is Chairman of the Public Council of Ust-Kamenogorsk and a former Executive Secretary at Zhas Otan



• **Patriot Media LLC** was contracted to produce videos, they extol the President and the 'Eternal Nation'

To use another example: A document reporting on fourth quarter activities in 2017, prepared by the Youth Corps Project Management Unit, states that on 5 December 2017 a forum of volunteers took place in Astana under the title “Volunteerism: Together We Build a Better Future!”, an event which was held “in partnership with ‘Ruhani Zhangeru’”.¹⁴⁴ This activity came under Component 2 of the Youth Corps Programme, which aims to support the development of an institutional framework for youth policy implementation. These funds are not distributed by the Coordinating Agency, but go directly to the Ministry of Education and Science. According to its own website, Ruhani Zhangeru’s work is based on an ideological framework developed by the head of state (i.e. President Nazarbayev) to “revive the spiritual values of Kazakhstanis”.¹⁴⁵ The full year 2017 report also states that a 30 second short film was prepared “explaining the concepts of the Third Modernization of Kazakhstan within the framework of the information and awareness campaign project Ruhani Zhangeru.”¹⁴⁶

These are not the only examples where restituted assets were explicitly used to pay for state propaganda. For example, it was noted above that in 2017 Nur Otan’s youth wing Zhas Otan received funding to act as a host organisation. According to a Youth Corps document listing successful host organisations, Zhas Otan aims to promote “the forming in youth feelings of patriotism and historical memory”, and to that end works closely with the regional state youth policy directorate.¹⁴⁷

There is a fine line between projects that try to instill a sense of national pride and those that promote obedience to a state ideology essential to normalising the country’s autocratic political edifice in the minds of young Kazakhs. The World Bank justifies backing the overall theme of the Youth Corps by stating that:

Caring for the broader community, environmental stewardship, collection [sic] action, and public accountability are so much more difficult without an active citizenry and youth is an ideal time to influence such lifelong behaviours. The World Bank’s 2007 World Development Report on Development and the Next Generation emphasizes that voluntary service programmes, such as AmeriCorps, promote community engagement, but that these types of programmes are most effective when young people are involved in the design and monitoring and evaluation, as well as when young people are given choices.¹⁴⁸

Drawing a comparison with AmeriCorps – a programme founded in 1994 that gets Americans involved in non-profit organisations, schools, public agencies, and community projects – and something like Youth Corps in Kazakhstan is problematic, because of the strikingly different political context. Although Youth Corps has features designed to encourage youth agency, there is a danger in an autocratic state that the programme will be subverted to promote conformity and obedience to state ideology. Again there seems to be no explicit consideration by the World Bank or the Swiss Government that the programme could be subverted, to further entrench autocracy using repatriated assets.

¹⁴⁴ *Proekt razvitiya molodezhnogo korpusa*, 4th Quarter 2017 report, p.3.

¹⁴⁵ Рухани Жаңғыру, ‘О проеekte’, *Рухани Жаңғыру*, http://ruh.kz/ru/o_proekte (accessed 28 November 2018).

¹⁴⁶ *Proekt razvitiya molodezhnogo korpusa*, Full Year 2017 report, p.8.

¹⁴⁷ List of host organisations 2017 from Zhasproject.kz website.

¹⁴⁸ Eastern Europe and Central Asia Human Development Unit (Education Department), ‘Project Appraisal Document on a Proposed (LOAN/CREDIT) in the Amount of \$21.763 Million To The Republic of Kazakhstan for a Youth Corps Project’, *The World Bank*, 25 March 2014, p.21, <http://documents.worldbank.org/curated/en/696991468272385072/pdf/771310P12796600D0RVP0Package0CLEAN.pdf> (accessed 28 November 2018).

f) Government Training Programmes

The restituted assets earmarked for the Youth Corps Programme, in notable contrast to examples such as BOTA, is being apportioned in part for direct investment in the Kazakh Ministry of Education and Science, with Component II stipulating that \$463,000 is to help in:

Developing an institutional framework. This would be the project's policy and social marketing component. The policy sub-component would further support the work of the Youth Policy unit in the Ministry of Education and Science (MES) and specifically, the coordination of policy and programmes for youth with the government's "Road Map" and the Kazakh Employment Strategy 2020.¹⁴⁹

This includes giving the Ministry "technical assistance to enhance its policy institutional framework and fiduciary and monitoring capacity ... while regional officials will receive training".¹⁵⁰

No returned money was invested directly in state institutions during the BOTA Foundation's tenure. According to Yevgeniy Zhovtis: "There was a clear precondition [BOTA] will not finance any programmes that have to be financed by the government.... Otherwise it looks like we are replacing partly the budget of the government and the government will use the economy of that to pay themselves".¹⁵¹

g) Failures in Oversight: The World Bank's Role

The Government of Switzerland charged the World Bank with oversight of this high-risk return strategy employed in Kazakhstan II. A significant onus of responsibility has thus rested with the Bank to ensure that accountability, oversight and governance measures have been complied with.

For example, with respect to the Youth Corps project the World Bank stated that "the Bank's procurement staff based in the Astana Country Office will provide advice and assistance on a regular basis".¹⁵² The Bank further noted that a:

procurement manual will be prepared in order to foster national competition, wide and advance advertising will be carried out, and proactive search and contact of potential suppliers and consultants will be ensured for implementation of Grant Program. The procurement plan covering the first 18 months of project period is under preparation. The procurement plan will be updated at least once per calendar year and each update will be subject to the Bank's prior review. The initial procurement plan together with the subsequent updates will be published on the Bank's external web site in line with the requirements of the Bank's Guidelines.¹⁵³

¹⁴⁹ K. Inoue, 'Integrated Safeguards Data Sheet Concept Stage Report No.: ISDSC433', *The World Bank*, 27 June 2013, <http://documents.worldbank.org/curated/en/800261468252932742/Integrated-Safeguards-Data-Sheet-Concept-Stage-Kazakhstan-Youth-Corps-programme-P127966> (accessed 28 November 2018).

¹⁵⁰ Eastern Europe and Central Asia Human Development Unit (Education Department), 'Project Appraisal Document on a Proposed {LOAN/CREDIT} in the Amount of \$21.763 Million To The Republic of Kazakhstan for a Youth Corps Project', *The World Bank*, 25 March 2014, p.7, <http://documents.worldbank.org/curated/en/696991468272385072/pdf/771310P12796600DORVPOPackageOCLEAN.pdf> (accessed 28 November 2018).

¹⁵¹ Yevgeniy Zhovtis, Personal Communication, 28 May 2018.

¹⁵² Europe and Central Asia Human Development Unit (Education Department), 'Project Appraisal Document on a Proposed {LOAN/CREDIT} in the Amount of \$21.763 Million To The Republic of Kazakhstan for a Youth Corps Project', *The World Bank*, 25 March 2014, p.44.

¹⁵³ *Ibid*, p.44.

Examination of the World Bank website suggests that only the third procurement plan update has been published. It appears the initial procurement plan, and the first two subsequent updates are not available for public inspection on the Bank's Youth Corps project page. The third update appears to state it was published via the website on 8 August 2018. A snapshot taken of the website by internet archive site Wayback Machine on 25 August 2018 does not record this document as being uploaded. It is not clear, therefore, when it came online.

Similarly, under the World Bank's Governance and Anti-Corruption Plan it is stated that: "All publications for advertisements and contract awards, including the results of the awards, will be done in accordance with the Procurement Guidelines and published in the Bank client connection system and on external websites, i.e., UNDB and Bank websites".¹⁵⁴ Once the data included in the recent procurement plan update is cross-checked with Bank websites, it appears that a substantial number of advertisements and awards have not been published as required (searches were conducted of the World Bank project page, complimented by google searches conducted using the contract reference numbers). Given the problems already noted with respect to the procurement process, this has only served to increase the risk of abuse.

These are worrying signals that the World Bank has not conducted its oversight and transparency duties, essential to integrity in a high-risk environment, in conformance with the Bank's own guidelines.

Further to this, the World Bank is governed by its Charter which states: "The Bank and its officers shall not interfere in the political affairs of any member; nor shall they be influenced in their decisions by the political character of the member or members concerned". Given that World Bank grant funds have been awarded to (i) a range of organisations initiated by President Nazarbayev to promote his party's national ideology, and (ii) organisations headed by politicians – most notably the President's eldest daughter – and individuals linked to the ruling Nur Otan party's youth wing, there is a case to be argued that restituted funds have contributed towards political organisations in violation of the World Bank Charter.

Given that the World Bank has positioned itself as the lead global intermediary in asset return cases, these serious shortcomings pointed to above raise serious doubts over the Bank's capacity to execute this function with requisite levels of judiciousness.

¹⁵⁴ Ibid, p.46

Part 4: Conclusion

Stripped to its most elementary core, corruption signposts democratic deficits and disparities of power, which erode popular participation in governance, institutional accountability, and strong public oversight. This balance of forces creates permissive systems in which various forms of rigging, cronyism, misappropriation, and fraud can take place with impunity. Using returned assets to strengthen the capacity, agency and freedom of populations disenfranchised by corruption, if part of a broader agenda directed towards enhancing democracy, transparency, equality, and justice, has the potential to dilute the conditions in which corruption thrives.

However, if the asset return process itself is not buttressed by transparency, accountability, and inclusivity, its potency will be significantly reduced, and there is a much higher risk the funds will be abused, or even employed to further entrench the system it is designed to combat. The international benchmarks being developed to govern asset return by states and civil society is a welcomed process that will help to guard against abuse and promote best practice. However, benchmarks alone are not enough. Oversight is also needed to ensure organisations party to asset return comply with these international benchmarks.

Even in the case of Kazakhstan I, where strong benchmarks were set, abuse took place. Crucially though, they were detected and remedied.¹⁵⁵ In the case of Kazakhstan II, there is a much higher risk of abuse, and a much lower chance it will be detected.

Kazakhstan II is affected by a number of serious shortcomings which demand immediate and longer-term action. These shortcomings begin at the very inception of the return process. It was observed that the \$48.8 million was returned through a series of transactions which obscured the money's link to confiscated assets. A series of misleading statements issued by the World Bank and Kazakh Government only served to further break the restitutive connection.

This created the context in which a high-risk return methodology could be adopted, without the external scrutiny that would ordinarily accompany a high-profile asset return case. In the instance of the Youth Corps Programme, project coordination was entrusted to three gongos while the programme's overarching governance and management was placed in the hands of Kazakhstan's Ministry of Education and Science.

The high-risk nature of this return methodology needs to be underlined. Corruption is an endemic feature of the Kazakh state which sustains its authoritarian rule through a system of neo-patrimonial politics. Of course, the World Bank in its oversight role attempted to safeguard the assets against abuse in this high-risk environment. Nonetheless, there has been a lack of sufficiently robust mechanisms in place that can a) prevent the restituted assets from being misused; and b) detect and remedy inappropriate conduct.

This conclusion is supported by evidence outlined above which indicates that the restituted assets were used to fund a) a range of politicised organisations directly or indirectly linked to Nur Otan; and b) state propaganda that was designed to entrench President Nazarbayev's ruling ideology. Evidence was also disclosed suggesting a serious lack of transparency with respect to procurement and grant-making. The latter process, in particular, appears to have been seriously impacted by incidences of malfeasance. This is not to overlook that the funds have also been used for worthwhile youth development activities. The problem is this good work is inextricably married with a range of much more problematic transactions.

¹⁵⁵ A. Bornstein, 'The BOTA Foundation: A Model for the Safe Return of Stolen Assets?', *Philanthropication thru Privatization Project*, 2016, p.34, http://p-t-p.org/wp-content/uploads/PtP_Bota-Foundation-Case-Study_Bornstein.pdf (accessed 2 December 2018).

Given the significant risk that returned assets belonging to the people of Kazakhstan are being abused, and/or used for purposes that fall outside the scope of restitution, a number of immediate steps are recommended for actioning by the Government of Switzerland and World Bank:

- **All non-essential expenditure associated with the \$48.8 million in restituted assets should be paused.**
- **An independent, arms-length inquiry should be conducted into Kazakhstan II. This inquiry needs to:**
 - Investigate the Youth Corps and Energy Efficiency programme expenditure to determine if the funds have been impacted by malfeasance (such as fraud), and to ensure proper records have been kept that conform to Kazakh law and World Bank standards.
 - Review the personnel and organisations employed in the asset return programme, to determine whether conflicts of interest have been declared and properly handled.
 - Conduct an evaluation of the current return methodology and oversight structures used to safeguard funds to determine whether reform is required.
 - Consider the appropriateness of restituted funds benefiting entities tied to Nur Otan party, government officials, and other politically exposed persons.
 - Devise methods that will allow independent civil society in Kazakhstan to have a meaningful role in the asset return process.

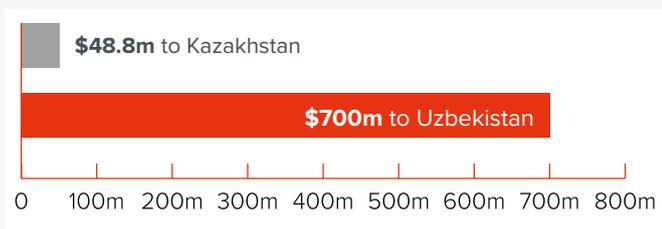
- **A clear roadmap should be developed for safeguarding the remaining funds to ensure all future applications of the restituted assets meet *GFAR Principles for the Disposition and Transfer of Confiscated Stolen Assets in Corruption Cases*.**

In addition to these immediate measures, the experience of Kazakhstan II suggests that the Swiss Government and World Bank need to work in collaboration with the research community and civil society, to develop transferable return methodologies for countries seriously impacted by corruption that can underpin the return process' integrity. The urgency of this task is heightened by ongoing asset forfeiture cases, including those relating to Uzbekistan's Gulnara Karimova.

Table 8: Kazakhstan II and Uzbekistan I Compared

Kazakhstan II v Uzbekistan I

Switzerland may shortly restitute \$700m to Uzbekistan



The latter case, will almost certainly be one of the most challenging to confront Swiss authorities. Independent exiled Uzbek civil society activists, drawing on the lessons of Kazakhstan II, have already asked for a more judicious return method to be employed, with far reaching goals that could confront drivers of corruption. In an open letter dated 9 August 2018 they warn: “There is a high risk that without anti-corruption mechanisms in place unconditional return of the proceeds of corruption will very likely lead to funds being stolen once again and recycled anew into western and offshore jurisdictions”.¹⁵⁶ The letter continues: “The asset return should serve as remedy for the victims of corruption... The best remedy for victims is not compensation – which would neither be practical (with Uzbekistan’s specific institutional environment) nor have any lasting long-term, systemic effect – but rather measures to reduce the scale of corruption and human rights abuse in Uzbekistan”.¹⁵⁷ The civil society letter concludes by enumerating a series of public administration, justice, public finance, corporate transparency, and civil/political freedom reforms, the returned assets could be leveraged to prompt. Serious engagement with civil society and fresh principled thinking like this is one essential step in the right direction. By contrast closed and opaque decision making bore problematic fruit in Kazakhstan II, that is not in keeping with the laudable aspirations of the Swiss Government with respect to asset recovery.

TI Corruption Perception Index 2017

1 is the least perceived corrupt. 180 is the most perceived corrupt



This investigation also reveals the return risks associated with complex international financial transactions, involving multiple state parties, IFIs, the private sector and civil society organisations. There is currently no arms-length body which provides independent oversight of asset return, or that can be appealed to when defects are uncovered and remain unaddressed. With welcomed multilateral benchmarks such as the GFAR principles, it is important moving forward that an international ombudsman/inspector general unit is set up to provide external oversight of the asset return process.

¹⁵⁶ Corruption & Human Rights Initiative, ‘Principles for Responsible Asset Repatriation to Uzbekistan’, *Corruption & Human Rights Initiative*, <https://corruptionandhumanrights.org/publications/uzbek-activists-proposal-principles-for-responsible-asset-repatriation-to-uzbekistan/> (accessed 28 November 2018).

¹⁵⁷ Ibid,

Appendix A:

Response from the World Bank and Swiss Government

Preliminary findings from this investigation were published on 5 July 2018. On 11 October 2018 correspondence was sent to the World Bank and the Swiss Department of Foreign Affairs setting out a range of questions emerging from the final results. The World Bank replied on 2 November 2018:

For answers to your questions please refer to the project procurement-related information including the detailed sub-grants implementation plans of Coordinating Agency published on the website of the Ministry of Education and Science of Kazakhstan. Please note that all procurement processes to implement project activities, including the contract for the Coordination Agency, are required to follow the World Bank's procurement guidelines. The Bank undertakes regular implementation support missions throughout the project implementation period to evaluate progress and validate achieved milestones, both with clients and on site. Findings from these missions are reported in the Implementation Status and Result Reports, which are publicly available on the World Bank website Please note that the World Bank takes all allegations of fraud and corruption very seriously and has a rigorous internal process in place to handle such cases. Questions about this program have been referred to the World Bank's Integrity Vice Presidency, which is an independent unit within the World Bank responsible for assessing whether there is need for an investigation into alleged fraud and corruption on World Bank-financed projects.¹⁵⁸

At the time of publication, Chief of the Swiss Asset Recovery Task Force within the Department of Foreign Affairs has promised to provide answers to questions raised by the investigation. These answers will be attached as a postscript on the publication's website once received.

¹⁵⁸ Correspondence from Lilia Burunciuc, World Bank Regional Director, Central Asia, to Professor Kristian Lasslett, Ulster University, 2 November 2018.

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