



Assisting Victims of Corruption: The Case of the BOTA Foundation

Improving the Human Rights dimension of the fight against
Corruption International Conference
Geneva, CICG, 19-20 February 2018

What was the BOTA Foundation?



BOTA – A Brief History

Date	Event
1999	Swiss Government investigates Bank Accounts associated with Kazakhstan
	Department of Justice begins investigation of James Giffen – requests Swiss freeze account with \$84 million
2000 - 2001	Seminal reports in the Western publications about Giffen and ties to Nazarbayev – “Kazakhgate” ensues
2003	Giffen arrested – Nazerbayev an unindicated co-conspirator
2003 - 2007	Discussions about disposition of the funds between US, Swiss, then Kazakhstan; 2005 – 2007 negotiations brokered by the World Bank
2007	MoU to start BOTA Foundation reached; Charter discussions start
2008	“Parties” nominate local “founders” - WB tender process to choose Program Manager
2009	IREX/Save the Children start BOTA – largest child welfare foundation in Central Asia -- ultimately has more than 200,000 beneficiarries
2014	BOTA closes its doors

Why BOTA's Focus on the Poor?

Fundamental founding principle agreed to by the Parties, supported by the World Bank, enshrined in the MoU

- U.S. – if it were to give up claim to funds, it “would restore forfeited property to victims of the underlying criminal violation...for the benefit of poor children and youth in KZ”**
- GoK – if it had access to the funds, “would use them to benefit the people of KZ and all Parties agree that the Funds should benefit “the most needy people of KZ”**
- Switzerland – supportive of a settlement assisting the poor, especially with WB technical and fiduciary oversight.**

BOTA's mission: to improve the health, education, and social welfare of children, youth and their families suffering from poverty in Kazakhstan.

Challenges of BOTTA's Focus on the Poor

- **Prohibition against working directly with the GoK**
- **How to reach the target population, given need to be independent of GoK, in the world's 9th largest country?**
- **Qualifying/validating deserving beneficiaries -- not enough resources for all**
- **Finding capable NGO partners, especially to work with beneficiaries in remote regions**
- **Bureaucratic delays in receiving approvals for drawing down funds, especially from US DoJ which is not an aid agency and had other priorities.**

Governance and Controls

- BOTA had five Kazakhstani founders (Kazakh citizens), whose responsibilities were transferred to the Board of Trustees (BoT) and they became members of the Board;
- US and Swiss Governments also represented on BoT;
- In 2008, Management of BOTA tendered to partnership between two international NGOs (IREX, Save the Children);
- Executive and Finance Directors were employed by IREX;
- BOTA Foundation supervised technically and financially by the World Bank;
- BOTA was also a subject to annual internal audit (from IREX) and external audit (from international standard firm);
- Annual workplans, budgets, draw-down cash requests were approved by the BoT, World Bank and founding governments

BOTA – Unique Features

- **Zero tolerance towards corruption**
 - Multiple sets of controls on the foundation and how money spent and accounted for, e.g., money dispensed in tranches twice a year
 - International program manager
 - Supervision by the World Bank
 - Internal and external annual audits
- **Zero tolerance towards Conflict of Interest**
 - GoK could not influence how funds spent, or benefit from them
 - All vendors, potential employees & grantees screened for Col
- **Hybrid organization – locally founded, but governed by international treaty**
 - 7 Trustees – 5 local – 2 international “super trustees”
 - 3 Governments had final say in all “substantial matters”
 - Additional conditionalities imposed – EITI and Accounting Reform
 - GoK had vested interest – and matching political will – in BOTA’s success.
- **Ultimately a “Spend-Down” Foundation**

What did BOTA do?

- **Implemented 3 programs:**
 - **Conditional Cash Transfer – >150,000 beneficiaries – direct cash transfers to 95,000 households valued at \$59 million; link to GoK services plus individual trainings;**
 - **Social Service Program – 600 projects of 300 NGOs funded & capacity development and networking; 53,000 end beneficiaries.**
 - **Tuition Assistance Program – 841 full scholarships & support.**
- **Modeled social service delivery innovations for NGOs and Government of Kazakhstan which have been adopted.**
- **Transferred about \$80 m of \$115 m back to poor families in Kazakhstan (69%) directly (86%) or through NGO grants (14%).**

CCT - Cash to Access State Services



Decreasing of anemia level among pregnant and lactating women, to improve health of newborn children



Quality improvement of home based care for children with disabilities through involvement parents in development of their children

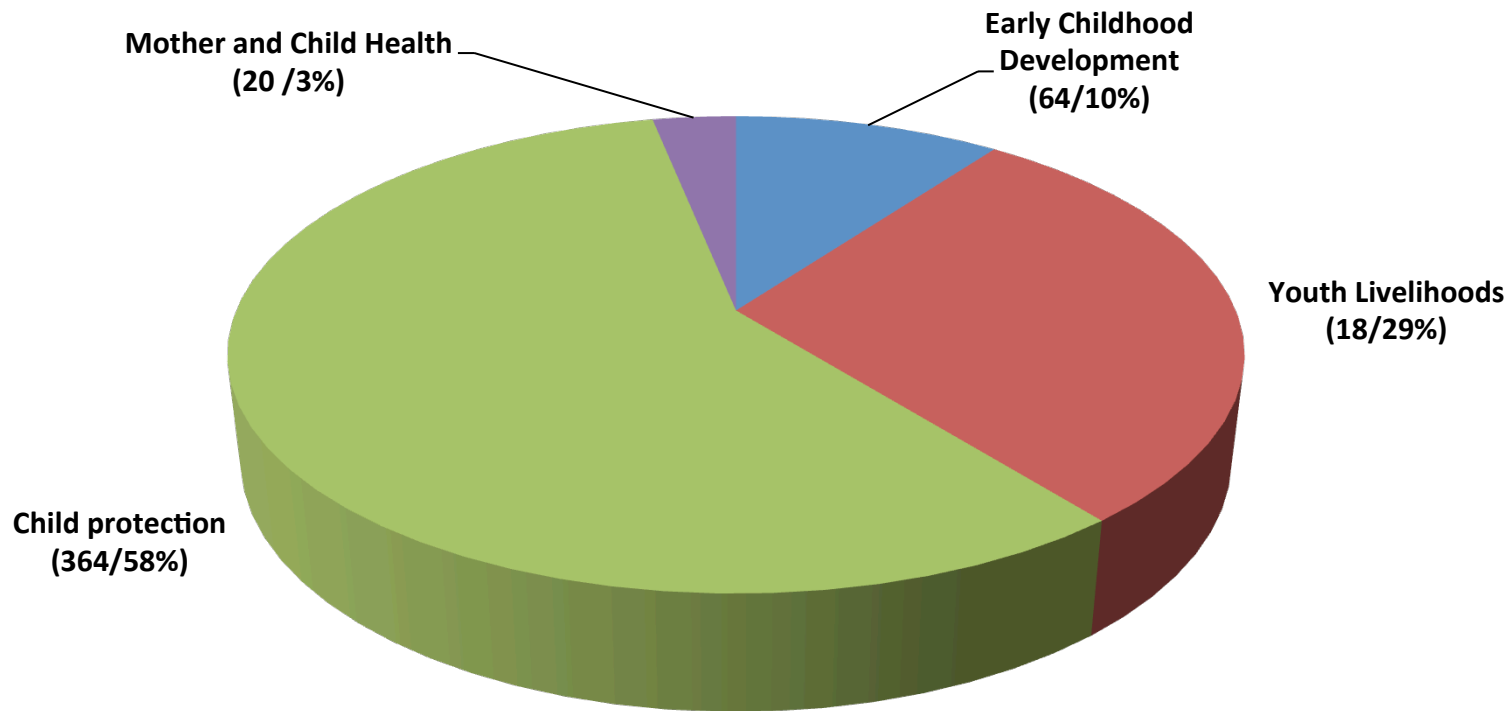


Expansion of access to early child development services for children aged 4-6



Expansion of employment opportunity for youth aged 16 – 19

BOTA NGO Social Service Grants by Sectors (632 in total)





Annual National Meetings, and periodic
Regional meetings

Social Service Bulletins
on best service delivery practices

Projects descriptions,
success stories,
documentation of best models;

Development of a National
Coalition of Social Service NGOs

**NGO
Networking
&
Information
Sharing**

GENERAL TAP STATISTICS

Number of TAP grantees	2009 cohort	2010 cohort	2011 cohort	2012 cohort	Total	%
University students	78	208	268	136	690	82
College students	9	29	60	53	151	18
Total	87	237	328	189	841	100

Total number of Grantees	841	%
Male	244	29
Female	597	71
People with disabilities	16	2
Orphans	137	16



TAP Graduates



The BOTA Foundation

SSP: beneficiaries' number: 53,571

CCT: beneficiaries' number: 154,241

TAP: scholarship holders' number: 841

Total number of beneficiaries:

208,653



As of September 2014

BOTA – Key Lessons

BOTA was “Proof of Concept” of the “non-state actor managed” corruption asset repatriation mechanism. BOTA succeeded in returning around \$80m in corruption assets to “corruption victims”, the poor, in Kazakhstan effectively, accountably and transparently, in limited (5 year) time period.

Important success ingredients included: close cooperation with civil society/NGO sector; close cooperation of the GoK/media; World Bank involvement as a honest broker; A reputable international NGO overseeing BOTA’s operations

Corruption risk always exists -- mitigation strategies needed from the outset.

BOTA’s top-heavy supervisory structure should be avoided, if possible, for future corruption-related asset return schemes.

The success and lessons of BOTA needs to be more widely understood and mainstreamed as an optimal solution for returning stolen and stranded assets.

For more information

Contact: Aaron Bornstein, Anti-corruption,
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Web Resources:

Aaron Bornstein, “*BOTA: A Model for the Safe Return of Corruption Assets*”, December 2016, www.p-t-p.org

Aaron Bornstein and Lester Salamon, “*How to Apply PtP to Stolen or Stranded Assets*” (PtP How-To Booklet no. 1, 12.2017)

Thanks for your attention!

