**JOINT STATEMENT ON THE HUMAN RIGHTS OF PEOPLE AFFECTED BY DAMS
AND OTHER WATER INFRASTRUCTURE**

**Rivers and People in Times of Crisis**

Water is crucial to life. Rivers serve as the Earth’s arteries, conveying water, nutrients and sediments from the sources of rivers to oceans. Rivers and other freshwater such as ponds, lakes, streams, wetlands, among others, support critical biodiversity, generate fertile floodplains, and sustain human habitats and economies. Wetlands support about 40 % of terrestrial animals.[[1]](#footnote-2) Freshwater ecosystems provide billions of people globally with water, food, and livelihoods security. Deltas, which depend on river flows and sediments, are global hotspots for food production that are home to over 5 % of the world’s population.[[2]](#footnote-3) Rivers also play a key role in the global carbon cycle, transporting CO2 from the atmosphere to the ocean, which is a major carbon sink, helping to reduce vulnerabilities related to climate change.

The health of rivers and other freshwater is in a critical condition: the arteries of the Earth are failing. Freshwater ecosystems are among the world’s most degraded, due to growing pressures. A recently published study found that over half of all river systems have been heavily affected by human activity, with very few remaining undamaged.[[3]](#footnote-4) Over 70 % of the world’s large river systems are blocked by dams[[4]](#footnote-5) and those that are still free-flowing are likely to be threatened by new mega-projects in the coming decades.[[5]](#footnote-6) Water pollution is also on the rise: 80% of the world’s wastewater is discharged back into the environment, polluting rivers, lakes, and coastal areas.[[6]](#footnote-7) Due to ecosystem degradation and fragmentation, the last 50 years have seen an 83% decline in freshwater species.[[7]](#footnote-8) An estimated 85% of natural wetlands have disappeared over the last century due to human activity.[[8]](#footnote-9)

More than half of the world’s accessible freshwater flows are appropriated for human use.[[9]](#footnote-10) However, new productive demands continue to grow and be prioritized, result in freshwater scarcity which constitutes a true obstacle when it comes to meeting people’ basic needs and human rights, as well as to maintain the health of ecosystems.[[10]](#footnote-11) Water scarcity problems are caused by multiple and complex factors, such as the physical limitation of supplies, overuse in certain productive activities, deteriorating water quality, poor planning and mismanagement but above all by the lack of effective criteria for prioritization among the various uses and the breakdown of the health and sustainability of aquatic ecosystems. In addition to significant benefits, the construction of some 60,000 large dams to develop irrigation, produce hydroelectricity and supply all kinds of productive activities and urban services has generated, until now, , serious impacts on ecosystems and food sources and on other basic needs of many vulnerable communities, forcing massive displacements and serious indirect impacts downstream of the dams. Climate change is exacerbating these impacts derived from the degradation of rivers and freshwater ecosystems. Despite all this, it is worrying that today, taking climate change as an argument, new large hydroelectric dams are being projected as considered as supposedly sustainable sources of energy, hence evading consideration of the socio-environmental impacts of these large infrastructures, which are now well known.

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**World Commission on Dams, Twenty Years On**

At the end of the last century, a World Bank initiative to reflect on and assess strategies based on the construction of large dams, led to an independent project, the World Commission on Dams, as a result of severe criticism against the Bank's financing of highly conflictive projects,. In November 2000, more than twenty years ago, the World Commission on Dams presented the findings of its landmark report, *Dams and Development: A New Framework for Decision-Making*.[[11]](#footnote-12) In its overall findings, the report stated that: “Dams have made an important and significant contribution to human development, and the benefits derived from them have been considerable. [However] in too many cases an unacceptable and often unnecessary price has been paid to secure those benefits, by people displaced, by communities downstream, by taxpayers and the natural environment. Lack of equity in the distribution of benefits has called into question the value of many dams in meeting water and energy development needs when compared with alternatives.”[[12]](#footnote-13)

The report was the culmination of an extensive multi-stakeholder process that brought together representatives of governments, industry and construction companies, experts, academics, universities, civil society and dam-affected peoples. The World Commission on Dams was constituted in 1998, chaired by Professor Kader Asmal, former South African Minister for Water Affairs and Forestry, and included 12 commissioners drawn from governments, the hydropower industry, academia, grassroots movements and civil society. The Commission was tasked to review the “development effectiveness” of large dams and reflect on the legacy, impacts, and benefits of the “unprecedented expansion in large dam-building”[[13]](#footnote-14) during the 20th century. The Commission developed an extensive knowledge base and reviewed more than 150 large dams, including eight case studies, 17 thematic studies, and over a thousand public submissions and testimonials. The final report was launched on 17 November 2000 by former South Africa President Nelson Mandela.[[14]](#footnote-15)

The Commission’s approach was explicitly framed around the Universal Declaration of Human Rights and a human rights-based approach to development. The report’s findings included the following:

* Between 40-80 million people were displaced by dams during the twentieth century. This estimate does not include the millions of people ‘indirectly displaced’ or otherwise affected by the wider destruction or degradation of food, water and livelihoods sources. In many cases, displacement was involuntary, and undertaken in the absence of any or adequate compensation and in violation of the conditions necessary to sustain human dignity.
* Large dams have a range of extensive impacts on rivers, watersheds and aquatic ecosystems – these impacts are more negative than positive and, in many cases, have led to irreversible loss of species and ecosystems.
* Pervasive and systematic failures to assess the range of potential negative impacts and implement adequate mitigation, resettlement and development programmes for the displaced, and the failure to account for the consequences of large dams on downstream livelihoods have led to the impoverishment and suffering of millions.
* The impacts of dams have given rise to social conflict and opposition by affected communities worldwide, in some cases resulting in the use of intimidation, violence and killings by State actors and dam proponents.
* Indigenous peoples, ethnic minorities and other populations in marginalised situations have disproportionately suffered these impacts and harms, together with the loss of their territories and cultural integrity.
* Among dam-affected communities, gender gaps have widened with women often bearing a greater share of the costs and discrimination in the distribution of benefits.

Based on these findings, the Commission proposed a new framework for decision-making on dams, drawing on international human rights standards. This framework includes:

* Decision-making processes for dams must ensure the effective consultation of affected people and the free, prior and informed consent of indigenous and tribal peoples.
* Decisions should be based on comprehensive and participatory assessment of needs for water, food and energy and the full range of policy, institutional and technical options to meet those needs.
* Priority should be given to optimising benefits from existing dams, addressing outstanding social issues and strengthening environmental mitigation and restoration over building new projects. Periodic participatory reviews of existing reservoirs should be carried out to evaluate elements such as their safety, and even the possibility of removing them from operation and returning, as far as possible, to the situation prior to construction (according to *American Rivers* almost 2000 dams have been removed in the USA over the last decades*)*.
* Options assessment and decision-making on river development should prioritise avoidance of impacts, followed by minimisation and mitigation of harm to the health and integrity of the river system.
* Dam development should recognise entitlements that improve livelihoods and quality of life and ensure affected people are really beneficiaries of the project. Mechanisms should be developed to indemnify, or retroactively compensate, those who have been harmed by existing dams and to restore damaged ecosystems.

 Two decades later, the Commission’s guidelines and recommendations have gained ground thanks to a number of factors. Since 2001, the Aahrus Convention, developed within the framework of the United Nations Economic Commission for Europe (UNECE), has been a major step forward in terms of access to information, pro-active public participation and access to justice in environmental and, in particular, water issues. The United Nations Declaration on the Rights of Indigenous Peoples adopted in the General Assembly in 2007 clearly establishes that ‘States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral**, water** or other resources.’ The human-rights based framework is increasingly relied on in decision-making and in the assessment of official policies. The World Bank and other International Finance Corporations have recognized the right of indigenous peoples to free, prior, and informed consent, although this right is routinely disregarded at project level. The importance of considering cumulative impacts in planning at the basin and system scale-rather than simply at the level of individual projects-is increasingly accepted, leading to the need for strategic basin-scale assessments, although they are not always mandatory. Finally, the hardest struggles have resulted in settlements and reparations for the destructive legacies of some projects.

In any case, governments and institutions have only partially and to a very limited extent adopted and implemented the Commission's recommendations in practice. On the other hand, the Commission unfortunately did not specify effective mechanisms to ensure the adoption and implementation of its recommendations. As a result, even today, rivers and the communities that depend on them continue to be threatened in many cases by new mega-projects, especially for hydroelectricity production in the context of climate change, without respecting the Commission's recommendations or providing effective human rights guarantees.

**Large Dams and Human Rights**

Since the publication of the *Dams and Development* report, numerous other studies[[15]](#footnote-16) have built on its findings to examine the impacts of such projects and provide recommendations to ensure the protection of human rights and the environment in the development of such projects. A 2010 study demonstrated that over 470 million people have been negatively impacted by large dams. This was the first global estimate of the number of river-dependent people affected by dam-induced changes in river flows and other ecosystem conditions, beyond those subject to resettlement and involuntary displacement. The study highlighted the pressing need for comprehensive assessments of dam costs and benefits and the social inequities between dam beneficiaries and those suffering adverse impacts.[[16]](#footnote-17)

A 2010 report by the Inter-American Association for the Defense of the Environment (AIDA), entitled *Large Dams in the Americas: Is the Cure Worse than the Disease?,[[17]](#footnote-18)* analysed the ways in which the development of dams frequently disregards international obligations and standards. These include: impacts on the health, food sources, housing and ways of life of dam-affected people, as well as on the sustainability of ecosystems and their biodiversity, negatively affecting human rights to drinking water, sanitation, housing, health, and food; forced displacement that violates human rights to housing, an adequate standard of living, and freedom of movement; denial of rights to information and participation in decision-making and violation of the rights of affected indigenous peoples over their territories and their rights to free, prior and informed consent; violations of the rights to life and freedom of expression through the criminalization of protests, threats, attacks and even murders of individuals opposing dams.

Since 1 January 2005, Special Procedures have sent around 165 communications to States, international financial institutions, and business corporations raising concern about human rights violations associated with dams. The open debate on future large hydroelectric dam projects, positioning them as a way to tackle ongoing climate change, must take into consideration the enormous social and environmental impacts of the large infrastructures which, in fact, undermine their consideration as sustainable options even if they generate renewable energy, while demanding the consideration of other alternative options more sustainable, more acceptable and consistent with human rights-based approaches.[[18]](#footnote-19) In any case, the allegations show that serious human rights violations associated with dams are still ongoing. Allegations of lack of adequate consultation with affected communities, harm to their lands and livelihoods and unfairly or poorly implemented resettlement projects that violate the rights of those displaced and forced eviction. As previously stated, although many international financial institutions have adopted guidelines that include environmental and social impact assessments and resettlement plans these are often developed in disregard of affected people and even, where these exist, their implementation is often weak as is access to justice and legal accountability for violations, even after decades.

Many of these communications denounce violations of the rights to freedom of expression, assembly and association, refer to excessive use of force and arbitrary detention of protesters, intimidation, including death threats against civil society representatives and, in some instances, the killing of opponents of large-scale hydroelectric dam projects. Despite adoption of grievance and complaints mechanism by international financial institutions and by some business actors involved in the construction of dams, civic space appears to be shrinking in many countries when it comes to peacefully challenge large-scale infrastructure projects .

New financial actors have emerged ensuring easier access to credit and financing for large scale infrastructure projects, especially large hydroelectric dam projects, resulting often in increasing debt and quicker realization of mega-projects, but not necessary an improved human rights record. The core message of the UN Declaration on the Right to Development that the human person should be the central subject of development as well as an active participant and beneficiary of it, remains too often ignored if we appreciate the realities that affected communities and the ones that have been resettled continue to live. Still too often the electric energy generated by hydro-electric dams is not available to the homes of the affected local population but rather benefits large cities and industry, often located afar.

This is due to a range of factors: the complex array of actors involving in planning, financing and construction; the dilution or weak application of environmental and social standards and lack of accountability within national legal systems; the priority given to corporate profits in the planning of projects and the outsourcing of risks and harms to local people; the failure to include negative impacts on the environment in the assessment of projects; and the power imbalances between decision-makers, companies involved and populations in vulnerable situations. In short, dams continue to be constructed without adequate adherence to human rights and environmental standards and measures to protect affected communities, freshwater sources, critical ecosystems and biodiversity.

In his thematic report to the United Nations General Assembly on the global water crisis (A/HRC/46/28, January 2021), the Special Rapporteur on human rights and the environment, David Boyd, stated that “[…] climate change is used to justify renewed interest in hydropower projects, despite their potentially adverse effects on human rights and ecosystem health.”[[19]](#footnote-20)

The UN Special Rapporteur on the rights of indigenous peoples in a thematic study on the impacts of climate change and climate finance on indigenous peoples’ rights (A/HRC/36/46, 2017) also outlined concerns over the use of climate funding and climate finance for hydropower dams and other projects that violate indigenous peoples’ rights and are constructed without their free, prior and informed consent, stating that since 2014 he has received “an increasing number of allegations concerning situations where climate change mitigation projects have negatively affected the rights of indigenous peoples, notably renewable energy projects such as biofuel production and the construction of hydroelectric dams.”[[20]](#footnote-21)

The Special Rapporteur on the right to adequate housing noted in a 2013 report that there is still a notable gap in the World Bank Operational Policy and Bank Procedures on Involuntary Resettlement. While the Banks Procedures on involuntary resettlement are generally compatible with human rights standards, they fall short of guaranteeing that the right to an adequate standard of living, including adequate housing, will be upheld for displaced persons.[[21]](#footnote-22)

Recommendations and comments by OHCHR on various safeguards, information and accountability policies of other international development banks, such as the African Development Banks (AfdB), the Asian Infrastructure Investment Bank (AIIB), the European Bank for Reconstruction and Development Bank (EBRD) and the Inter-American Development Bank (IDB) indicate that there is still much room for improving the existing standards of these banks to ensure that human rights are fully respected and protected by large development projects financed by development banks.[[22]](#footnote-23)  The record of existing accountability mechanism of international financial institutions providing funding for large dams falls all too often short of ensuring justice to those affected.[[23]](#footnote-24)

Despite the growing availability of less impactful options to meet energy and water needs,[[24]](#footnote-25) and despite having raised these concerns, the International Hydropower Association (IHA) has recently called for increased investment in hydropower of US$100 billion a year, to meet a targeted 850GW of new installed capacity by 2050,[[25]](#footnote-26) which amounts to over 60% of current global installed capacity of 1300GW. At the same time, the IHA is developing a proposed ‘sustainable hydropower’ certification scheme.[[26]](#footnote-27) The scheme is based on the industry’s own assessment tools - the Hydropower Sustainability Assessment Protocol and the Hydropower Sustainability ESG-Gap Analysis Tool - which lack independence and have been critiqued as falling significantly short of international human rights standards.[[27]](#footnote-28) The emerging so called green financing mechanisms, such as green bonds and climate bonds, also extend new forms of finance to large dams in the absence of human rights standards and safeguards.[[28]](#footnote-29)

**Applying a Human Rights Framework**

As explained above, several United Nations Special Procedures have highlighted the wide-ranging human rights impacts of large dams in their reports and statements and provided guidance for the application of human rights to the development of dams and other mega-projects. In July 2019, the former Special Rapporteur for human rights to drinking water and sanitation, Leo Heller, presented to the UN General Assembly a thematic report entitled *The impact of mega-projects on human rights to water and sanitation* (A/74/197)[[29]](#footnote-30)  assessing the range of threats to human rights posed by mega-projects, including large dams, finding that:

*“…Possible negative effects include reduced availability or accessibility to water-related services or water sources, due to over-exploitation, blockage, diversion, or deterioration in quality. The impact on water availability, accessibility and quality, in turn, may affect other aspects of the human rights to water and sanitation, such as affordability, acceptability, privacy and dignity, and other rights, like the right to health, housing and education. It also impacts on other interrelated rights stemming from social conflicts, which are exacerbated by mega-projects and power imbalances between project supporters and those negatively affected.”*

States and international development actors are bound by human rights frameworks, while private enterprises have human rights responsibilities as set out in the United Nations ‘Guiding Principles on Business and Human Rights’[[30]](#footnote-31) as well as in the Guiding Principles on Extreme Poverty and Human Rights. However, the Rapporteur’s report finds that institutions have used policies and instruments that do not effectively incorporate or implement the normative content of human rights principles.[[31]](#footnote-32) These gaps result in a lack of adequate human rights safeguards in the implementation of megaprojects. The report concludes that: “In view of the wide range of negative consequences mega-projects have for the human rights to water and sanitation and other interrelated rights, it is necessary to assess the feasibility and necessity of such projects in relation to the human rights framework.” The report proposes 22 guidelines to guarantee the fulfillment of the human rights to water and sanitation in the development of large dams and other mega-projects.

In his recent report on the global water crisis (A/HRC/46/28),[[32]](#footnote-33) the UN Special Rapporteur on human rights and the environment identified key threats in the form of human pressures on aquatic ecosystems, including: “water extraction, pollution, habitat destruction, flow modifications, fragmentation from dams and other infrastructure, the over-exploitation of species and the introduction of invasive species”; while denouncing the increasing repression, intimidation and criminalization of Environmental human rights defenders for their courageous efforts to protect water

In this line, the UN Special Rapporteur on human rights defenders conducted a thematic report on environmental defenders in 2016 (A/71/281).[[33]](#footnote-34) Examining the cases of killings of environmental defenders from the previous year, the report found that hydroelectric dams and water rights were a major driver of killings and other threats and intimidation, alongside mining and extractive industries, agribusiness, and logging. The report was followed by a 2019 Resolution adopted by the Human Rights Council,[[34]](#footnote-35) aimed at recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development and ensuring their protection.

The UN Special Rapporteur on the rights of indigenous peoples for his part has issued guidance for natural resource extraction projects to be developed in a manner consistent with indigenous peoples’ rights, including the right to free, prior and informed consent (A/HRC/24/41).[[35]](#footnote-36)

The Basic Principles and Guidelines on development-based evictions and displacement, elaborated by the UN Special Rapporteur on the right to adequate housing in 2007 (A/HRC/4/18)[[36]](#footnote-37) provide human rights guidance to resettlement and displacement, based on the principle that resettlement should be undertaken as only in exceptional circumstances and ensure those displaced are in an equal or better position following the displacement. The Basic Principles cover what States and other actors such as international financial institutions and business enterprises must ensure before, during and after any resettlement. They underline that if relocation cannot be avoided “all persons, groups and communities have the right to resettlement, which includes the right to alternative land of better or equal quality and housing that must satisfy the following criteria for adequacy: accessibility, affordability, habitability, security of tenure, cultural adequacy, suitability of location, and access to essential services such as health and education.” The Basic Principles furthermore require that prior to any eviction “comprehensive resettlement plans specifically addressing efforts to protect vulnerable groups” are made available to those affected and that “the right of affected persons, group and communities to full and prior informed consent regarding relocation must be guaranteed.” Furthermore States must “provide all necessary amenities, services and economic opportunities” at relocation sites and all persons evicted should “irrespective of whether they hold title to their property […] be entitled to compensation for loss, salvage and transport of their properties affected, including the original dwelling and land lost or damages in the process” (para 56). “Where land has been taken, the evicted should be compensated with land commensurate in quality, size and value, or better.” (para. 60).

**Recommendations**

Calling attention to the continued threats to human rights posed by large dams and other water mega-infrastructures, and setting aside the need for an assessment of the contested benefits obtained from large dams:

* We call on all Governments to ensure independent and retrospective reviews of dams in their countries and their impacts on people in order to ensure fair compensation and reparation for harm and guarantee human rights to drinking water, drinking water and sanitation, housing, food, education and health.
* We also call on all Governments to effectively implement and enforce international human rights obligations and related standards and guidelines, including the Basic Principles and Guidelines on Development-based Evictions and Displacement, UN Guiding Principles on Business and Human Rights, the UN Guiding Principles on Extreme Poverty and Human Rights and the UN Declaration on the Rights of Indigenous Peoples, and with reference to the framework established by the World Commission on Dams.
* We appeal to the United Nations Human Rights Council to monitor the impacts of dams on people and the implementation of human rights obligations and guidelines in the development of dams and other water mega-infrastructures.
* Concerned about manipulated use of climate change as an argument to promote new large hydroelectric dams, we call on international institutions and entities working for sustainable responses to ongoing climate change, as well as Governments, the World Bank and other financial institutions to take into consideration the serious social and environmental impacts of large dams, with the corresponding risks of unsustainability and socio-environmental inequity that they entail, while we recommend considering the development of the many available alternative strategies and technologies that are truly sustainable and consistent with human rights-based approaches, particularly in the area of sustainable energy sources.

This joint statement is issued by:

Pedro Arrojo Agudo, Special Rapporteur on the human rights to safe drinking water and sanitation,

David Boyd, Special Rapporteur on human rights and the environment

Michael Fakhri, Special Rapporteur on the right to food

Cecilia Jimenez-Damary, Special Rapporteur on the human rights of internally displaced persons

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18. See generally: <https://spcommreports.ohchr.org/> Countries to which letters were sent include, Australia, Bosnia Herzegovina, Brazil, Cambodia, Canada, Chile, China, Colombia, Costa Rica, Ecuador, Ethiopia, Germany, Georgia, Ghana, Guatemala, Honduras, India, Indonesia, Iran, Kenya, Lao’s People’s Democratic Republic, Malaysia, Morocco, Mexico, Mongolia, Myanmar, Nepal, Pakistan, Panama, Papua New Guinea, Paraguay, Philippines, Republic of Korea, Sudan, Suriname, Switzerland, Thailand, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland, and Viet Nam. [↑](#footnote-ref-19)
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31. The reports states: “For example, the Environmental and Social Performance Standards of the International Finance Corporation provide guidelines for parties responsible for implementing and operating projects, to identify, avoid, mitigate and manage environmental and social risks and impacts, which are non-binding and not grounded in the human rights framework.” [↑](#footnote-ref-32)
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