

# Resettlement

Review of EIAR  
for the Ilisu Dam and HEPP

**Submission**  
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# Executive Summary

1. Internationally accepted practice, as established by leading international and intergovernmental bodies, dictates that an Environmental Impact Assessment Report for projects involving involuntary resettlement should include a full resettlement action plan. The EIAR does not include a resettlement plan of any description. The EIAR therefore fails to comply with its own reference benchmark, with those cited by the UK government and with international best practice. **In and of itself, this constitutes sufficient grounds for rejecting the EIAR and refusing export credit support for the project.**

2. **The non-disclosure of the full Resettlement Action Plan, not least to those who would be affected by resettlement, constitutes such a gross violation of international guidelines that an immediate stay should be imposed upon the application for support.**

3. Without access to the full RAP, those directly or indirectly affected by the project are in no position to judge whether or not appropriate measures will be taken to remedy any violations of their human rights. **The Kurdish Human Rights Project has been advised that this is likely to constitute a multiple breach of Article 8 of the European Convention on Human Rights. Those Export Credit Agencies (ECAs) from countries which are parties to the ECHR could therefore find themselves liable to legal challenge by affected and interested parties.**

4. From the evidence on resettlement presented in the EIAR and in the RAP summary, it is clear that many of the problems previously identified by participating ECAs have yet to be remedied and that **the resettlement plan compiled - but not released - by the Turkish authorities still falls far short of the World Bank standards to which Turkey has said it will adhere.** Specifically:

- It fails to incorporate an “indigenous peoples’ development plan”;
- It fails to assess legal rights of affected Kurdish ethnic minority;
- It fails to carry out a full census of the affected population;
- It is based on an inadequate socio-economic survey of affected communities;

- It employs out-of-date and incomplete cadastral surveys;
- It presents an inadequate assessment of vulnerable groups;
- Its analysis of Turkish expropriation experience is inadequate
- It fails to comply with international best practice on consultation
- It fails to ensure the participation of affected people in planning resettlement;
- It fails adequately to assess gender implications of resettlement;
- It fails to demonstrate that the institutional arrangements are adequate to ensure resettlement practices comply with international standards;
- It fails to incorporate a credible budget;
- It fails to include provisions for independent monitoring;
- It provides an inadequate and misleading treatment of Turkey's past resettlement record; and
- It fails to analyse the resettlement impacts of alternatives to Ilisu.

## **5. As currently planned and executed, the Ilisu Dam and HEPP:**

- 1. Breaks seven major World Bank safeguard policies or guidelines relating to resettlement on thirty counts.**
2. Breaks two OECD DAC guidelines relating to resettlement on fourteen counts.
3. Breaks the World Commission on Dams's six resettlement-related Strategic Priorities and associated Guidelines on thirty-one counts.
- 4. Breaks two Ex-Im guidelines on two counts.**

## **6. Such violations lead us to conclude that current resettlement plans for Ilisu:**

- 1. Fail to comply with the benchmark guidelines to which ECAs have singly or collectively bound themselves with respect to evaluating Ilisu's compliance with the ECAs' joint condition on resettlement.**
- 2. Fail to achieve the objectives laid down by the UK government when imposing conditions to ECGD support for Ilisu.** In particular, the continuing repression in the region renders the key objective of proper consultation unattainable.
- 3. Fail to comply with the UK's broader policies on sustainable development, particularly those relating to participation.**

4. **Fail to comply with the ECAs' condition on resettlement in every major respect.** From the evidence presented in the EIAR and the Executive Summary, there are no credible grounds for concluding that a resettlement plan has been drawn up which "reflects internationally acceptable practice."

7. On the basis of the evidence presented in the EIAR and Executive Summary of the RAP, together with our knowledge of conditions in the region, **we recommend that the ECAs reject any applications being considered for export credit or investment guarantee support for Ilisu.**

Corner House Research  
Ilisu Dam Campaign  
Kurdish Human Rights Project  
Friends of the Earth  
Berne Declaration  
Campaign An Eye on SACE  
Pacific Environment  
World Economy, Ecology and Development (WEED)

# Purpose and structure of review

The purpose of this Review is to evaluate the extent to which the recently published *Ilisu Dam and HEPP: Environmental Impact Assessment Report (EIAR)*<sup>1</sup> and *Summary of the Resettlement Action Plan of Ilisu Dam and HEPP Project*<sup>2</sup> demonstrate compliance in respect of:

1. The resettlement conditions which participating Export Credit Agencies (ECAs) have attached to their support for the Ilisu project - namely the drawing up of "a resettlement plan which reflects internationally accepted practice and includes independent monitoring."
2. The international guidelines (OECD, World Bank and WCD) cited by the UK and other governments as the benchmarks against which compliance with this condition will be judged.
3. Other considerations (for example, compliance with international legal obligations) additionally cited by the UK and other governments as a condition for approving export credit support;
4. The specific objectives which the UK and other governments have stated that they seek to achieve through implementation of the condition.

## Structure of the Review

The Review has been structured as follows:

Section 1: Background outlines the major concerns that have been raised over resettlement at Ilisu. Additional background information is appended as Annexes 1 and 2. These Annexes form part of the Review and should be read in conjunction with it.

Section 2: Government statements on the evaluation of compliance with ECA conditions sets out (a) the conditions laid down by the participating ECAs and (b) subsequent statements made by the UK and other governments which clarify the aims of the condition and the guidelines for evaluating the project's compliance with them.

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<sup>1</sup> Consortia for Ilisu, *Ilisu Dam and HEPP: Environmental Impact Assessment Report*, April 2001, released July 2001. Hereafter: EIAR.

<sup>2</sup> DSI, *Executive Summary: Resettlement Action Plan of Ilisu Dam and HEPP Project*, [www.dsi.gov.tr/enghm.htm](http://www.dsi.gov.tr/enghm.htm). Hereafter: Executive Summary RAP

Section 3: General comments on the Ilisu EIAR and RAP assesses the extent to which the EIAR and RAP comply with international best practice on reference guidelines, scope, format, process and disclosure of "social operational documents".

Section 4: Evaluation of resettlement provisions evaluates the extent to which the EIAR and RAP demonstrate the project's compliance with specific OECD, World Bank and WCD requirements for projects involving involuntary resettlement.

Section 5: Evaluation summarises the current status of the project with regard to its compliance with the resettlement conditions laid down by the ECAs and their governments.

## Background: Resettlement concerns

### The project

Few infrastructure development projects have caused as much international controversy in recent years as the proposed Ilisu Dam in the Kurdish region of Southeast Turkey. Scheduled for construction on the River Tigris, some 65 kilometres from the Syrian border, the dam is intended to generate 3,618 gigawatt-hours of electricity a year<sup>3</sup>, in addition to storing water for downstream irrigation during the dry season.<sup>4</sup>

The dam forms part of the giant Southeastern Anatolia Project (known as GAP after its Turkish name, Guneydogu Anadolu Projesi), a network of 22 dams and 19 power plants: it would be built by a consortium of European and US companies for the Turkish government's State Hydraulics Works Department (DSI). Financial backing is being sought from the Export Credit Agencies (ECAs) of the companies' respective national governments, with Britain, Switzerland (and potentially the USA) signalling provisional

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<sup>3</sup> EIAR, p.2.14: "... the average annual energy production will amount to 3,618 GWh".

<sup>4</sup> EIAR, p.4.39: "... the positive effects for the downstream environment can be summarized as follows: ... Increase of the water available for irrigation during the dry period."

approval.<sup>5</sup> Once constructed, the \$2 billion dam would be transferred from DSI to the State electricity company, TEAS, which would then be responsible for its operation.<sup>6</sup>

## Concerns over Resettlement

Concerns over resettlement have been at the heart of the controversy over Ilisu. As approved by the Turkish authorities, the dam would flood an area the size of Manchester, submerging or partially submerging some 183 villages and hamlets<sup>7</sup> and the ancient town of Hasankeyf, a site of international archaeological significance. Yet, at the time that the project was provisionally approved by supporting ECAs, no resettlement plan had been drawn up for the estimated 78,000 people,<sup>8</sup> mainly ethnic Kurds, who will be potentially affected by the dam. Nor had there been any consultation whatsoever with affected people or their elected representatives: indeed, until late 1999, local Mayors had not even been informed that the project was going ahead.

Since the announcement of export credit support for Ilisu, a number of reports - from both Non-Governmental Organisations (NGOs)<sup>9</sup> and official sources<sup>10</sup> - have exposed massive deficiencies

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<sup>5</sup> Official and company statements as to which ECAs are involved have been contradictory and confusing. On December 15th 2000, the German Ministry of Finance released details of possible ECA support for Ilisu to the Budget Committee of the German Parliament. According to the figures supplied, eight agencies had been approached to cover 56% of the overall costs. The ECAs were as follows: Switzerland (16%), Italy (8%), UK (7%), Sweden (7%), USA (7%), Germany (5%) Japan (4%) and Austria (2%). These figures, however, do not accord with statements by individual ECAs as to the cover which has been sought from them. Information supplied by the various agencies to the Ilisu Dam Campaign and other groups suggest the following levels of support: Switzerland (470million Swiss francs); Germany (DM 150 million); UK (\$200 million); US (20 million); Italy (\$152 million). In evidence to the UK Select Committee on Trade and Industry in February 2000, Balfour Beatty, the lead contractor for the project, named the following countries as having been approached for credits, a list that differs from that given by the German government: "Switzerland, UK, Sweden, Italy, Germany, US, Portugal and perhaps Austria." Since then, the Swedish company involved in the project has withdrawn, so export credits would no longer be available from Sweden. See: German Federal Ministry of Finance, "Document prepared by the German Federal Ministry of Finance for the sitting of the parliamentary budget committee on December 15th, 1999", Bonn, 1999; "Memorandum submitted by Balfour Beatty Ltd." in Trade and Industry Committee, *Application for Support from ECGD for UK Participation in the Ilisu Dam Project*, Sixth Report, Session 1999-2000, The Stationery Office, February 2000.

<sup>6</sup> Balfour Beatty, "The Ilisu Dam Project: Information for Shareholders", London, 9 May 2000.

<sup>7</sup> Kudat, A., "Ilisu Dam's Resettlement Plan - Achieving International Best Practice", Working Document, Distributed to ECAs 16 August 2000. Hereafter: Kudat Report.

<sup>8</sup> Kudat Report, op.cit. ref 7, p.26. The EIAR gives a lower figure - 59,314. We would question the reliability of this lower figure (for further details, see Section 4, this Review).

<sup>9</sup> Such reports include: Berne Declaration, *Ilisu - A Test Case of International Policy Coherence*, Zurich 1999; Kurdish Human Rights Project, *The Ilisu Dam: A Human Rights Disaster in the Making*, London, 1999; International Development Committee, *ECGD, Development Issues and the Ilisu Dam: Report together with Proceedings of the Committee, Minutes of Evidence and Appendix*, Sixth Report, Session 1999-2000, The Stationery Office, London, 2000; Select Committee for Trade and Industry, *Application for support from ECGD for UK participation in the Ilisu Dam project: Report, together with Proceedings of the Committee, Minutes of Evidence and Appendices*, Session 1999-2000, The Stationery Office, London, 2000; ECGD, *Stakeholders' Attitudes to Involuntary Resettlement in the context of the Ilisu Dam Project, Turkey*, August 1999; The Ilisu Dam Campaign et al., *If the River were a Pen - The Ilisu Dam, the World Commission on Dams and Export Credit Reform*, London, 2001.

<sup>10</sup> See for example: International Development Committee (IDC), "ECGD, Developmental Issues and the Ilisu Dam: Report together with Proceedings of the Committee, Minutes of Evidence and Appendix", Sixth Report,

in the planning and implementation of the project.<sup>11</sup> Parliamentarians from the UK, Italy and Germany have also undertaken fact-finding missions, reporting critically on resettlement provisions for the dam.<sup>12 13</sup>

Public and parliamentary concerns with regard to resettlement have centred on four key issues:

*First*, that the long and continuing history of repression of the Kurdish majority in the region by the Turkish State makes a just outcome to the project unrealisable;

*Second*, that the Ilisu Dam - and the wider GAP project of which it is part - are motivated by political objectives aimed at the forced assimilation of the Kurdish population into mainstream Turkish society and culture;

*Third*, that the history of human rights abuses associated with past resettlement strongly suggests that deep and far-reaching institutional reform is necessary if the needs and human rights of those affected by Ilisu are to be ensured;

*Fourth*, that the project fails to meet the most basic international standards with regard to resettlement and environment.

These concerns are summarised below. Additional details are appended in Annexes 1 and 2 which form part of this submission and in the accompanying submission by the Diyarbakir Bar Association.

## Human Rights and the Repression of the Kurds

Central to the controversy surrounding the Ilisu project is the continuing repression of the Kurdish majority in the region by the Turkish State. Such repression has a long history

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Session 1999-2000, The Stationery Office, London, 2000: Trade and Industry Committee, *Application for support from ECGD for UK participation in the Ilisu Dam Project: Report, together with Proceedings of the Committee, Minutes of Evidence and Appendices*, Session 1999-2000, The Stationery Office, London, 2000.

<sup>11</sup> In July 2000, the UK parliament's International Development Committee concluded: "We have here a project proposed for ECA support that, despite having been in preparation for many years, fails almost every internationally agreed test in terms of both consultation and planning for environmental and social impacts . . . The Ilisu Dam was from the outset conceived and planned in contravention of international standards, and still does not comply." Following publication of the report, Ann Clwyd MP, a member of the committee and Chair of the Parliamentary Human Rights Group, visited the region. She reported that the visit had left her "disgusted" at the Turkish government's lack of meaningful consultation with the thousands who will be affected by what she termed "this miserable dam". See: International Development Committee, *Developmental Issues and the Ilisu Dam: Report together with Proceedings of the Committee, Minutes of Evidence and Appendix*, Sixth Report, Session 1999-2000, The Stationery Office, London, 2000, p.vii: Ann Clwyd, "Stop this Miserable Dam - Ann Clwyd Returns from Turkey", Press Release, 17 July 2000.

<sup>12</sup> See, for example: HC 512, Select Committee on Trade and Industry, *Ilisu Dam - report, together with proceedings of the committee*, Twelfth Report, 9 May 2001, The Stationery Office, London, 2001.

<sup>13</sup> A delegation of the German parliament's Human Rights Committee concluded that the Ilisu dam should not be constructed and that the German government should not give an export credit guarantee support. See: "Report of Journey of the Fact-Finding Mission of the Human Rights Committee of the German parliament to Turkey", 19-26 November 2000.

and is rooted in policies aimed at integrating the Kurds into mainstream Turkish society, if necessary by force. To date, the Turkish State's policy of forced assimilation has involved widespread human rights abuses including extra-judicial killing, the imprisonment, rape and torture of Kurdish people, the brutal suppression of local Kurdish customs and culture, the outlawing of the Kurdish language, and the forced evacuation of Kurdish villagers. These abuses are well documented in the 200 judgments of the European Court of Human Rights against Turkey over the past 5 years.

The region has been wracked by conflict, most recently in the form of a bitter, 15-year-long war between the Turkish security forces and the Kurdistan Workers' Party (PKK), during which an estimated 4,000 villages in the area were destroyed, and at least 3 million people forced to flee their homes.<sup>14</sup>

Although in September 1999, the PKK abandoned its armed struggle in the pursuit of a political settlement to the as yet unresolved "Kurdish question", much of the area is still under Emergency Rule and human rights abuses, including torture, remain commonplace. In their bi-annual report comparing figures on human rights abuses from the first half of 1999 to the first half of 2000, the Human Rights Association (IHD) makes clear that the PKK's cease-fire has had little effect on Turkey's extra-judicial killing and death by torture statistics which have decreased by a mere 0.6%.<sup>15</sup> Despite assurances at senior levels that substantive steps are being taken to suppress the practice of torture, the Turkish Parliamentary Human Rights Commission, reporting in March 2000, concluded that there have been no improvements in torture practice since 1998 when it had conducted

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**<sup>14</sup> Many have moved to the urban areas: the population of Diyarbakir has grown from 300,000 in 1990 to more than 1.5 million today, bringing a climate of unemployment, currently estimated at 60%, and the development of shanty town areas. Others have moved to western Turkey, and some to join their families in western Europe.**

The majority of the evacuations took place in the early 1990s and were carried out with great brutality, whole villages being razed to the ground; villagers, including children, being raped, abducted, killed, tortured or beaten up; and livestock slaughtered. By the end of 1992, entire districts, including Sirmak, Silopi and Eruh (all overlapping the Ilisu region), had lost all their villages, with the exception of one village guard district. In July 1997, the Chairman of the Turkish Parliamentary Committee established to look into the problem of village evacuations confirmed that almost 365,000 inhabitants of 3,185 villages and hamlets had been forced out of their homes since 1990 as a result of the war. The US State Department cited a "credible estimate" of between 380,000 and 1 million for the numbers that have been forced to move. Other figures have been put as high as 10 million.

Since 1995, the figures have disclosed a declining but nevertheless continuing pattern of forced evacuation. In 1997, the Human Rights Association of Turkey (IHD) reported that 22 villages and hamlets had been evacuated and sometimes burned by State agents. These included three instances of forcible evacuation from in Eruh district, Siirt province and the forced evacuation of three hamlets in Besiri, Batman province. Both Eruh and Besiri districts are potentially affected by the proposed dam. Further evacuation and destruction by soldiers has been reported since then.

Turkey has now instituted a State-sponsored "Back to the Village Programme," which claims to have returned thousands of evicted villagers to their homes in the Southeast. The programme, however, has involved a number of documented human rights abuses. On 3 October 2000, villagers who had been told they could rebuild their village in the Lice district of Diyarbakir were forced to re-live the horrors of the war a second time as they watched the homes they had rebuilt over a 6-month period razed to the ground by Turkish soldiers who told them, *"This hamlet does not have a place on the map and the people cannot live here."* In a similar incident also in October 2000, three villagers in Hakkari province who had received permission to return to their village were killed by Turkish soldiers from the neighbouring province of Sirmak. A fourth, wounded victim, the sole survivor of the operation, was arrested and bodies of the three killed have not been returned to their families.

<sup>15</sup> **Insan Haklari Dernegi (IHD), "Human Rights Report on the First Six Months of the Year 2000", p. 3.**

an earlier investigation.<sup>16</sup> The situation has not improved greatly in 2001. In May of this year alone, 39 people applied to the Human Rights Association (IHD) in Diyarbakir - one of the provinces affected by Ilisu - to bring cases alleging torture. In the first six months of 2001, IHD (Diyarbakir) has received a total of 266 such torture case applications.<sup>17</sup>

Under such circumstances, a free and open debate on the merits of the Ilisu project is currently unattainable. Fact-finding missions to investigate the dam and its impacts have been regularly subjected to police surveillance and harassment. Moreover, a number of human rights abuses directly associated with the dam have already been documented: critics of the dam have been subjected to intimidation<sup>18</sup> or accused of belonging to the PKK, a crime punishable by up to 15 years imprisonment, whilst organisers of a rally to celebrate the history of Hasankeyf were forbidden by the local Governor from distributing a petition expressing concern over the dam. Human rights defenders in the region are frequently subjected to repression such as closure of their offices, as documented by human rights organisations such as Amnesty International and Human Rights Watch. Such human rights abuses raise major concerns about the likelihood of a successful development outcome to the Ilisu project.

As of September 2001, none of the ECAs supporting the project, or considering support, had published any assessment of the implications of continuing repression in the region for Ilisu, nor indeed of the repercussions of construction of the dam on the rights of the marginalised in the region.<sup>19</sup>

## Ilisu, GAP and Forcible Assimilation

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<sup>16</sup> McDowall, David. "Turkey in Europe: Opportunity for Change?" Kurdish Human Rights Project, London, 2000

<sup>17</sup> Ilisu Dam Campaign, Fact-Finding Mission to the Ilisu Region, 10-17th June 2001. Interview with IHD (Diyarbakir).

<sup>18</sup> In February 2000, for example, the Mayor of Hasankeyf was forced to cut short a visit to Europe after receiving anonymous threats. The Mayor had been scheduled to talk to officials of all German ministries responsible for the granting of a Hermes guarantee, several members of the German parliament as well as the Minister responsible for the UK's Export Credits Guarantee Department (ECGD).

<sup>19</sup> In the UK, it has emerged that the Department of Trade and Industry (DTI) was not even informed by the Foreign Office of the human rights implications of the project, provoking the International Development Committee to comment: "We are astonished that the Foreign Office did not raise any questions about the proposed Ilisu Dam and its effects on the human rights of those living in the region. The large-scale resettlement of a population, many of whom may well question the very legitimacy of the Government which moves them from their homes, must surely demand some detailed analysis from the Foreign Office. We would expect comments on the necessity of a genuinely transparent, free and fair consultation process; discussion of the relation between the removal of communities and drift to the towns on the one hand and on the other any conflict-related tactics and military strategy of the parties to the conflict; certainly an analysis of the human rights of the affected community and the extent to which the building of the Dam could possibly infringe or affect them. We criticise the Foreign Office for failing to raise these issues in detail with ECGD and DTI Ministers." Although the Foreign Office denies that it failed to advise the DTI on the human rights implications of Ilisu, it has refused to release the relevant papers to the International Development Committee. See: International Development Committee, *Exchange of Letter Concerning the Ilisu dam*, Fourth Special Report, House of Commons, Session 1999-2000, The Stationery Office, London, July 2000.

Concern has also been expressed over the political motivations underlying Ilisu's development objectives and indeed those of the wider GAP project of which it is part. In particular, the history of State repression in the region has led many to view the GAP as "war by other means".

There is little doubt that the majority of GAP officials and field workers are deeply committed to the programme's overt aims of poverty alleviation and economic development. There is little doubt either that the majority of people in the region, which is one of the poorest in Turkey,<sup>20</sup> seek means to improve their living standards and to gain access to modern technologies, health care and education. But poverty alleviation and economic development are not the only – or even the most important – objectives motivating the GAP. From its inception in the mid-1970s,<sup>21</sup> the project has been underpinned by the Turkish State's long-pursued policy of forcibly assimilating the region's Kurdish majority into mainstream Turkish society and culture. Indeed, the Turkish government's official publicity for the project explicitly states that the GAP is intended to "*dramatically change the social and cultural make-up of the region.*" The Director General of DSI has also stated:

"We do not have Kurdish people. We are all Turkish people. We do not look on Kurdish people as a minority like in the USA. All are citizens of Turkey no matter where they come from and who they are. Turkey's policy is that the citizens in GAP region will not be treated differently from other regions just because of their ethnic origin. We have a lot of Kurdish people in the government and some are in key positions."<sup>22</sup>

To many Kurds who have been displaced from their homes in recent years, such statements have a sinister ring to them. Indeed, it is widely held in many quarters that the GAP project has been promoted by the Turkish authorities as a means of altering the demography of the region through the displacement of Kurds into larger towns so as to exercise more effective control over the region.<sup>23</sup>

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<sup>20</sup> In a report on Turkey published by the United Nations Development Programme (UNDP) in 1997, the authors noted that the highest poverty rates in Turkey were to be found in the east and south east. See: [www.undp.org/rbec/pubs/nhdr97/summary/turkey.htm](http://www.undp.org/rbec/pubs/nhdr97/summary/turkey.htm). See also: Olcay Unver, "The Southeastern Anatolia Project (GAP): An Overview", in Turkish Embassy, *Water and Development in Southeastern Anatolia: Essays on the Ilisu Dam and GAP*, London, 2000, pp.13-14. See also: "Turkey set to re-examine the GAP", *International Water Power and Dam Construction*, September 1999.

<sup>21</sup> Until 1997, plans to develop the Tigris and Euphrates were not co-ordinated. In 1977, the State Hydraulics Works brought the various projects planned for the two river basins under a single authority, entitled "GAP".

<sup>22</sup> Quoted in ECGD, "Stakeholders' Attitudes to Involuntary Resettlement in the Context of the Ilisu Dam Project, Turkey", Department of Trade and Industry, London, 1999, p.25.

<sup>23</sup> As the UK Defense Forum notes: "From the outset, the Southeast Anatolia Project has had profound security implications. It is no coincidence that the project is situated in the Kurdish region of Turkey – where a bitter civil war rages between the Kurds and the Turkish military. The expected security benefits are twofold, by increasing the income of hitherto impoverished Kurds, the government in Ankara hopes the new wealth will induce the people to support the government. More pragmatically, the project will transform the geography of Turkish Kurdistan. Improved communications, combined with new industries and farms, will shepherd the Kurds out of their traditional mountain fastness into planned urban areas where the government can keep greater control over them. An underlying motive of the project is to deny the Kurdish guerrillas the environment in which they operate." See: Marsh, N., "Wars Downstream", UK Defence Forum, [www.ukdf.org.uk/ts5.htm](http://www.ukdf.org.uk/ts5.htm)

GAP's claimed development objectives are also thrown into doubt by the skewed distribution of its benefits and its failure to tackle key structural causes of poverty. Indeed, it is clear that the last people to benefit are Kurds, and in particular poorer Kurds, if they benefit at all. Despite massive investment in the region through the GAP, for example, the social infrastructure of the east and southeast remains the most neglected in Turkey: per capita income is barely 42 per cent of the national average; only 9 per cent of children complete secondary school; the average literacy rate is 27 per cent lower than the national average; and the Southeast receives less than 10 per cent of the national development budget.<sup>24</sup>

GAP projects are characterised by a "top-down" approach. There has been little or no consultation with affected communities; hundreds of thousands have now been displaced, often forcibly and rarely with adequate compensation; and "the most fundamental ingredient of development, full local participation has been missing."<sup>25</sup> Many have ended up in the shantytowns of the major cities, unable to find full-time employment and living in poverty and dislocated from their previous communities. Acknowledging these failures, the Turkish government announced in 1999 that it would review the project.<sup>26</sup>

## Past Resettlement Practices

Turkey's record on resettlement is dismal. As Ayse Kudat, a World Bank resettlement specialist hired by the ECAs to review the Turkish government's draft resettlement action plan for Ilisu, notes in a report to the ECAs written in August 2000:

"In the Turkish context, past failures have been particularly severe with respect to inadequate and inappropriate delivery of resettlement housing, lack of concern with the well-being of self-settlers, transparent participation of affected populations in resettlement decisions, and monitoring of social impacts during and after dam construction."<sup>27</sup>

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<sup>24</sup> As David McDowall, author of *A Modern History of the Kurds*, points out, such neglect "is longstanding and institutionalised, partly as a result of Turkey's longstanding determination to crush all expression of Kurdish identity" and "contradicts official claims of concern." McDowall also points to the failure of the GAP to grasp the vital need for land reform, a key requirement if rural poverty in the region, where landlessness is widespread, is to be addressed. Instead GAP planners have opted for the development of capital intensive agriculture - an indication to many critics of the shallowness of GAP's claimed poverty alleviation objectives. "The reason is simple", argues McDowall. "The landlord class largely control the vote of their villagers, useful in offsetting the dissident vote that finds expression in the region's towns." Neglect of land reform means, according to GAP's own master plan, that 8 per cent of farming families still control over 50 per cent of the land, 41 per cent hold 5 hectares or less (barely subsistence level), while 38 per cent have no land at all. GAP has little or nothing to offer this 79 per cent. "In such conditions the capital required for this massive project will come either from entrepreneurs living elsewhere in Turkey or from abroad. In short, the indigenous population is unlikely to benefit from the investment opportunity or have the education and skills to benefit from the projects." See: McDowall, D., "Ilisu: The economic and political context", [www.ilisu.org.uk](http://www.ilisu.org.uk)

<sup>25</sup> McDowall, D., "Ilisu: The economic and political context", [www.ilisu.org.uk](http://www.ilisu.org.uk)

<sup>26</sup> "Turkey set to re-examine the GAP", *International Water Power and Dam Construction*, September 1999.

<sup>27</sup> Kudat Report, op. cit, ref 7, p.6

A 1999 report commissioned by the UK Export Credit Guarantees Department also cast serious doubts on the value of assurances from the Turkish authorities as to resettlement, noting that past resettlement projects in Turkey have (with one exception) failed to meet international standards.<sup>28</sup>

The Turkish government and members of the Ilisu Consortium (the companies seeking to build the dam) have argued that Turkey's resettlement procedures now meet international standards.<sup>29</sup> The recent experience of the 30,000 people relocated as a result of the Birecik Dam (cited as a "success story" by the GAP authorities<sup>30</sup>) suggests otherwise. In October 2000, a Fact-Finding Mission organised by the Ilisu Dam Campaign found that:

- Over a thousand villagers from one village in the reservoir zone had been forced to abandon their homes and belongings when they awoke to find their homes partially submerged by the rising reservoir. Project officers had failed to alert them of the rising waters. The villagers had not left their houses because they were still waiting to receive compensation promised by the government.
- The inhabitants of approximately 18 villages located in the area close to the construction sites were forcibly evacuated by soldiers in 1996 and 1997 and received no compensation at all.
- Numerous families received no compensation whatsoever, because they did not have land rights, and (as of October 2000) had still not been given houses despite promises that they would be re-housed. Several cases contesting compensation have been taken to European Court of Human Rights (*see* Annex 1: European Court of Human Rights Cases Relating to GAP);
- Villagers who have been moved to new resettlement sites complained that their new houses are over-crowded and had not even been finished when they moved in. Leaking ceilings appears to be a common complaint. One oustee told the Mission, "In the new villages, it is like death".
- The displaced villagers, having been moved into the State's shoddily constructed housing units (on which they will also have pay rent for the next 3 years), find themselves in desolate areas where the government's promised commercial centres and factory jobs have not materialised. One result of this lack of economic opportunity is that those who received compensation are rapidly running through their savings. Many see no prospect other than emigration to local conurbations, where services are already overstretched and unemployment levels are high.

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<sup>28</sup> *Ibid*, p.19.

<sup>29</sup> See, for example: Turkish Embassy, *Water and Development in Southeastern Anatolia: Essays on the Ilisu Dam and GAP*, London, 2000, p.32; Balfour Beatty, "Ilisu Hydro-electric Power Plant (HEPP), Turkey", Outline Briefing Paper, June 1999, p.7

<sup>30</sup> Yasinok, K., "Participatory Resettlement in GAP: A Case Study", in Turkish Embassy, *Water and Development in Southeastern Anatolia: Essays on the Ilisu Dam and GAP*, London, 2000, pp. 22, 24, 25, 28.

These findings are particularly significant – and disturbing – given that the resettlement debacle at Birecik was taking place at the very time that the Turkish authorities were reassuring the international community, including Export Credit Agencies, that everyone at Ilisu would be properly compensated and that there would be no repeat of previous resettlement failures, such as at Ataturk (*see Annex 2: Ataturk's Victims: The Continuing Misery*).<sup>31</sup>

### Failure to comply with international best practice

As noted, a succession of reports from both Non-Governmental Organisations and official sources<sup>32</sup> have exposed major deficiencies in planning and implementation of the Ilisu scheme.

In response the ECAs have insisted that the Turkish government draw up a resettlement plan to internationally accepted practice (*see Section 2*). However, an August 2000 review of the draft plan, conducted by Ayse Kudat on behalf of the ECAs, confirmed that the project was still in violation of a range of international guidelines.<sup>33</sup> Kudat noted that:

- Sweeping institutional reforms within Turkey would be needed before “best practice” – as defined by World Bank or OECD guidelines – could be achieved;
- The Turkish government had failed to consider alternatives to the Ilisu project, which violated both World Bank and OECD guidelines;
- The project was approved before a resettlement plan was drawn up, which flouted both World Bank and OECD guidelines;
- The Turkish authorities had failed to draw up a full socio-economic census, which violated World Bank guidelines;
- There were major gaps in the information needed to draw up a resettlement plan to international standards;
- No resettlement budget had been prepared – in violation of World Bank and OECD standards

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<sup>31</sup> For Turkish government assurances on reform of resettlement practices, see: Yasinok, K., "Participatory Resettlement in GAP: A Case Study" in Turkish Embassy, *Water and Development in Southeastern Anatolia: Essays on the Ilisu Dam and GAP*, London, 2000, pp.22, 24, 25, 28.

<sup>32</sup> Such reports include: Berne Declaration, *Ilisu - A Test Case of International Policy Coherence*, Zurich 1999; Kurdish Human Rights Project, *The Ilisu Dam: A Human Rights Disaster in the Making*, London, 1999; International Development Committee, ECGD, *Development Issues and the Ilisu Dam: Report together with Proceedings of the Committee, Minutes of Evidence and Appendix*, Sixth Report, Session 1999-2000, The Stationery Office, London, 2000; Select Committee for Trade and Industry, *Application for support from ECGD for UK participation in the Ilisu Dam project: Report, together with Proceedings of the Committee, Minutes of Evidence and Appendices*, Session 1999-2000, The Stationery Office, London, 2000; ECGD, *Stakeholders' Attitudes to Involuntary Resettlement in the context of the Ilisu Dam Project, Turkey*, August 1999; The Ilisu Dam Campaign et al., *If the River were a Pen - The Ilisu Dam, the World Commission on Dams and Export Credit Reform*, London, 2001.

<sup>33</sup> Kudat Report, *op. cit.*, ref 7.

– and, Kudat suggested, a paper commitment from Turkey to make the money available could not be trusted;

- Major economic and political obstacles would have to be overcome before it could be ensured that affected people would not be worse off than they were before the project, as the World Bank demands;
- The special provision to protect the livelihoods of women had been ignored, in violation of World Bank guidelines;
- Pastoralists would not be compensated for their land loss, in contravention of OECD guidelines.
- The numbers who might be affected by Ilisu were 2-3 times higher than previously estimated - possibly as many as 78,000.

## Section Two

# Government statements on the evaluation of compliance with ECA conditions

In response to growing pressure from the public, NGOs and parliamentarians, the ECAs have made their support for the Ilisu project conditional on the project developers drawing up

"a resettlement programme which reflects internationally accepted practice and includes independent monitoring."<sup>34</sup>

No details were given at the time as to the basis on which compliance with this condition would be evaluated. However, in response to further public pressure, participating governments have made a number of statements binding them to the use of specific standards.

This section sets out the relevant statements made by the UK and other governments with respect to Ilisu and resettlement.

### UK government statements on broad objectives of ECA conditions

Subsequently, the UK government has amplified on this condition in correspondence with interested parties. In doing so, it has clarified the broad objectives of the condition. These include ensuring proper consultation with those affected by the project and the protection of their human rights:

In August 2001, Baroness Symons, Minister of State at the Foreign Office and Caborn's successor as the Minister responsible for the ECGD, stated in a letter to the Kurdish Human Rights Project that "the potential environmental and human rights impacts of the project are central to the assessment process."<sup>35</sup>

The UK government has also identified a number of specific issues that it will require the Turkish authorities to address prior to an export credit being agreed. In February 2001, J.L. Swindon,

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<sup>34</sup> "Byers releases reports on Ilisu Dam", Department of Trade and Industry, 21 December 1999. See also: Letter from J.L. Swindon, Underwriting manager ECGD, "Ilisu Hydroelectric project, Turkey", 20 July 2000.

<sup>35</sup> Letter from Baroness Symons, Minister of State at the Foreign Office, to Philip Leach, Legal Director, Kurdish Human Rights Project, undated but received on 13 August 2001.

underwriting manager at ECGD, writing on behalf of the Prime Minister, stated:

"When Stephen Byers [the then Secretary of State for Trade and Industry] published two reports which we commissioned on this project in December [1999], he also made it clear that before a decision is made on the availability of ECGD support, we will need to see how a number of key issues identified by the reports are addressed . . ." <sup>36</sup>

Of the reports, <sup>37</sup> that on "Stakeholder Attitudes" is most directly relevant to resettlement concerns. The report makes 6 "essential recommendations":

- . "consultation/participation with local stakeholders . . . before and after the contract is signed";
- . "local stakeholder participation in different stages of the resettlement plan";
- . Resolution of "the problem of land title, deeds, forced land confiscation and absentee rural families . . . before compensation takes place";
- . "particular attention in the resettlement plan should be given to consideration of the needs of the poor, the landless, small holding farming households and vulnerable groups, including women and children";
- . "monitoring of resettlement should be implemented with a participatory approach, inclusive of all local stakeholders, vulnerable groups and the poor";

"the Ilisu dam should be conceived as a development initiative for the benefit of local stakeholders." <sup>38</sup>

Symons's reply gives rise to an expectation that the UK government will act in a manner which is commensurate with its obligations under the Treaties and Conventions to which the UK is a party, in particular the European Convention on Human Rights. <sup>39</sup>

## UK government benchmarks for evaluation

The UK government has bound itself to using the following guidelines in order to evaluate compliance both with the ECAs' collective condition on resettlement and its own general and specific concerns:

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<sup>36</sup> Letter from J.L. Swindon, underwriting manager ECDG, writing on behalf of the Prime Minister, to L.C. Lohmann, 28th February 2000.

<sup>37</sup> ECGD, *Stakeholders' Attitudes to Involuntary Resettlement in the context of the Ilisu Dam Project, Turkey*, August 1999; Environmental Resources Management, *Environmental Review of Ilisu Dam Project - Desk review of EIA and associated documents*, November 1999.

<sup>38</sup> Export Credits Guarantee Department (ECGD), *Stakeholders' attitudes to involuntary resettlement in the context of the Ilisu Dam project, Turkey*, August 1999, pp. 50-51.

<sup>39</sup> Letter from Baroness Symons, Minister of State at the Foreign Office, to Philip Leach, Legal Direct, Kurdish Human Rights Project, undated but received on 13 August 2001.

## 1. OECD Guidelines

In evidence to the House of Commons Select Committee on International Development in February 2000, Richard Caborn stated: ". . . what we have laid down very clearly in all the communications which have gone to the Turkish authorities, and to our Parliament, and to those supplying export credit as well, the broad standards laid down by the OECD in terms of resettlement - and I have read them - ought to be the benchmark by which any of this is judged."<sup>40</sup> [This commitment to the use of OECD standards was repeated by the Minister in a number of press and TV interviews in July 2000.](#)<sup>41</sup>

## 2. World Commission on Dams guidelines

In November 2000, the World Commission on Dams, an international body charged with drawing up new guidelines for the hydro industry, recommended a set of new procedures and standards for projects involving large dams.<sup>42</sup> [Although not legally-binding, the guidelines crystalize international best practice with regard to dam building.](#)

Although the guidelines were published after the announcement of the ECAs' condition on resettlement, the UK government has nonetheless committed itself to taking them into account when assessing compliance with the condition. In reply to a parliamentary question from Tom Brake MP, Richard Caborn stated: "We are studying carefully the Report of the World Commission on Dams. We will take account of the Report in considering our decision on Ilisu."<sup>43</sup>

In February 2001, Chris Mullin MP, the then Under-Secretary of State for International Development, reiterated the government's commitment to ensuring Ilisu's compliance with WCD criteria. In an address to a seminar organised by the Institute of Civil Engineers and the British Dams Society, Mullin stated: "Our government has made it clear that we will only support Ilisu if a number of conditions are met. These conditions reflect the criteria identified by the Commission [WCD]."<sup>44</sup>

Statements made by the UK government ministers also give rise to an expectation that the ECGD will take account of the following broad policy guidelines when reaching a decision on Ilisu:

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<sup>40</sup> Richard Caborn, Evidence to Select Committee on International Development, 1st February 2000. See: HC211, International Development Committee, *The Export Credits Guarantee Department, Development Issues and the Ilisu Dam, Minutes of Evidence, and Appendix*, The Stationery Office, London 2000, p.22, para 34.

<sup>41</sup> For example, Caborn told Channel 4 news (12 July 2000): "We've used the OECD standards on resettlement, of which Turkey is actually a signatory, and part of the OECD. We're saying if they comply with those international obligations, then we will support the project". He also stated: "Indeed negotiations are taking place on the conditions which we have laid down with Turkey, and one of those is on the resettlement, the, I think, the most contentious one, and we're laying down very clearly that that will be in compliance with the OECD standards, or else we do not support the project."

<sup>42</sup> World Commission on Dams, *Dams and Development: A New Framework for Decision-Making, The Report of the World Commission on Dams*, Earthscan, London, 2000. Hereafter: WCD.

<sup>43</sup> Rt. Hon. Richard Caborn MP, Minister for Trade, reply to parliamentary question 140755.

<sup>44</sup> Chris Mullin MP, Under-Secretary of State for International Development, Speech to Institute of Civil Engineers/British Dam Society seminar, "After the World Commission . . . Dams in the Future", 1st February 2001.

"The government's international policies on sustainable development, human rights, good governance and trade."

In response to the UK Select Committee on International Development's Sixth Special Report, *ECGD, Development Issues and the Ilisu Dam*, the government stated: " The careful work which has been devoted to considering the Ilisu Dam application and pressing the Turkish authorities to improve aspects of the project has helped inform ECGD's Mission and Status Review which has recently been completed. It is now part of ECGD's Mission to take account of the Government's international policies on sustainable development, human rights, good governance and trade, whilst furthering its core aim of benefiting the UK economy by assisting exports and investment overseas."<sup>45</sup>

## Other governments' conditions and compliance standards

### Switzerland

ERG, the Swiss export credit agency, has stated that it will use "international standards" to evaluate compliance with the ECA condition on resettlement. Three sets of guidelines have been mentioned in this context: those of the OECD; the World Bank; and the WCD in its section, "A Special Case: Dams in the Pipeline".<sup>46</sup> *The ERG has not committed itself to being bound by any of these standards when assessing the compliance or non-compliance with the ECA condition: it will use its discretion as to which standards - or parts of standards - are of importance. ERG has commissioned an assessment of the extent to which Ilisu complies with the cited standards. The assessment will be made public.*

### Germany

Export credit support has been sought for Ilisu from Hermes, the German export credit agency. The German Federal Government has made a number of statements with regard to standards and benchmarks applicable to the Ilisu project. They are as follows:

#### 1. World Bank standards

**Reacting to growing public and parliamentary concern about the environmental, social and human rights impacts of the Ilisu dam, several committees of the German Federal Parliament discussed the project and demanded information from the Federal Government. In a paper prepared for the meeting of the parliamentary budget committee on December 15<sup>th</sup>, 1999, the Federal Ministry of Finance commented as follows:**

“Aspects of the decision of the Federal Government

c) [...] Resettlement policy observes the standards set by the World Bank. Its course will be

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<sup>45</sup> International Development Committee, *Government response to the Sixth Report from the Committee, Session 1999-2000, Seventh Special Report*, The Stationery Office, London, 24 October 2000, p.v.

<sup>46</sup> WCD, *op.cit.* ref 43, "A special case: Dams in the Pipeline", p.277.

monitored by an independent expert group. [...]"

**In oral communication with different representatives of the Ministries involved in the decision relating to Hermes' guarantees, including the Ministry of Economy, it has been repeatedly confirmed that World Bank standards will be applied.**

**In April 2001, the German government introduced a set of environmental, social and developmental "guiding principles" which now apply to Hermes export credits and guarantees. Outlining the new principles, the Federal Government states:**

“[t]he project has to meet the environmental standards of the host country. These will be compared with the basic internationally recognised and customary environmental regulations (e.g. World Bank or EBRD [European Bank for Reconstruction and Development] standards, benchmarking). Should it turn out that the standards of the host country are significantly below international standards, further explanations from the applicant are necessary. In this connection it is of importance whether the environmental situation, compared to the time before implementation of the project, has improved [...].”<sup>47</sup>

The company seeking export credits for Ilisu would therefore be required to mention and explain any areas where Ilisu fails to comply with World Bank or EBRD standards.

Given the earlier clear statement of the Finance Ministry, which forms part of the interministerial grants committee for Hermes guarantees, however, it should be expected that in the Ilisu case, deviations would not be accepted by the Ministries.

## *2. WCD Recommendations*

The Federal Government in its environmental guideline states that it will take the goal of global sustainable development into account. In addition to the environmental information supplied in the applicant's project memorandum, further expertise and audits may be required. The guideline explicitly states:

“[t]he questions to be answered by the applicant will be [...] updated according to the latest experience and in the light of current knowledge, e.g. the report of the World Commission on Dams (WCD).”<sup>48</sup>

According to MP Angelika Koester-Lossack of the Green Party, this reference would be enough to require the rejection of a Hermes guarantees for the Ilisu dam.<sup>49</sup>

In addition, Minister of Economic Cooperation and Development Heidemarie Wieczorek-Zeul stated in a press release of January 18<sup>th</sup> 2001, that her Ministry would review its own guidelines for dam projects and advocate the adoption of the WCD's recommendations by the World Bank and other international financial institutions.<sup>50</sup> [This](#)

<sup>47</sup> "Official Export Guarantee Scheme of the Federal Republic of Germany Guiding Principles Environment. Consideration of ecological, social and developmental aspects," April 2001, para C 4.

<sup>48</sup> Ibid, para C 2.

<sup>49</sup> Parliamentary speech by Dr. Angelika Koester-Lossack on the Ilisu motion and Hermes reform motions, July 6<sup>th</sup>, 2001

<sup>50</sup> Neue Kriterien für Großstaudämme - Berliner Konferenz einigt sich auf einen Empfehlungskatalog (New criteria for large dams – Conference in Berlin agrees on catalogue of recommendations). Press release by the

announcement would encompass the granting of Hermes guarantees, as the Ministry of Economic Cooperation and Development is one of the members of the interministerial grants committee.

### 3. *Independent experts*

On Environmental Impact Assessments, the environmental guideline for Hermes guarantees states;

“[i]n particular cases additional expertise or the revaluation of an existing expert opinion from an *independent* expert may be required.”<sup>51</sup> [emphasis added]

This clearly holds for the Ilisu dam, requiring that the EIA be prepared in a manner independent of the project sponsors.

#### Italy

**According to SACE, the Italian ECA involved in the Ilisu project, no decision has been taken on Ilisu and no guarantee promise has been accorded as concerns operations within the Ilisu project. The final decision will be taken in accordance with the insurance and guarantee policy of CIPE (Comitato Interministeriale per la Programmazione Economica), the Inter-departmental Committee that oversees SACE’s operations.**

**On 26 May 1999, a few days before CIPE had to discuss SACE’s involvement with the Ilisu project, the former Foreign Affairs representative within SACE’s board, Dr. Federico Di Roberto, replied in writing to a letter addressed to him and other competent authorities on 12 May 1999. He clearly highlighted how,**

*“Competent Italian authorities are investigating all different political, economic and environmental implications of the project. Evaluations following this in-depth discussion will be the prerequisite benchmark also for decisions to be taken regarding the issue of SACE guarantees on contracts into which Italian companies are seeking in order to participate in project implementation.”*

**In a letter dated 21 June 1999 and addressed to Reform the World Bank Campaign - Italy, former Italian Foreign Affairs Minister, Hon. Lamberto Dini, stated that, “Italian authorities are fully aware of different implications concerning the initiative.”**

**Furthermore, he made it clear that “besides, the need for further and thorough evaluations has led the V Committee from CIPE to abstain from taking any decision on this matter.”**

**Since that time, the Ilisu issue has not been on the agenda of CIPE and a final decision which would determine SACE operations has been *de facto* suspended.**

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Ministry of Economic Cooperation and Development, 18 Jan. 2001.

<sup>51</sup> "Official Export Guarantee Scheme of the Federal Republic of Germany - Guiding Principles Environment. Consideration of ecological, social and developmental aspects", April 2001, para C 3.

**Under the new benchmarking framework of newly introduced environmental guidelines, SACE has to evaluate compliance of the EIAR and RAP of the Ilisu project - which has been screened as a category A project for which a comprehensive EIA study is required - against internationally accepted standards. No clarification has yet been given by SACE on which specific international standards will be used to evaluate compliance of the Ilisu project as presented in the Ilisu EIAR and RAP.**

## General Comments on Ilisu EIAR:

Evaluation of compliance with internationally accepted practice on reference guidelines, scope, format, process and disclosure of "social operational documents"

### Summary of major violations of international best practice

#### 1. Failure to include a resettlement plan as part of EIAR

*Guidelines breached:*

- Ex-Im Bank *Guideline Outline on Environmental Assessment Format and Content* (para 5).
- World Bank Operational Policy 4.01, *Environmental Assessment* (para 8, footnote 10).
- World Bank Operational Policy OP 4.01, *Environmental Assessment* (Annex B, para 2).
- World Bank Operational Policy OP 4.01, *Environmental Assessment* (Annex C, para 2).
- World Bank Operational Memorandum, 3 December 1999, para.4.
- OECD Development Assistance Committee, *Good Practice for Environmental Impact Assessment of Development Projects*, Guidelines on Aid and Environment No. 1, Paris, 1992 (p.14).
- World Commission on Dams: *Guideline 5 - Project Level Impact Assessment for Environmental, Social, Health and Cultural Heritage Issues*, (p.283).

#### 2. Failure to disclose resettlement action plan

*Guidelines breached:*

- Ex-Im Bank, *Environmental Procedures* (p.4, Project Financing, para 4 c.)
- World Bank *Procedures on Disclosure of Operational Information* (BP 17.50 para 12).
- World Bank Operational Directive 4.30, *Involuntary Resettlement* (para 30).
- World Bank Draft Operational Policy 4.12, *Involuntary Resettlement* (paras 16 (a) 17, 21 and 28).
- World Bank, Operational Policy 4.01, *Environmental Assessment* (para 8, footnote 10 and para 17).
- World Bank Operational Policy 4.01, *Environmental Assessment*, (Annex B, para 2).
- World Bank Operational Policy 4.01, *Environmental Assessment*, (Annex C, para 2).
- World Bank Operational Memorandum, 3 December 1999, (para.4).
- OECD Development Assistance Committee, *Good Practice for Environmental Impact Assessment of Development Projects*, Guidelines on Aid and Environment No. 1, Paris, 1992, (p.12).
- OECD Development Assistance Committee, *Guidelines for Aid Agencies on Involuntary*

*Displacement and Resettlement in Development Projects, Guidelines on Aid and Environment No.3, (p.7 and 9).*

- World Commission on Dams: *Guideline 5 - Project-Level Impact Assessment for Environmental, Social, Health and Cultural Heritage Issues, (p.284).*

### 3. Failure to ensure meaningful consultation on the EIAR and RAP

#### Guidelines breached

- World Bank Operation Policy 4.01, *Environmental Assessment*, paras 15, 16, 17
- World Bank Draft Operational Policy 4.12, *Involuntary Resettlement*, paras 2(b), 21
- OECD Development Assistance Committee, *Good Practice for Environmental Impact Assessment of Development Projects, Guidelines on Aid and Environment No. 1, Paris, 1992, p.12-13.*
- OECD Development Assistance Committee, *Guidelines on Aid and Environment No.3, Guidelines for Aid Agencies on Involuntary Displacement and Resettlement in Development Projects, p.7 and 9.*
- World Commission on Dams: *Guideline 5 - Project-Level Impact Assessment for Environmental, Social, Health and Cultural Heritage Issues*

To meet internationally accepted practice, the publication of the EIAR and the Executive Summary Resettlement Action Plan for Ilisu should provide interested parties, in particular those affected by the project, with an opportunity to review the resettlement provisions for Ilisu and to judge the progress made in meeting the condition laid down by the ECAs. However, both the EIAR and the Summary RAP fails to meet even minimum standards of international best practice for environmental and social assessments involving forced resettlement.

This section provides general comments on the EIAR and RAP's compliance with international best practice with regard to reference guidelines, scope, format, process and disclosure of "social operational documents". It finds that:

1. The EIAR fails to justify its choice of reference guidelines;
2. The EIAR significantly misrepresents the requirements of its chosen reference guidelines;
3. The EIAR and RAP violate World Bank guidelines on co-ordination in the preparations of RAPs and Environmental Assessments
4. The EIAR violates Ex-Im, World Bank, WCD and OECD guidelines by failing to include a resettlement action plan;
5. Both the EIAR and the RAP violate Ex-Im, WCD, OECD and World Bank guidelines with respect to public disclosure of "social operational documents" by failing to disclose the RAP.
6. The EIAR and the RAP violate World Bank, OECD and WCD guidelines with respect to consultation.

In and of themselves, these deficiencies are sufficient grounds for rejecting the EIAR. Moreover, following World Bank guidelines, the failure to release a RAP constitutes a

sufficiently gross violation of international best practice to trigger a halt to further processing of applications for support.

#### FAILURE TO JUSTIFY CHOICE OF GUIDELINES

The Ilisu Consortium and the Turkish government have adopted a "pick-and-mix"<sup>52</sup> approach to international standards that is cavalier, self-serving and confused. Although World Bank guidelines are cited as the reference standards for Ilisu's Resettlement Action Plan, a completely different set of standards - Ex-Im Bank standards - have been applied to the EIAR.<sup>53 54 55</sup> Contrary to internationally accepted practice, no adequate explanation is given for this discrepancy.

We note with disquiet that Ex-Im Bank standards are generally considered to be less onerous than those of the World Bank and OECD with regard to resettlement. Indeed the EIAR acknowledges that it was unable to comply with the higher World Bank and OECD standards for EIAs.<sup>56</sup> Given that the ECAs require that as a condition of approval, the project meet internationally accepted practice; that US Ex-Im Bank was a participant in the World Commission on Dams (which establishes internationally accepted practice); that the UK government's consultants specifically recommended that the EIAR conform to World Bank OP 4.01<sup>57</sup> (heretofore considered a benchmark of internationally accepted practice); and that the UK ministers have bound the ECGD to applying OECD standards for evaluating Ilisu's resettlement provisions (*see* Section 2), this would suggest a *prima facie* case for concluding that the ECAs' condition has not been complied with and

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<sup>52</sup> The EIAR is selective not only as to the guidelines it takes into account but also as to those elements of cited guidelines which it deems important. For example, it dismisses the need to analyse cumulative downstream impacts, despite this being a requirement of the guidelines which it claims to take into account.

<sup>53</sup> "The Export-Import Bank of the United States (Ex-Im Bank) having published a formal set of guidelines for environmental impact assessment, the EIAR has been prepared to comply first and foremost with their 'Environmental Procedures and Guidelines' (Appendix 24) on the understanding that such compliance would satisfy also the other ECAs and lenders involved." See: Ilisu Dam and HEPP Environmental Impact Assessment Report, April 2001, p.1-2. Hereafter: EIAR.

<sup>54</sup> The EIAR also states that "other guidelines and good practice methods recommended by international agencies for environmental impact assessment were . . . taken into account." Those listed by the EIAR include: the World Bank's Operational Directive 4.01 on Environmental Assessment; the OECD Guideline on Environment and Aid No.1, Good Practice for Environmental Impact Assessment of Development Projects; the World Bank's Guidelines on Hydroelectric Projects; the World Bank's Operational Directive 4.30 on Involuntary Resettlement; and the "Third OECD Guideline on Aid and Environment". We note that one of these guidelines - Operational Directive 4.01 - is no longer operational. Since January 1999, it has been superseded by Operational Policy 4.01 and BP 4.01. The Review assumes that the reference to OD 4.01 is an unintentional error.

<sup>55</sup> Ex-Im Bank's environmental procedures and guidelines were issued on February 1. The procedures and guidelines were revised on 2 April 1996 and again on 2 April 1998 following a review of their effectiveness in mitigating adverse environmental effects of Ex-Im Bank supported projects and their effect on the competitiveness of US exporters. The procedures and guidelines, as revised on 2 April 1998, were extended on 2 April 2001 and will remain in effect until 14 December 2001. See: Ex-Im Bank Environmental Procedures, Introduction, p.1, [www.exim.gov/envproc.html](http://www.exim.gov/envproc.html) accessed 23/08/2001.

<sup>56</sup> EIAR, p.1-7, para 1.3.1. "The other guidelines and guidance manuals which have been mentioned in Section 1.2 have influenced this EIAR to a significant degree. Full compliance with them could not be attained . . . "

<sup>57</sup> Environmental Resources Management, *Environmental Review of Ilisu Dam Project - Desk review of EIA and associated documents*, November 1999.

that therefore export credit guarantees should not, and cannot, be granted.

#### INACCURATE AND MISLEADING SUMMARY OF EX-IM GUIDELINES

The EIAR's summary of the Ex-Im Bank guidelines with respect to resettlement and socio-cultural context is inadequate and misleading.<sup>58</sup> For example:

- In paragraph 1.3.1, the EIAR claims that Ex-Im guidelines do not require Resettlement Action Plans to be produced as part of an EIAR: "The guidelines provide that a Resettlement Action Plan can be either part of the EIAR or can be conducted independently. For the Ilisu Project, this second alternative has been preferred."<sup>59</sup> No reference is cited in support of this claim, which constitutes the IEG's sole justification for not including a RAP in the EIAR. Moreover, despite a detailed examination of Ex-Im guidelines, including the Handbook prepared for Ex-Im staff,<sup>60</sup> the Review has been unable to find any provision permitting RAPs to be produced independently of EIARs.

- The EIAR omits to mention that Ex-Im's *Guideline Outline on Environmental Assessment Format and Content* identifies a resettlement plan as a component that an EIAR "should include".<sup>61</sup> To assist applicants in the preparation of an Environmental Assessment, the guideline provides a sample outline and "a list of issues to be addressed."<sup>62</sup> Under the section on "socio-cultural context", it specifically headlines "implement resettlement plans" as a key mitigation measure on which it requires detailed information.<sup>63</sup> Despite its relevance to Ilisu, including the fact that it is one of the four conditions that ECAs have given as prerequisites of their support, this requirement is neither cited nor discussed.<sup>64</sup>

#### VIOLATION OF WORLD BANK PROCEDURES ON CO-ORDINATION OF EIAR AND RAP

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<sup>58</sup> EIAR, p.1-2

<sup>59</sup> EIAR, p.1-7, para 1.3.1.

<sup>60</sup> Ex-Im Bank, *Policy Handbook*, [www.exim.gov/manuals/policyhb/phtoc.html](http://www.exim.gov/manuals/policyhb/phtoc.html), accessed 23/08/2001.

<sup>61</sup> Ex-Im Bank, *Guidance outline on environmental assessment format and contents*, [www.exim.gov/envasct.html](http://www.exim.gov/envasct.html), p.2: "The EA should include a discussion of the identified issues and potential mitigative measures applicable to the specific project."

<sup>62</sup> Ex-Im Bank, *Guidance outline on environmental assessment format and contents*, [www.exim.gov/envasct.html](http://www.exim.gov/envasct.html), p.1.

<sup>63</sup> Ex-Im Bank, *Guidance outline on environmental assessment format and contents*, [www.exim.gov/envasct.html](http://www.exim.gov/envasct.html), para 5, pp2-3.

<sup>64</sup> It is worth noting that revisions proposed by Ex-Im to its guidelines in January 2001 would have made the requirement for a resettlement action plan even clearer. The revisions state: "All resettlement or relocation of local residents, indigenous people and communities must be in compliance with local and national laws and address international standards such as World Bank . . . A suitable resettlement plan will be prepared commensurate with the significance and scope of the social disturbance caused, and include mitigation of the impacts. A process of public disclosure and consultation should be sufficiently demonstrated. The project sponsors should consult in a meaningful and timely manner with project-affected groups including non-governmental organisations (NGOs) about the project's objectives and impacts. The views gathered should be documented, evaluated and taken into account." (*Export-Import Bank of the United States Environmental Procedures and Guidelines - Draft January 2001. Table 9, Hydropower and Water Resources Management - socioeconomic and sociocultural resources*).

Relevant guidelines breached:

World Bank: *Operational Directive OD 4.30 Involuntary Resettlement ( para 20)*.<sup>65</sup>

World Bank OD 4.30 (Involuntary Resettlement) requires that resettlement plans "must be developed in co-ordination with the Environmental Assessment."<sup>66</sup>

Such co-ordination appears to have been lacking or inadequate in the case of Ilisu. Discussing a key stakeholder survey undertaken as part of the RAP, the EIAR admits that the full results were never transmitted to the IEG.<sup>67</sup> *No explanation for this lack of co-ordination is given.*

The ECAs should require that the EIAR give a full account of co-ordination between the RAP team and the IEG. The account should include details of RAP documents which were requested by the EIAR team, whether they were received and whether any material was denied to the IEG.

#### VIOLATION OF EX-IM, WORLD BANK, OECD AND WCD ENVIRONMENTAL PROCEDURES ON INCORPORATION OF RESETTLEMENT PLANS IN ENVIRONMENTAL ASSESSMENTS

Relevant guidelines breached:

World Bank: collectively - "OD 4.30, *Involuntary resettlement*, para 30;<sup>68</sup> Operational Policy 4.01, *Environmental Assessment*, (para 8, footnote 10),<sup>69</sup> (Annex B, para 2),<sup>70</sup> (Annex C, para 2);<sup>71</sup> *Operational Memorandum*, 3 December 1999, para.4."

• **OECD:** *Environmental Impact Assessment*.

**World Commission on Dams: Guideline 5 - Project Level Impact Assessment for**

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<sup>65</sup> World Bank Operational Direct 4.30, Involuntary Resettlement, June 1990, para 20: "The resettlement plan must be developed in coordination with the EA . . ."

<sup>66</sup> World Bank Operational Direct 4.30, Involuntary Resettlement, June 1990, para 20.

<sup>67</sup> EIAR 4-106. "Some results of the survey have been transmitted to the IEG".

<sup>68</sup> World Bank OD 4.30 Involuntary Resettlement, para 30: "Submission to the Bank of a time-bound resettlement plan and budget that conforms to Bank policy is a condition of appraisal for projects involving resettlement . . . All final EPSs [Executive Project Summaries] should confirm that this requirement has been met."

<sup>69</sup> World Bank, OP 4.01, *Environmental Assessment*, para 8, footnote 10: "A potential impact is considered 'sensitive' if it may be irreversible . . . or raise issues covered by OP 4.20 Indigenous Peoples; OP 4.04 Natural Habitats; OP 4.11 Safeguarding Cultural Property in Bank-financed Projects (forthcoming); OP 4.12 Involuntary Resettlement (forthcoming)."

<sup>70</sup> World Bank, OP 4.01, *Environmental Assessment*, Annex B, para 2 (h) (v): "The EA should include . . . list of associated reports (e.g. resettlement plan . . .)."

<sup>71</sup> World Bank, *Environmental Assessment*, Annex C, para 2: "The EMP [Environmental Management Plan . . . (d) provides linkage with any other mitigation plans (e.g. For involuntary resettlement . . .) required for the project."

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μ .<sup>73</sup> and that its analysis "does not represent a full resettlement study."<sup>74</sup>

The World Bank requires that resettlement plan be "submitted to Bank before appraisal, incorporated in EA report and disclosed with it."<sup>75</sup> The relevant page from the Bank's web site is appended as Annex 3. The Bank cites the following operational directives and operational policies in support of this requirement: "OD 4.30, para 30;<sup>76</sup> OP 4.01, para 8, footnote 10;<sup>77</sup> OP 4.01, Annex B, para 2;<sup>78</sup> OP 4.01, Annex C, para 2;<sup>79</sup> Operational Memorandum, 3 December 1999, para.4."<sup>80</sup> As such, the EIAR fails to comply with World Bank guidelines. Failure of an EIA to include a resettlement plan has proved sufficient grounds for the World Bank to reject an EIA.<sup>81</sup>

OECD guidelines also require EIAs to include a resettlement plan.<sup>82</sup>

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<sup>72</sup> WCD, op.cit. ref 43, p.283. Guideline 5: "IA [Impact Assessment] should include an Environmental Impact Assessment, a Social Impact Assessment, a Health Impact Assessment and a Cultural Heritage Impact Assessment as explicit components and comply with international professional standards. The assessments should be sufficiently detailed to provide a pre-project baseline against which post-project monitoring results can be compared."

<sup>73</sup> See for example: EIAR p.4-105, "All these estimates [relating to the numbers to be resettled] must be interpreted with caution."

<sup>74</sup> EIAR, p. 1-1 "Resettlement issues have been addressed in the context of this EIAR rather than in a separate study. Considering what is presently known, the importance of this issue has been fully grasped by IEG and its dimensions have been analysed. However, this analysis does not represent a full resettlement study. . . "

<sup>75</sup> World Bank, Disclosure of Environmental and Social Operation Documents, column 5 (resettlement plans) , [www.worldbank.org/whatwedo/socedisclosure.pdf](http://www.worldbank.org/whatwedo/socedisclosure.pdf)

<sup>76</sup> World Bank OD 4.30 Involuntary Resettlement, para 30: "Submission to the Bank of a time-bound resettlement plan and budget that conforms to Bank policy is a condition of appraisal for projects involving resettlement . . . All final EPSs [Executive Project Summaries] should confirm that this requirement has been met."

<sup>77</sup> World Bank, OP 4.01, *Environmental Assessment*, para 8, footnote 10: "A potential impact is considered 'sensitive' if it may be irreversible . . . or raise issues covered by OP 4.20 Indigenous Peoples; OP 4.04 Natural Habitats; OP 4.11 Safeguarding Cultural Property in Bank-financed Projects (forthcoming); OP 4.12 Involuntary Resettlement (forthcoming)."

<sup>78</sup> World Bank, OP 4.01, *Environmental Assessment*, Annex B, para 2 (h) (v): "The EA should include . . . list of associated reports (e.g. resettlement plan . . .)."

<sup>79</sup> World Bank, *Environmental Assessment*, Annex C, para 2: "The EMP [Environmental Management Plan . . . (d) provides linkage with any other mitigation plans (e.g. For involuntary resettlement . . .) required for the project."

<sup>80</sup> World Bank, Disclosure of Environmental and Social Operation Documents, column 5 (resettlement plans)

<sup>81</sup> In the case of the Bujagali dam in Uganda, the World Bank's private sector arm, the International Finance Corporation rejected an EIA for the project because it did not contain a resettlement plan.

<sup>82</sup> OECD, DAC 1 (Environmental Impact Assessments), pp.13-14: "In general the terms of reference for a thorough EIA should include. . .a statement of measures for the protection and/or resettlement of affected

## VIOLATION OF WORLD BANK, OECD AND EX-IM GUIDELINES ON DISCLOSURE OF ENVIRONMENTAL AND SOCIAL OPERATIONAL DOCUMENTS.

### Relevant guidelines breached:

World Commission on Dams: Guideline 5 - Project-Level Impact Assessment for Environmental, Social, Health and Cultural Heritage Issues.<sup>83</sup>

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World Bank standards stipulate that draft Environmental Assessments, incorporating any resettlement action plan, should be made "available at a public place accessible to project-affected groups and local NGOs."<sup>86</sup> The Bank's forthcoming<sup>87</sup> guidelines on involuntary resettlement (Draft OP 4.12) contains a similar stipulation for disclosure of the RAP.<sup>88</sup>

Ex-Im Bank guidelines with respect to disclosure of social operational documents are also clear. Where the Bank requires an environmental assessment of a project, its guidelines state that a copy of the EAIR "in a form authorized by the project sponsors" will be made available to interested parties during Ex-Im Bank's application review process."<sup>89</sup> The guideline only permits applicants to remove "confidential and proprietary business information" from the EIAR that is submitted; all other information required by Ex-Im must be included.<sup>90</sup> Since Resettlement Action Plans do not fall into the category of "confidential information", and given that Ex-Im requires EIARs to include resettlement action plans (*see above*), the failure to publish the now completed RAP in the EIAR constitutes a de facto breach

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population groups, indicating their reactions to proposals on these issues (for details see the DAC 'Guidelines for Aid Agencies on Involuntary Displacement and Resettlement in Development Project')."

<sup>83</sup> WCD, *op.cit.* ref 43, p.284. Guideline 5: "IAs [Impact Assessments should be public documents, posted on relevant websites and disseminated in appropriate languages."

<sup>84</sup> Letter from Baroness Symons, Under-secretary of state for the Foreign Office, to Philip Leach, Legal Director, Kurdish Human Rights Project, undated but received on 13 August 2001.

<sup>85</sup> The summary posted on the DSI's web site is a mere 3 pages long. By comparison, the summary of the EIAR is 20 pages.

<sup>86</sup> World Bank OP 4.01, *Environmental Assessments*, para 17. See ref 87 for full text

<sup>87</sup> The Bank is converting its current Operational Directive on Involuntary Resettlement (OD 4.30) into an Operational Policy/Bank Procedure (OP/BP 4.12). The proposed policy is due to be forwarded to the Bank's Board for approval in September 2001.

<sup>88</sup> World Bank, Draft OP 4.12, *Involuntary Resettlement*, para 21. For full text, see ref 88.

<sup>89</sup> Ex-Im Bank, *Environmental Procedures*, p.4 (Project Financing). For full text, see ref 86.

<sup>90</sup> "At the time of final application the sponsor should submit a copy of the environmental assessment that does not contain confidential or proprietary business information, in a form suitable for release to interested parties in accordance with the procedure . . . for making environmental information available ." See: Ex-Im Bank, *Environmental Procedures*, [www.exim.gov/envproc.html](http://www.exim.gov/envproc.html) , p.4 (Project Financing), accessed 23/08/2001.

of Ex-Im Bank's Environmental Procedures.

Although OECD guidelines make no specific provisions for the manner of disclosure of RAPs, their requirement that affected peoples should be involved in the preparation of both EIAs and RAPs presupposes the release of both documents, as does the recommendation that participation by local NGOs should be encouraged.<sup>91</sup>

The refusal to disclose the RAP puts both the EIAR and the RAP itself in gross violation of World Bank, OECD and Ex-Im standards for disclosure of environmental and social operational documents. The violation of World Bank standards is specially pertinent since the Turkish government has undertaken to ensure that the RAP complies with World Bank guidelines.<sup>92</sup> In our view, the violation is sufficiently grave to require an immediate halt to project processing since the World Bank's *Procedures on Disclosure of Operational Information* (BP 17.50), para 12, September 1993, explicitly states: "If, in any exceptional case, the government objects to broader release of the EA, staff should not continue with project processing."<sup>93</sup>

In our view, the non-disclosure of the RAP, and the attendant failure of the Ilisu Consortium to incorporate a RAP in its EIAR, constitutes sufficient grounds for ECAs to reject the EIAR and to cease further processing of the project.

#### VIOLATION OF WORLD BANK, OECD AND WCD POLICIES ON CONSULTATION

Relevant guidelines breached:

World Bank: *OP/BP 4.10, Environmental Assessment, (paras 15,16,17)*;<sup>94</sup> *OD 4.30, Involuntary Resettlement, (para 8)*;<sup>95</sup> *Draft OP/BP 4.12, Involuntary Resettlement, (para 2b)*.<sup>96</sup>

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<sup>91</sup> OECD, Development Assistance Committee, *Good Practice for Environmental Impact Assessment of Development Projects*, Guidelines on Aid and Environment No1, pp. 12 and 13: "The participation of both men and women in the population affected (target groups as well as other affected groups) should be sought . . . The participation of non-governmental organisations in the recipient country should be encouraged."

<sup>92</sup> EIAR, p.1-7: " . . . it should be noted that DSI expropriation authorities have expressed their commitment to comply with WB [World Bank] guidelines on 'Resettlement Action Plan'."

<sup>93</sup> World Bank of World Bank *Procedures on Disclosure of Operational Information* (BP 17.50), para 12, September 1993.

<sup>94</sup> World Bank OP 4.01, *Environmental Assessments*, January 1999, paras 15, 16, 17 state: "For all category A and B projects proposed for IBRD or IDA financing, during the EA process, the borrower consults project-affected groups and local non-governmental organisations (NGOs) about the project's environmental aspects and takes their views into account . . . For meaningful consultations between the borrower and project-affected groups and NGOs . . . the borrower provides relevant material in a timely manner prior to consultation and in a form and language that are understandable and accessible to the groups being consulted . . . For a Category A project, the borrower provides for the initial consultation a summary of the proposed project's objectives, description and potential impacts; for consultation after the draft EA is prepared, the borrower provides a summary of the EA's conclusions. In addition, for a Category A project, the borrower makes the draft EA report available at a public place accessible to project-affected groups and local NGOs."

<sup>95</sup> World Bank OD 4.30, *Involuntary Resettlement*, June 1990, para 8: "The involvement of involuntary resettlers and hosts in planning prior to the move is critical . . . To obtain cooperation, participation, and feedback, the

OECD: *DAC 1, Environmental Impact Assessment*, (p12 and p.13).

World Commission on Dams: *Strategic Priority 2 Comprehensive Options Assessment (para 2.1)*;<sup>97</sup>  
*Strategic Priority 5 Recognising entitlements and sharing benefits (para 5.3)*.<sup>98</sup>

World Bank guidelines on Environmental Assessment (OP/BP 4.01),<sup>99</sup> *Involuntary Resettlement (OD 4.30*<sup>100</sup> *and OP/BP 4.12*<sup>101</sup>) stipulate that there should be meaningful consultation with affected peoples and NGOs on the contents of EIARs and RAPs.

OP 4.01 states that "for meaningful consultations" with project affected groups and local NGOs to take place, "relevant material" must be provided "in a timely manner prior to consultation and in a form and language that are understandable and accessible to the groups being consulted."<sup>102</sup> OP 4.12 contains similar language with regard to RAPs.<sup>103</sup>

As noted previously, OECD guidelines on Environmental Impact Assessment state that the participation of both women and men in the population affected and of non-governmental organisations in the recipient country should, respectively, be "sought" and "encouraged."<sup>104</sup>

For the WCD, participation, consultation and negotiation are required throughout the process of drawing up and implementing EIARs and RAPs.<sup>105</sup>

The EIAR and RAP fail to comply with the above requirements on consultation. A full

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affected hosts and resettlers need to be systematically informed and consulted during preparation of the resettlement plan about their options and rights."

<sup>96</sup> World Bank Draft OP 4.12, *Involuntary Resettlement*, 6 March 2001, para 2b: "Displaced persons should be meaningfully consulted and have opportunities to participate in planing and implementing resettlement programmes."

<sup>97</sup> WCD, op. cit. ref 43, *Strategic Priority 2.1 - Comprehensive Options Assessment*, p.221: "Development needs and objectives are clearly formulated through an open and participatory process before the identification and assessment of options for water and energy resources development."

<sup>98</sup> WCD, op. cit ref 43, *Strategic Priority 5, Recognising Entitlements and Sharing Benefits*, para 5.3: "All recognised adversely affected people negotiate mutually agreed, formal and legally enforceable mitigation, resettlement and development entitlements."

<sup>99</sup> World Bank OP 4.01, *Environmental Assessments*, January 1999, paras 15, 16, 17. For full text, see ref 101.

<sup>100</sup> World Bank OD 4.30, *Involuntary Resettlement*, June 1990, para 8. For full text, see ref 102.

<sup>101</sup> World Bank Draft OP 4.12, *Involuntary Resettlement*, 6 March 2001, para 2b. For full text, see ref 103.

<sup>102</sup> World Bank OP 4.01, *Environmental Assessments*, January 1999, para 16 (see ref 101 for text).

<sup>103</sup> World Bank Draft OP 4.12, *Involuntary Resettlement*, 6 March 2001, para 21 (see ref 88 for text)

<sup>104</sup> OECD, Development Assistance Committee, *Good Practice for Environmental Impact Assessment of Development Projects, Guidelines on Aid and Environment No.1*, Paris 1992, p12 ("sought") and p.13 ("encouraged").

<sup>105</sup> See refs 104 and 105.

EIAR has not, to our knowledge, been placed in any place accessible to affected groups and NGOs: publication on the internet, though welcome, is not sufficient, given that few within the affected communities have access to the internet. To our knowledge, no relevant materials have been made available by the project developers or the Ilisu Consortium or the ECAs in Kurdish or Turkish.

Further failures to comply with World Bank, OECD and WCD guidelines on consultation are detailed in Section 4.

## Section 4

# Specific Comments on Resettlement Provisions in Ilisu EIAR:

Evaluation of compliance with internationally accepted practice on ethnic minorities, impacts, socio-economic surveys, consultation, participation, safeguarding human rights, resettlement plan budgets, resettlement development plans.

## Summary of Major Violations

### 1. Failure to incorporate "indigenous peoples' development plan"

World Bank Operational Directive 4.20, Indigenous Peoples, paras 1-20

### 2. Failure to assess legal rights of affected ethnic minority

World Bank OD 4.20, Indigenous Peoples, para 15 (a)

### 3. Failure to carry out full census and socio-economic survey: unreliable information on numbers affected and other major information gaps

World Bank Draft OP 4.12, Involuntary Resettlement, (part IV, para 13; Annex paras 6 a) and b)).

World Bank, OD 4.30 Involuntary Resettlement, para 11.

OECD, DAC 3, Involuntary Resettlement.

World Commission on Dams, Strategic Priority 4 - Sustaining Rivers and Livelihoods.

World Commission on Dams, Guideline 17 - Baseline Social Conditions.

### 4. Inadequate analysis of Turkish expropriation experience

World Bank OD 4.30 Involuntary Resettlement, para 12.

World Bank, Draft OP 4.12 Involuntary Resettlement, III, para 6a (iii).

OECD DAC 3 Involuntary Displacement and Resettlement.

### 5. Failure to comply with international best practice on consultation

World Bank Draft OP 4.12 (Involuntary Resettlement) para 1b, para 12a, para 18.

World Bank OD 4.30 (Involuntary Resettlement), para 3c, para 8, para 9.

OECD, DAC 3, Involuntary Displacement and Resettlement, p.7.

WCD Strategic Priority 2 Comprehensive Options Assessment (para 2.1).

WCD Strategic Priority 5 Recognising entitlements and sharing benefits (para 5.3).

## 6. Failure to ensure participation

World Bank: OD 4.20 (Indigenous Peoples) para 8.

OECD: DAC 3, Involuntary Displacement and Resettlement, p.7

WCD: Strategic Priority 2 Comprehensive Options Assessment (para 2.1; para 5.3)

WCD Strategic priority 5 - Recognising Entitlements and Sharing Benefits, Key message and para5.3.

## 7. Failure adequately to assess the gender implications of resettlement

World Bank OD 4.30, Involuntary Resettlement, para 8

OECD DAC Guideline 3, Involuntary Resettlement, p.7.

WCD Strategic Priority 1 - Gaining Public Acceptance, para 1.2 and p.217.

## 8. Failure to demonstrate adequate institutional framework

World Bank OD 4.30 (Involuntary Resettlement), paras 6; OP 4.12 paras 16, 17.

## 9. Failure to produce credible budget

World Bank OD. 4.30 (Involuntary Resettlement) paras 4 , 29 and 30.

World Bank Draft OP 4.12 (Involuntary Resettlement) Annex para 20, Draft BP 4.12 (Involuntary Resettlement), para 10.

OECD, DAC 3, Involuntary Resettlement, "Appraisal and Negotiations", p.9

WCD Strategic Priority 6 - Ensuring Compliance, para 6.3

## 10. Relying on economic growth to relieve post-project impacts

World Bank OD 4.30 Involuntary Resettlement, para 3b; para 18.

World Bank Draft OP 4.12 Involuntary Resettlement, para 9.

OECD DAC 3, Involuntary Displacement and Resettlement, p.7.

## 12. Independent and participatory monitoring

World Bank OD 4.30, para 22

World Bank, Draft OP 4.12, Annex, para 21

OECD DAC 3, Involuntary Displacement and Resettlement, p.12

WCD Strategic Priority 6 - Ensuring compliance, para 6.1

## 13. Previous record of the Turkish authorities on resettlement

World Bank Draft BP 4.12 (Involuntary resettlement), para 2(d).

## 14. Failure to analyse Resettlement Alternatives

World Bank: OD 4.30 para 3a

OECD: DAC 3, Involuntary Displacement and Resettlement

WCD: Strategic Priority 2 - Comprehensive Options Assessment, paras 2.2, 2.3, 2.4 2.5

This section reviews the state of resettlement planning for Ilisu and the provisions that the authorities have made for resettlement against:

- World Bank guidelines, the cited reference guidelines for the RAP;<sup>106</sup>
- OECD guidelines, the cited reference guidelines of the UK government (*see Section 2*);<sup>107</sup>
- The guidelines of the World Commission on Dams, also cited as a reference benchmark by the UK government (*see Section 2*).

Owing to the non-disclosure of the RAP (*see Section 3*), the opportunity to conduct a comprehensive review of the proposed resettlement measures has been denied to us. We have therefore been obliged to rely on:

- 1) Information supplied in the EIAR. Due regard has been taken of the EIAR's admission that it does not itself constitute a resettlement action plan; that key documents available to the RAP team were not passed to the EIAR team; and that the EIAR itself warns that its data should be treated with caution (*see Section 3*).
- 3) The executive summary of the RAP, as posted on the DSI's web page.<sup>108</sup> *We have assumed that this document accurately summarises the contents and components of the full report and that any components missing from the summary are also missing from the review.*
- 3) The interim review conducted by Ayse Kudat on behalf of the ECAs in August 2000 of the draft Resettlement Action Plan,<sup>109</sup> *which details some of the findings of the RAP's research up to that date.*
- 4) The results of independent field assessments made by parliamentarians and non-governmental organisations.

## Major relevant provisions

The major OECD, World Bank and WCD guidelines, directives, operational policies and procedures which relate to resettlement are set out below:

### OECD

OECD Development Assistance Committee, Good Practices for Environmental Impact

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<sup>106</sup> EIAR, 1-7. "It should be noted that DSI expropriation authorities have expressed their commitment to comply with the World Bank guidelines on Resettlement Action Plan" (sic).

<sup>107</sup> The OECD standards are also the IEG's recommended reference guidelines for the RAP: "IEG recommends that the Resettlement Action Plan (RAP) under preparation complies with OECD Guideline" (sic).

<sup>108</sup> DSI, Executive Summary: Resettlement Action Plan of Ilisu and HEPP Project, [www.dsi.gov.tr/enghm.htm](http://www.dsi.gov.tr/enghm.htm).

<sup>109</sup> Kudat Report, op. cit. ref 7.

Assessment of Development Projects, Guidelines on Aid and Environment No.1, Paris 1992.<sup>110</sup>

The World Bank has ten environmental and social safeguard policies, intended to ensure that Bank operations “do no harm” to people and the environment.<sup>111</sup> The policies,<sup>112</sup> which are mandatory, have been in place since the early to late 1980s.

When first formulated, the safeguards took the form Operational Directives which combined mandatory policy, Bank procedures and “good practice” advice. In order to distinguish “policies” from “procedures”, however, the Bank is in the process of converting the old ODs into Operational Policies (OPs) and Bank Procedures (BP). The Bank has stated that that the conversions will not result in any dilution of the safeguards.<sup>113</sup> Most of the ODs have now been converted. Of the ten safeguards policies, 4 are particularly applicable to Ilisu:

World Bank Operational Directive OD 4.20 Indigenous Peoples, September 1991.<sup>114</sup> *Applies to all projects involving "social groups with a social and cultural identity distinct from the dominant society that makes them vulnerable to being disadvantaged in the development process."*<sup>115</sup> This directive covers ethnic minorities, such as the Kurds of SE Turkey,<sup>116</sup> and is automatically applicable to any project where indigenous peoples are affected.

## WORLD COMMISSION ON DAMS<sup>117</sup>

World Commission on Dams, Strategic Priority 6, *Ensuring Compliance*, Chapter 8 and

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<sup>110</sup> Hereafter DAC 1 Environmental Impact Assessment

<sup>111</sup> [www.worldbank.org/whatwedo/policies](http://www.worldbank.org/whatwedo/policies) p.2

<sup>112</sup> [wbIn0018.worldbank.org/essd/essd.nsf/All/](http://wbIn0018.worldbank.org/essd/essd.nsf/All/)

<sup>113</sup> [wbIn0018.worldbank.org/essd/essd.nsf/All/](http://wbIn0018.worldbank.org/essd/essd.nsf/All/) p.2: “Management has instructed that there should be no dilution of the existing standards.”

<sup>114</sup> Hereafter OD 4.20 Indigenous Peoples.

<sup>115</sup> OD 4.20 Indigenous Peoples, para 3.

<sup>116</sup> The Bank's definition of "indigenous peoples" embraces "indigenous ethnic groups". The Bank states (OD 4.20 Indigenous Peoples, para 5): "Indigenous peoples can be identified in particular geographical areas by the presence in varying degrees of the following characteristics: a) a close attachment to ancestral territories and to the natural resources in these areas; b) self-identification and identification by others as members of a distinct cultural group; c) an indigenous language, often different from the national language; d) presence of customary social and political institutions; e) primarily subsistence-oriented production." The ethnic Kurds of SE Turkey comply fully with this definition.

<sup>117</sup> WCD, op. cit. Ref 43..



indigenous people, the . . . OD would thus apply to the project in its entirety."<sup>121</sup>

The EIAR correctly identifies those affected as being an ethnic minority and recommends that "specific attention should be brought to the protection of the rights of minorities and to the preservation of the cultural values of the resettlers in order to avoid any perception of bias in the context of the planning and implementation of expropriation or resettlement programs."<sup>122</sup> It fails, however, to refer to the need for the RAP to comply with OD 4.20 if the Turkish government commitment to adhere to World Bank resettlement policies is to be fulfilled. Indeed, there is no indication that project developers are even aware that the Bank's Indigenous Policy would apply to the RAP.

No indigenous peoples' development plan appears to have been prepared, let alone incorporated into the RAP.

#### FAILURE TO ASSESS LEGAL RIGHTS OF AFFECTED ETHNIC MINORITY

Relevant guideline breached:

World Bank: OD 4.20 (Indigenous Peoples), para 15 (a)<sup>123</sup>

A key component of the Bank's required Indigenous Peoples' Development Plan (*see above*) is an assessment of "the ability of [affected indigenous groups] to obtain access to and effectively use the legal system to defend their rights."<sup>124</sup>

In the case of Ilisu, this would entail an assessment of the rights of the indigenous ethnic Kurds to access the Turkish legal system in order to defend any rights affected by the dam project. No such assessment appears in either the EIAR or the Executive Summary of the RAP. This omission is particularly serious since Ilisu is to be built in an area of Turkey where the Kurdish ethnic minority has been subject to widespread discrimination and abuse of their human rights.

As documented in the introductory section, the region has been devastated by an armed conflict between Turkey's security forces and the Kurdistan Workers' Party (PKK). International sources such as the UNHCR, US State Department and human rights organisations (such as Human Rights Watch) have reported on the forced depopulation by the Turkish security forces of thousands of villages in southeastern Turkey where the

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project."

<sup>121</sup> *Ibid*

<sup>122</sup> EIAR, 5-15.

<sup>123</sup> OD 4.20 (Indigenous Peoples), para 15 (a): "The [indigenous peoples' development plan] should contain an assessment of (i) the legal status of the groups covered by this OD, as reflected in the country's constitution, legislation, and subsidiary legislation (regulations, administrative orders etc.) and (ii) the ability of such groups to obtain access to and effectively use the legal system to defend their rights."

<sup>124</sup> *Ibid*

PKK has been active. Despite government promises to compensate villagers, little effort has been made to facilitate the return of displaced persons to their homes or to compensate them for the destruction and loss of their property. Torture, rape and extra-judicial killings have been widespread in the region (*see* Section 1).

Although armed conflict has ceased, following a PKK cease-fire, the region is still subject to Emergency Rule (OHAL) and human rights abuses continue. Under the provisions of OHAL (renewed in July 2001 until the end of the year), freedom of expression, movement and assembly is curtailed. The European Court of Human Rights has also repeatedly found Turkey in violation of Article 13 (right to an effective remedy) of the European Convention of Human Rights, an issue of particular relevance to OD 4.20 para 15a.<sup>125</sup>

The everyday discrimination against the Kurdish ethnic minority and the lack of basic human rights in the region are both major complicating factors for the Ilisu resettlement and compensation package. Regardless of the requirements of OD 4.20, both issues should have been central to any realistic assessment of resettlement prospects for those who will be ousted by the dam. It is therefore of grave concern that both the EIAR and the RAP give a grossly distorted and inaccurate account of human rights conditions in the region. For example:

- No mention of Emergency Rule is made in the Executive Summary of the RAP. In the EIAR, it is referred to only through euphemisms, such as "specific administration"<sup>126</sup> or "supergovernership" are used. No consideration is given to the implications for resettlement at Ilisu.
- The recent war, which killed an estimated 30,000 people and displaced some 3 million, is referred to as a "social dispute",<sup>127</sup> as if it were a row between neighbours, or as "regional tensions";
- Both the EIAR and Executive Summary of the RAP give a highly selective and misleading account of out-migration from the region. Although the EIAR states the opinion that "this migration can be partially explained by the terrorism which had arisen

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<sup>125</sup> See for example, *Aksoy v Turkey*, ECtHR, Judgment of 18 December 1996; *Mentes & Ors v Turkey*, ECtHR, Judgment of 28 November 1997; *Selcuk and Asker v Turkey*, ECtHR, Judgment of 24 April 1998; *Kaya (Mehmet) v Turkey*, ECtHR, Judgment of 19 February 1998; *Aydin (Sukran) v Turkey*, ECtHR, Judgment of 25 September 1997; *Kurt v Turkey*, ECtHR, Judgment of 25 May 1998; *Tanrikulu v Turkey*, ECtHR, Judgment of 8 July 1999; *Cakici v Turkey*, ECtHR, Judgment of 8 July 1999; *Tekin v Turkey*, ECtHR, Judgment of 9 June 1998; *Ergi v Turkey*, ECtHR, Judgment of 28 July 1998; *Yasa v Turkey*, ECtHR, Judgment of 2 September 1998; *Kaya (Mahmut) v Turkey*, ECtHR, Judgment of 28 March 2000; *Kilic (Cemil) v Turkey*, ECtHR, Judgment of 28 March 2000; and *Timurtas v Turkey*, ECtHR, Judgment of 13 June 2000.

<sup>126</sup> EIAR, EXE-7

<sup>127</sup> EIAR, EXE-7

after 1992 in the eastern areas"<sup>128</sup> and that some "migration" was "involuntary",<sup>129</sup> no mention is made of the security forces' deliberate policy of village destruction and evacuation - a policy that, on the Turkish Parliament's own figures, is estimated to have forced the inhabitants of some 3,185 villages and hamlets to flee their homes since 1990.<sup>130</sup> Others put the figures far higher, estimating that 4,000 villages were destroyed and 10 million Kurds displaced.<sup>131 132</sup>

- Like the EIAR, the Executive Summary of the RAP (and we presume therefore the RAP itself) places any blame for involuntary migration on the activities of the PKK, making no reference to the government's village evacuation policy. In the main, and quite erroneously, "outmigration" is attributed to villagers leaving their homes "in search of work,"<sup>133</sup> an analysis which is at odds with surveys referred to in the EIAR which cite 42.3% of respondents leaving their homes due to the war as against 36.4% for employment.<sup>134</sup>

We regard the EIAR's and RAP's treatment of this critical issue as grossly inadequate and misleading. Given the poor English in those sections and sentences of the EIAR which touch on the security situation in the region, we question whether the EIAR has been censored by the Turkish authorities.<sup>135</sup> If so, we would note that EIARs are intended to be independent assessments of the impacts of a project: interference by the project developer would be grossly improper. In our view, it would constitute ground for rejecting the document as a grave violation of international best practice.

#### FAILURE TO CARRY OUT FULL CENSUS AND SOCIO-ECONOMIC SURVEY:

#### UNRELIABLE INFORMATION ON NUMBERS AFFECTED AND OTHER MAJOR INFORMATION GAPS

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<sup>128</sup> EIAR p3-65. See also: p.4-86 ("because of local terrorist activities") and p.4-93 ("for security reasons caused by PKK").

<sup>129</sup> EIAR, EXE-7. In section 4 (4-95), the EIAR also notes that there has been "forced evacuation of many settlements" but fails to put this into the context of human rights abuses in the region or to analyse the implications for resettlement.

<sup>130</sup> Council of Europe - Committee on Migration, Refugees and Demography, "Humanitarian Situation of the Kurdish Refugees and Displaced Persons in South-East Turkey and North Iraq", Doc. 8131, June 1998. This report cites July 1997 press conference statement in which the Chairman of the Turkish Parliamentary Committee established to look into the problem of village evacuations confirmed that almost 365,000 inhabitants of 3,185 villages and hamlets had been forced out of their homes since 1990.

<sup>131</sup> Ibid, regarding number of destroyed villages. Regarding the number of evacuees, see David Morgan, "Turkey, Human Rights and the Kurds," Kurdish Centre for Human Rights, Geneva, March 2001. As early as 1994, Turkey's own Human Rights Minister, Azimet Koyluoglu, estimated that 2 million villagers had been displaced and that 600 villages and 790 hamlets had been evacuated in the period from 1984-1994.

<sup>132</sup> By the end of 1992, entire districts, including Sirnak, Silopi and Erueh (all overlapping the Ilisu region) had lost all their villages, with the exception of one village guard district. See: Kurdish Human Rights Project, "Mentes and others v Turkey, a KHRP case report on village destruction in Turkey", September 1998.

<sup>133</sup> Executive Summary, RAP, p.1 and p.2.

<sup>134</sup> EIAR, p.3-66.

<sup>135</sup> It has been alleged to us that the EIAR was delivered in January to DSI and returned to the EIAR authors in April 2001. In the interim, DSI and the GAP authorities "edited" the text. This allegation requires investigating.

Relevant guidelines breached:

World Bank: Draft OP 4.12 (Involuntary Resettlement) part IV, para 13;<sup>136</sup> [Annex paras 6 a\) and b\).](#)<sup>137</sup> [OD 4.30 Involuntary Resettlement](#)), para 11.<sup>138</sup>

OECD: *Involuntary Displacement and Resettlement*.<sup>139</sup>

WCD: *Strategic Priority 4 - Sustaining Rivers and Livelihoods*;<sup>140</sup> [Guideline 17 - Baseline Social Conditions](#);<sup>141</sup>

The World Bank and OECD guidelines requiring socio-economic surveys and the details they stipulate for inclusion are broadly similar. World Bank guidelines stipulate that:

- A full census should be carried out of those affected by the project;<sup>142</sup>

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<sup>136</sup> "Upon identification of the need for involuntary resettlement in a project, the borrower carries out a census to identify the persons who will be affected by the project [and] to determine who will be eligible for assistance."

<sup>137</sup> Para 6 a) states: "The results of a census survey covering: i. Current occupants of the affected area to establish a basis for the design of the resettlement program . . . ii. Standards characteristics of displaced households, including a description of production systems, labour and household organisation; baseline information on livelihoods (including, as relevant, production levels and income derived from both formal and informal economic activities) and standards of living (including health status) of the displaced population; iii. The magnitude of the expected loss - total or partial - of assets, and the extent of displacement, physical or economic; iv. Information on vulnerable groups or persons as provided for in para 8 of OP 4.12, for whom special provisions may have to be made; and v. provisions to update information on the displaced people's livelihoods and standards of living at regular intervals so that the latest information is available at the time of their departure."

Para 6 b) requires: "Other studies describing: i. Land tenure and transfer systems, including an inventory of common property natural resources from which people derive their livelihoods and sustenance, and non-title-based usufruct systems (including fishing, grazing or use of forest areas) governed by local recognised land allocation mechanisms and any issues raised by different tenure systems in the project area; ii. The patterns of social interaction in the affected communities, including social networks and social support systems, and how they will be affected by the project; . . . iv. Social and cultural characteristics of displaced communities, including a description of formal and informal institutions (e.g. Community organisations, ritual groups, non-governmental organisations) that may be relevant to the consultation strategy and to designing and implementing the resettlement activities."

<sup>138</sup> "Resettlement plans should be based on recent information about the scale and impact of resettlement on the displaced population. In addition to describing standard household characteristics, socio-economic surveys should describe (a) the magnitude of displacement; (b) information on the full resource base of the affected population, including income derived from informal sector and non-farm activities, and from common property; (c) the extent to which groups will experience total or partial loss of assets; (d) public infrastructure and social services that will be affected; (e) formal and informal institutions...; (f) attitudes on resettlement options. Socio-economic surveys, recording the names of affected families, should be conducted as early as possible..."

<sup>139</sup> OECD, DAC 3, *Involuntary Displacement and Resettlement*, p.7: "The plan should normally include provisions for the following . . . socio-economic survey."

<sup>140</sup> WCD, op. cit, ref 43, *Strategic priority 4 - Sustaining Rivers and Livelihoods*, para 4.1, p.234: "A basin-wide understanding of the ecosystems's functions, values and requirements, and how community livelihoods depend on and influence them, is required before decisions on development options are made."

<sup>141</sup> WCD, op. cit. Ref 43, *Recognising Entitlements and Sharing Benefits - Guideline17 Baseline Social Conditions*, p.296: "Constructing a social baseline is central to the planning and implementation process."

<sup>142</sup> World Bank Draft OP 4.12 part IV, *Involuntary Resettlement*, para 13, also Annex para 6 a) and b). For text, see above ref 153.

- A full socio-economic survey should be carried out "describing (a) the magnitude of displacement; (b) information on the full resource base of the affected population, including income derived from informal sector and non-farm activities, and from common property; (c) the extent to which groups will experience total or partial loss of assets; (d) public infrastructure and social services that will be affected; (e) formal and informal institutions...; (f) attitudes on resettlement options."<sup>143 144</sup>
- The names of affected families should be recorded "as early as possible."<sup>145</sup>
- Land tenure systems should be described, including an inventory of common property resources.<sup>146</sup>
- A description of formal and informal institutions in the affected communities, including the identification of non-governmental organisations that "may be relevant to the consultation strategy and to designing and implementing the resettlement activities."<sup>147</sup>
- Information should be provided on vulnerable groups for whom special provisions may have to be made.<sup>148</sup>

The EIAR makes it clear that, as of the date of its completion (April 2001):

No up-to-date census had been completed

The EIAR acknowledges that "census surveys represent the most obvious and reliable source of data"<sup>149</sup> on the number of people who currently live in affected settlements but admits that no up-to-date census data was available to it. As a result, it relied on a census that is now four years old.<sup>150</sup> Although a census was carried out in the

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<sup>143</sup> World Bank OD 4.30 (Involuntary Resettlement) para 11.

<sup>144</sup> World Bank Draft OP 4.12 Annex para 6 a) and b) contains similar provisions. For text, see above ref 153

<sup>145</sup> World Bank OD 4.30 (Involuntary Resettlement) para 11 "Socioeconomic surveys, recording the names of affected families, should be conducted as early as possible to prevent inflows of population ineligible for compensation."

<sup>146</sup> World Bank OP 4.12 (Involuntary Resettlement), Annex para 6 b) i. For text see ref 153.

<sup>147</sup> World Bank OP 4.12 (Involuntary Resettlement), Annex para 6 b) iv. For text see ref 153.

<sup>148</sup> World Bank OP 4.12 (Involuntary Resettlement), Annex para 6 a) iv. For full text see ref 153.

<sup>149</sup> EIAR, p.4-97.

<sup>150</sup> EIAR, p.4-97: "In the context of the EIAR, the results of the 1997 were mostly used." Significantly, the EIAR's Executive Summary maintains that the census "can be considered accurate", whilst the main text presents a number of reasons for doubting its accuracy. For example, updating of the census has been carried out "by the headmen of the villages visited as well as a door-to-door survey of all the households of most totally flooded settlements and of a sample of the partially flooded as well." We note, however, that many villages were never visited as part of the door-to-door survey and that the updating methods used can at best only provide a "guesstimate" of population numbers.

Autumn of 2000, its results had not been officially disclosed at the time of the EIAR's completion.<sup>151</sup> The EIAR notes the accuracy of the census results have been questioned<sup>152</sup> and that the survey does not compile data for "very small villages and hamlets."<sup>153</sup> Given that of the 183 settlements that would be flooded by Ilisu, 96 are classed as "hamlets" and 85 as "villages", a significant proportion of the study area has probably been excluded from the census.

No full socio-economic survey, incorporating the elements required by the OECD and World Bank, has been undertaken.

The EIAR states that, "In the context of the RAP preparation, a very extensive socio-economic survey was carried out throughout the reservoir area in 1999-2000."<sup>154</sup> The statement is misleading on a number of counts.

First, World Bank standards do not limit the required surveys to the reservoir area: all those who are likely to be affected must be included. To our knowledge, **minimal efforts have been made to contact those who were forced to move from the reservoir area as a result of village clearance programmes in the 1990s (and who would therefore be eligible for compensation) or the many others, such as shepherds and pastoralists, who use the reservoir on a seasonal basis.**<sup>155</sup> The Kudat report, written after the completion of the socio-economic survey, notes the socio-economic survey consulted "over 100" displaced households.<sup>156</sup> This would constitute a minute percentage of those displaced from the reservoir area - estimated at upward of 50,000 people by GOC-DER (Immigrants Association for Social Co-Operation and Culture), a Turkey-wide NGO providing support for those displaced from the region.<sup>157</sup> (Estimates of the numbers involved vary (see below) but given that 90 out of the 183 affected settlements in the reservoir area have been abandoned,<sup>158</sup> the figure for those excluded from the socio-economic survey is likely to be significant.) The socioeconomic survey thus falls far short of World

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<sup>151</sup> EIAR p.4-98. "The results of the census carried out in the fall of 2000 have not yet been officially disclosed and may not be published until the spring or summer of 2001"

<sup>152</sup> EIAR, p.4-98. The EIAR argues that the census may have overestimated the numbers currently living in urban areas.

<sup>153</sup> EIAR, p.4-98. "According to the SIS staff supervising the census operations in the 5 provinces of the study area, the margin of error is however very small for villages or hamlets because no data is compiled in these locations."

<sup>154</sup> EIAR, p.4-98.

<sup>155</sup> The EIAR notes: "The actual number of Project-Affected Persons (PAPs) who could be either directly or indirectly affected, whether by impoundment or other factors, will be higher than the number of people living in affected settlements but it is difficult to estimate. It would also include shepherds who use pastures located in the reservoir area on a seasonal basis, owners of small businesses located in nearby cities where residents of affected settlements shop, people working in the transportation industry in general, residents of villages affected by the relocation of infrastructure, host communities and all the employees who will be involved in the construction of the Project or the reconstruction of infrastructure or housing." It is not made clear whether or not these people have been included in the socioeconomic survey but, given the information available, we conclude that they have yet to be surveyed.

<sup>156</sup> Kudat Report, op.cit, ref 7, p. 23.

<sup>157</sup> The Ilisu Dam Campaign et al., *If the River were a Pen - The Ilisu Dam, the World Commission on Dams and Export Credit Reform*, London, 2001.

<sup>158</sup> EIAR, p.3-66.

Bank requirements.<sup>159</sup>

Second, as the EIAR itself makes clear, the survey covered only a fraction of the affected settlements in the reservoir area. "The population survey included all the households of *most* totally flooded settlements and a *representative sample* of the households living in a *sample* of the partially flooded settlements." **We would note that surveying "a sample of a sample" population fails to comply with international best practice.** The Executive Summary of the RAP adds further confusion. It states that 2,100 households (representing 20,000 people) were consulted: *if accurate, this would be 2000 more people that the RAP estimates (two sentences later) will be displaced.*<sup>160</sup> The RAP also admits that only 25% of households in partially affected areas were surveyed: its figures on the number of households surveyed in the total submergence zone also conflicts with those given in the Kudat report.<sup>161</sup>

Third, it would appear from the list of further studies recommended by EIAR that the survey is at best preliminary and that much of the data produced cannot be relied upon without further checking.<sup>162</sup> Significantly, the claimed scope of the survey is also disputed by villagers. Villagers in a settlement outside Hasankeyf interviewed by the Ilisu Dam Campaign in October 2000 stated that SEMOR, the firm that conducted the survey, had questioned them about the yields of their harvest, the ownership of the houses, the number of animals they owned and other issues related to their socio-economic status. However, *villagers interviewed in Hasankeyf were adamant that no such questions had been put to them in the questionnaires they completed.* The Ilisu Dam Campaign acknowledges that it interviewed only a small sample of villagers during its visit. Nevertheless, the consistency with which villagers of Hasankeyf denied being asked about their socio-economic status merits investigation by ECAs.

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<sup>159</sup> Significantly, the Kudat report blames the failure to carry out a full survey - which she acknowledges is in breach of World Bank guidelines - on the ongoing conflict in the region: "*Some communities, although not displaced, were not accessible for security reasons at the time of the socio-economic surveys.*" (Kudat Report, op.cit, ref 7, p. 30). This may explain why the Turkish authorities specifically excluded a full census from the remit of the Resettlement Action Plan, despite such a survey being required under World Bank standards. According to the RAP Report: "*The terms of references of the consultants preparing the RAP did not require a census and the budget that was allocated for the RAP would have been insufficient to carry out such a census.*" (Kudat, op.cit, ref 7, p. 30)

<sup>160</sup> Executive Summary, RAP, p.2.

<sup>161</sup> The RAP claims that 100% of households in the area to be totally submerged were interviewed. This figure conflicts with information in the Kudat report, which was written after the completion of the socio-economic survey. Kudat notes the socio-economic surveyed only covered a third of households in Hasankeyf, just one of the sites to be totally submerged. See: Kudat Report, op.cit ref 7, p.23.

<sup>162</sup> EIAR, p.7-17. The EIAR recommends a number of further studies on social issues. At least two would appear to cover exactly the work that the socio-economic survey should have covered: 1) "A survey should be carried out in order to fully validate the list of all the settlements, whether inhabited or abandoned, affected by the Project, either because they will be fully or partially impounded or indirectly affected by other factors such as erosion in the reservoir, relocation process, construction and operation activities. This survey should also check the number of people living in these settlements who will have to be resettled or would be entitled to compensation, the characteristics of privately and community-owned infrastructures or buildings, the different types of crops or resources which are grown or exploited and any other production facility which could be affected. This survey should also validate specific estimates of categories of people more exposed to economic losses in those settlements such as landless rural residents, people who do not hold clear land titles and people who have left the area, The criteria identified to establish the list of settlements, the categories of affected people and the survey results should be validated . . ."; 2) A survey should identify all the unused land which could be cultivated in the study area and where farmers could be resettled, as well as appropriate areas where new villages could be constructed or existing villages could be enlarged. This survey should also identify the dimensions of this farmland, the quality of its soils, its current ownership and its accessibility."

Fourth, major objectives of the survey have still to be achieved. For example, no evidence is presented that the project has completed a list of the names of those who will be affected in order to prevent inflows of population ineligible for compensation, contrary to OD 4.30, para 11. This is of concern since richer landlords are reported to be buying up land in the area in the hope of benefiting from compensation.<sup>163</sup> There also appears to have been no survey of common property pastoralist and fishery systems.

Fifth, no details are given as to the survey's terms of reference; the methodology employed; the specific questions asked or the responses received;<sup>164</sup> the number of people interviewed; the summary data that has been compiled; what language the survey was conducted in or whether Kurdish speakers were available for translation. Independent analysis is therefore impossible. The refusal to publish the RAP further denies the possibility of independent scrutiny and oversight.

Sixth, from interviews conducted with participants by the Ilisu Dam Campaign, the prime focus of the survey was on attitudes to the dam, with questions heavily skewed to solicit a favourable response.<sup>165</sup> Moreover, there have been widespread and repeated allegations that respondents' answers were subsequently changed by the interviewers.<sup>166</sup> This issue is dealt with in more detail below.

Seventh, there are doubts as to the competence of the staff involved in analysing the data collected. As the EIAR itself notes: "Although experienced, most of the staff specialised in resettlement which was met in the 5 affected provinces seemed unfamiliar with international guidelines, the lessons which could be drawn from past experience and issues which were not related to the reconstruction of infrastructure or buildings, such as the re-establishment of livelihoods and the monitoring of socio-economic indicators."<sup>167</sup>

Cadastral (land ownership) surveys are out of date and incomplete and new ones have not been completed.<sup>168</sup>

The EAIR reports: "No cadastral surveys have been carried out in some provinces and where

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<sup>163</sup> Ilisu Dam Campaign Fact-Finding Mission to the Ilisu Region, 10-17 June 2001. A resident of Hasankeyf, who asked to remain anonymous for fear of repression, told the mission, "Some rich families continue to buy land around here. They have bought up land since they heard about the Ilisu dam. At least one hundred men have done this, mainly landlords or Kurds who have worked as village guards."

<sup>164</sup> According to the EIAR, "several questions were focused on the characteristics of the households which were interviewed, their sources of livelihood and assets. Other questions dealt with their attitudes towards the Project and their likely choices among different resettlement options." It is not made clear, however, into what depth the survey went or the specific questions that were asked. See: EAIR, p.4-106.

<sup>165</sup> The Ilisu Dam Campaign et al., *If the River were a Pen - The Ilisu Dam, the World Commission on Dams and Export Credit Reform*, London, 2001.

<sup>166</sup> *Ibid.*

<sup>167</sup> EIAR, p. 4-107, para 4.3.4.7 (3).

<sup>168</sup> EIAR, 4-93, para 4.3.4.4. "Because the cadastral surveys have not been completed, the number of property-owners losing some land cannot be calculated and the only population estimate which can be mentioned is therefore the total population in these settlements." It should be stressed that, without an up-to-date census, the total population of the settlements is not known.

cadastral records have been established, they seem to be largely out of date."<sup>169</sup> Updating would not only clarify who owns the land but could also reveal completely new hamlets which "have not been listed up to now."<sup>170</sup>

In the absence of up to date or complete cadastral data, the DSI has attempted to "guesstimate" the "probable location of agricultural land" that will be partially lost to Ilisu's reservoir on the basis of map-based surveys.<sup>171</sup> This is totally inadequate and any resettlement plan or compensation budget based on this method should be rejected as unsound.

*For further discussion of the problems surrounding cadastral surveys in the reservoir area, see accompanying submission by Diyarbakir Bar Association.*

There is no accurate data on the numbers who will be affected or who would require resettlement and compensation.

Accurate data on the number of people affected by a project is a *sine qua non* of a credible resettlement plan. Without this information, it is impossible to plan infrastructure and other needs, to institute the required development programmes, to assess compensation levels or to prepare a reliable budget.

Confusion over the numbers affected has been a consistent feature of the Ilisu project.<sup>172</sup> Originally, the project sponsors and the companies involved in the Ilisu project put the number of affected people at 12,000-16,000. Following the findings of field investigations undertaken by the Kurdish Human Rights Project in 1999, this figure was increased to 25,000. Subsequently, a report by the British government put the number still higher - at 35,000. An official assessment of the draft resettlement action plan (the Kudat report) then made clear that even this figure was a gross underestimate. According to Kudat, 78,000 would be potentially affected by the project. The Kudat figure included those already evicted (or forced to migrate) from the Ilisu reservoir area as a result of internal conflict in the region, but who might want to return once peace is fully restored and who would be fully entitled to do so.

Nineteen years after the final design for the dam was approved, however, the EIAR admits that there is still no accurate data on numbers affected or who would require resettlement:

- "All these estimates must be interpreted with caution. The assumptions which have been made in order to estimate the number of people who will actually lose some farmland in partially flooded settlements or who have left the area but can claim expropriation or resettlement benefits must be verified. These estimates are moreover based on ongoing map interpretations and cadastral surveys. They can therefore evolve over time and could therefore slightly differ from those found in the RAP. Finally, these estimates do not include the large number of people who will not lose any houses or farmland but who will be affected nonetheless, either directly or indirectly."<sup>173</sup>

- "In spite of the additional information provided in the RAP survey, more detailed data will be

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<sup>169</sup> EIAR, p.4-110.

<sup>170</sup> EIAR, 4-96

<sup>171</sup> EIAR, 4-97

<sup>172</sup> The Ilisu Dam Campaign et al., *If the River were a Pen - The Ilisu Dam, the World Commission on Dams and Export Credit Reform*, London, 2001, p.45.

<sup>173</sup> EIAR, p.4-105.

required to accurately evaluate the scale of resettlement."<sup>174</sup>

- "The true number of settlements and people who can claim expropriation and resettlement rights will probably be known only when expropriation is completed or quite advanced."<sup>175</sup>

Despite the acknowledged unreliability of the data - and a blunt statement that it is "almost impossible"<sup>176</sup> to estimate the true number of project affected people - the EIAR nonetheless gives figures for the numbers affected that are spuriously precise, do not tally with estimates given in the draft RAP and which are estimated on the basis of highly questionable assumptions. For example

- The EIAR gives the total numbers affected as 59,314: the Executive summary of the RAP, 61,620. This compares with the figure of 78,000 cited by Ayse Kudat in her August 2000 review of the draft RAP. Why are the figures so different? What happened to 17,000-18,000 people between August 2000 and April 2001?

- The EIAR makes extremely dubious - and contradictory - assumptions about future population growth. For example, in order to estimate the increase in the number of affected people between 1997 and 2001, it assumes a growth rates of zero in the five provinces directly affected by the dam.<sup>177</sup> It would appear that this figure is based not on birth or fertility rates but on comparing the numbers recorded as living in the area. Since migration led to a significant reduction in the numbers living in rural areas, the figures for population growth in the five affected provinces are not a reliable basis for estimating the actual growth in the number of affected people. Indeed, the Executive summary clearly points to higher population growth rates than those assumed: "The 1997 [census] results compared with those of 1990 show that the population of these provinces increases at a higher annual rate than the national average, and the rate of increase is the second highest in Turkey."<sup>178</sup>

The EIAR gives minimal information on displaced communities, although it claims that displaced people make up 25% of those affected and that 50-80% of them 'reportedly' wish to return home<sup>179</sup> - no source for this information is cited. Because few displaced people, if any, were included in the socio-economic survey, the EIAR compares the 1990 census figures to 1997 figures in order to estimate the number of displaced people.<sup>180</sup> Clearly this is inadequate and cannot substitute for a full survey: yet the Executive Summary of the RAP gives no indication that such a survey has been undertaken. We note, too, that neither the RAP team nor the EIAR team have made any

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<sup>174</sup> EIAR, 4-107, para 4.3.4.7 (1).

<sup>175</sup> EIAR, 4-97.

<sup>176</sup> EIAR, EXE-13.

<sup>177</sup> EIAR, p.4-100: "More global increase rates for the rural areas of the 5 provinces included in the reservoir area have also been considered. In every case, this increase was close to 0 or slightly negative. Early indications about the results of the 2000 census also point in that direction. For these reasons, the increase rate which was selected for the 1997-2001 period and for the construction period in general is 0, which probably corresponds to a slight overestimation of the actual rate of increase."

<sup>178</sup> EIAR, p. EXE-6. See also, p.3-65: "The annual growth rate in Southeastern Turkey is high (2.43% between 1990 and 1997 compared to 1.50% for Turkey as a whole)."

<sup>179</sup> EIAR, p. 3-82.

<sup>180</sup> EIAR, p. 4-94. As noted, Kudat states that 100 displaced households were included in the survey.

effort to contact , let alone work with, NGOs such as Goç-Der which have present-day networks among the displaced and have carried out their own surveys. The EIAR does not appear to have considered this option.

As with affected people still living in the reservoir area, the EIA uses a projected 0% population growth rate to project current population numbers from the 1990 census. To suggest that displaced families have not grown since 1990 is highly questionable. The numbers of displaced people affected by Ilisu as given in the EIA can therefore not be trusted and are likely to be a gross underestimate.

The EIAR itself admits that its figures for displaced people have not been verified, and indicates that they have not been consulted in the context of the RAP, “The estimation of the number of people who have previously left these villages and who are entitled to compensation or resettlement benefits is however a very complex problem. The 1997 census and the RAP field survey do not provide any help because nobody was living in these settlements when they were carried out.”<sup>181</sup>

We note with concern that Turkish expropriation law does not guarantee the rights of landless displaced people who have "been evicted from their villages for a number of years."<sup>182</sup> Given that half of the people affected by Ilisu are landless and that the majority of those displaced were forced from their homes in the early to mid-1990s, this is of great concern. Also at risk are "former residents who have left for whatever reason and who do not hold clear legal deeds." Since many of those who were displaced during the war lost their title deeds when their villages were burned by the security forces, this presents a major issue.<sup>183</sup> We endorse the EIAR's recommendation that "the rights and entitlements of these groups should be clarified and the RAP should propose specific procedures to ensure their protection."<sup>184</sup> We note, however, that the Executive Summary of the RAP gives no indication that action has been taken. (For further discussion on the position of landless affected people, *see also below*).

## Failure to identify NGOs

The EIAR provides no evidence that efforts have been made by the socio-economic survey team to identify NGOs who may be of assistance in resettlement planning and implementation.

## Inadequate assessment of vulnerable groups

Although the EIAR identifies the Kurdish ethnic minority as a group "exposed to special risk",<sup>185</sup> it fails adequately to identify the nature of the risk or to alert project planners to the implications for resettlement planning - namely a RAP that seeks to comply with World Bank standards will require implementation of the Bank's Indigenous

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<sup>181</sup> EIAR, p. 4-94.

<sup>182</sup> EIAR, p.5-16.

<sup>183</sup> Ilisu Dam Campaign Fact-Finding Mission to Ilisu Region 10-17 June 2001. Interview with GOC-DER organiser, 17 June 2001: "Even if the villagers did have [land titles] documents provided by the state, their villages were burned with no notice. So many people left their documents in the houses where they burned with the village."

<sup>184</sup> EIAR, p.5-16.

<sup>185</sup> EIAR, p.5-15.

Policy.

Women are identified as a vulnerable group but the treatment of their situation and the dam's impacts on them are inadequate (see below).

The EIAR's assessment of vulnerable groups also omits mention of pastoralists.<sup>186</sup>

## INADEQUATE ANALYSIS OF TURKISH EXPROPRIATION EXPERIENCE

Relevant guidelines breached:

World Bank: *OD 4.30 Involuntary Resettlement, para 12*;<sup>187</sup> *Draft OP 4.12 Involuntary Resettlement, III, para 6a (iii)*.<sup>188</sup>

OECD: *DAC 3 Involuntary Displacement and Resettlement*.<sup>189</sup>

World Bank and OECD guidelines require a review of the legal framework for compensation and expropriation. The Bank also requires that the resettlement plan provide assurances that those displaced will receive "prompt and effective compensation at full replacement cost."<sup>190</sup>

The EIAR lays out the procedure for expropriation in Turkey and identifies a number of areas where the law is unclear as to whether certain groups are eligible for compensation (see below). It also acknowledges major institutional problems in the implementation of Turkey's resettlement and expropriation policies.<sup>191</sup> *It fails, however, to elaborate on these problems. For example, it omits to mention that:*

- There is no public funding available to people who wish to appeal against the sums

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<sup>186</sup> EIAR, p.5-15.

<sup>187</sup> World Bank, *OD 4.30 (Involuntary Resettlement)*, para 11: "A clear understanding of the legal issues involved in resettlement is needed to design a feasible resettlement plan. An analysis should be made to determine the nature of the legal framework for the resettlement envisaged, including a) the scope of the power of eminent domain, the nature of compensation associated with it, both in terms of the valuation method and the timing of procedures; b) the legal and administrative procedures applicable, including appeals process and normal time-frame for such procedures; c) land titling and registration procedures; and d) laws and regulations relating to the agencies responsible for implementing resettlement and those relating to land compensation, consolidation, land use, environment, water use and social welfare."

<sup>188</sup> World Bank, *Draft OP 4.12 (Involuntary Resettlement)*, III para 6 a(iii): "The resettlement plan or resettlement policy framework includes measures to ensure that the displaced persons are . . . iii) provided prompt and effective compensation at full replacement cost."

<sup>189</sup> OECD, *DAC 3, Involuntary Displacement and Resettlement*, p.7: "The plan should normally include provisions for the following: . . . legal framework."

<sup>190</sup> World Bank, *Draft OP 4.12 (Involuntary Resettlement)*, III para 6 a(iii). For full text, see ref 204.

<sup>191</sup> EIAR, p.4-90.

awarded in compensation for the value of land appropriated by DSI.<sup>192</sup> Consequently, only those who can afford to do so will make an application to the domestic court for the sums awarded in compensation to be varied upwards. This appears to be a small proportion of the many who feel that they have not been given adequate compensation in the first place. (Of those who do go to court, 90% win higher compensation, according to the EIAR).<sup>193</sup>

- Even where the domestic court finds in favour of the application, and re-calculates the sum to be awarded, the Government frequently takes a very considerable time to pay the sum.<sup>194</sup> This is in contravention of Article 46 of the Constitution, which states *inter alia* that “*Indemnity for expropriation will be paid immediately and in cash... a part of an indemnity not paid thus will be subject to indemnity costs and the maximum level of interest payable on debts of the State.*”

- Inflation rates have generally been exceptionally high, rendering many compensation payments worth a fraction of their original value by the time the money arrives. It is a matter of fact that inflation rates between 1994 and 1997 ran as high as 97% per annum.

There is no indication in the Executive Summary of the RAP that any of these issues have been addressed.

The EIAR correctly identifies a number of areas where compensation laws are unclear and recommends that the RAP proposes remedial measures. For example, the rights of cave-dwellers ("troglodytes") or those who use caves as shelter for their animals are not guaranteed: "current laws and procedures do not seem to take those types of losses into account."<sup>195</sup>

However, the EIAR's assessment of the legal rights of pastoralists<sup>196</sup> is at odds with that presented in the Kudat report. According to the EIAR, nomads are entitled to compensation: "Nomadic or semi-nomadic populations can also request to be resettled in the context of a distinct program if they feel that they have lost key pastures as a result of impoundment."<sup>197</sup> Yet Kudat states, "flood plains that are especially critical for grazing during the summer months will no longer be available. When such access is hindered, the villagers are forced to sell their herds at a low cost, and are permanently deprived of their livestock income without entitlement for compensation. The national legal framework does not address the issue

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<sup>192</sup> The Ilisu Dam Campaign et al., *If the River were a Pen - The Ilisu Dam, the World Commission on Dams and Export Credit Reform*, London, 2001.

<sup>193</sup> EIAR, p.4-89.

<sup>194</sup> The Ilisu Dam Campaign et al., *If the River were a Pen - The Ilisu Dam, the World Commission on Dams and Export Credit Reform*, London, 2001.

<sup>195</sup> EIAR, p.5-16

<sup>196</sup> The EIAR (p.3-55) states: "In more populated sectors of the reservoir area, upstream of Hasankeyf particularly, pastures seem to be exclusively used by local residents. In downstream less populated zones, these pastures are also roamed by herds of sheep or goats owned by people who do not live in nearby villages. In some cases, they belong to nomadic people who practice transhumance. In other cases, they are owned by local investors who live in nearby towns and hire shepherds to take care of them. They can also belong to these shepherds."

<sup>197</sup> EIAR, p. 4-88.

of common property resources for pasture in a comprehensive manner. The policy vacuum with respect to common property resources has so far meant the disregard of the potential income restoration for the livestock owners."<sup>198</sup> This issue needs urgent clarification – are people whose livestock’s survival is reliant upon access to pasture entitled to compensation under Turkish law or not?

## FAILURE TO COMPLY WITH INTERNATIONAL BEST PRACTICE ON CONSULTATION

Relevant guidelines breached:

World Bank: *Draft OP 4.12 (Involuntary Resettlement) para 1b*,<sup>199</sup> para 12a,<sup>200</sup> para 18.<sup>201</sup> OD 4.30 (Involuntary Resettlement), para 3c,<sup>202</sup> para 8,<sup>203</sup> para 9.<sup>204</sup>

OECD: DAC 3, *Involuntary Displacement and Resettlement*, p.7.<sup>205</sup>

WCD: *Strategic Priority 2 Comprehensive Options Assessment (para 2.1)*;<sup>206</sup> *Strategic Priority 5 Recognising entitlements and sharing benefits (para 5.3)*.<sup>207</sup>

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<sup>198</sup> Kudat Report, op.cit, ref 43, p. 26.

<sup>199</sup> World Bank Draft OP 4.12, para 1b: "Displaced persons should be meaningfully consulted and have opportunities to participate in planning and implementing resettlement programmes."

<sup>200</sup> World Bank Draft OP 4.12, para 12a: "The Bank requires that ...displaced persons and their communities and any "host" communities receiving them are provided timely and relevant information, consulted on resettlement options, and offered opportunities to participate in planning, implementing and monitoring resettlement."

<sup>201</sup> World Bank Draft OP 4.12, para 18: "The borrower informs potentially displaced persons at an early stage about the resettlement aspects of the project and takes their views into account in the project design"

<sup>202</sup> World Bank OD 4.30 para 3c: "Community participation in planning and implementing resettlement should be encouraged."

<sup>203</sup> World Bank OD 4.30 (Involuntary Resettlement) para 8: World Bank guidelines state: "The affected hosts and resettlers need to be systematically informed and consulted during preparation of the resettlement plan about their options and rights."

<sup>204</sup> World Bank OD 4.30 (Involuntary Resettlement) para 9: "The [resettlement] plan should address and mitigate resettlement’s impact on host populations. Host communities and local governments should be informed and consulted."

<sup>205</sup> OECD, DAC 3, *Involuntary Displacement and Resettlement*, p.7: "... Community participation in planning and implementing resettlement is essential and should include women."

<sup>206</sup> WCD, op. cit. ref 43, Strategic Priority 2.1 - Comprehensive Options Assessment, p.221: "Development needs and objectives are clearly formulated through an open and participatory process before the identification and assessment of options for water and energy resources development."

<sup>207</sup> WCD, op. cit ref 43, Strategic Priority 5, Recognising Entitlements and Sharing Benefits, para 5.3: "All recognised adversely affected people negotiate mutually agreed, formal and legally enforceable mitigation, resettlement and development entitlements."

A key requirement of World Bank, OECD and WCD guidelines is that project-affected people, including host communities, are involved from the outset of the project. Indeed, consultation is considered fundamental to resettlement planning. The Ilisu project currently violates international best practice on such consultation on two major counts:

First, as the EIAR and Executive Summary of the RAP acknowledge, "no large-scale consultation has been implemented yet."<sup>208</sup> According to the EIAR, a number of public meetings have taken place in the Hasankeyf area, but others will only be scheduled "once a final decision will have been taken by the Government on the beginning of construction work."<sup>209</sup> This constitutes a *de facto* breach of OD 4.30 which requires that affected people are "systematically informed and consulted *during preparation* of the resettlement plan about their options and rights"<sup>210</sup> (*italics added*). The Executive Summary of the RAP confirms the lack of systematic and universal consultation.<sup>211</sup>

Second, international guidelines stipulate that host communities - those which will receive the people evicted by Ilisu - must be consulted.<sup>212</sup> No host communities are named in the EIAR because the RAP had yet to identify appropriate resettlement sites. Systematic and meaningful consultation with host communities had not therefore taken place.<sup>213</sup> The Executive Summary of the RAP, however, states that "a large plot for resettlement housing has been made available in Diyarbakir".<sup>214</sup> If so, the Mayor of the city is unaware of this new development.<sup>215</sup> Independent interviews, undertaken by the Kurdish Human Rights Project as part of this review, have confirmed that neither the Mayor of Diyarbakir or other local mayors of communities which might host the resettlement sites have yet been consulted.

Third, as already noted, the project developers and the Ilisu Consortium have failed to comply with public disclosure requirements for both the EIAR and the RAP, in the process automatically breaching all of the World Bank, OECD and WCD guidelines on consultation.

In addition, the extent - and manner - of such consultation that the EIAR claims to have taken place is disputed. Villagers in Hasankeyf interviewed during a Fact-Finding Mission undertaken by the Ilisu Dam Campaign in October 2000 stated that SEMOR, the

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<sup>208</sup> EIAR, p.4-105.

<sup>209</sup> EIAR, p.4-106.

<sup>210</sup> World Bank, OD 4.30, para 8.

<sup>211</sup> Executive Summary, RAP, p.2. The summary confirms that consultation has been highly selective - for example, with "focus groups" and "the elected headmen of inhabited affected communities." The ES claims that all headmen were visited. This conflicts with the information given in the EIAR, which states that only a sample of a sample were visited.

<sup>212</sup> For example, OECD and World Bank. World Bank OD 4.30 (Involuntary Resettlement) para 9 states: "The [resettlement] plan should address and mitigate resettlement's impact on host populations. Host communities and local governments should be informed and consulted."

<sup>213</sup> The EIAR mentions some concerns expressed by potential host communities (p.4-109) and implies that some consultation has therefore taken place. However, the Mayors of Batman and Diyarbakir have told the Ilisu Dam Campaign that they were never consulted.

<sup>214</sup> Executive Summary, RAP, p.2.

<sup>215</sup> Personal communication: Mayor of Diyarbakir, to Kerim Yildiz, Director, Kurdish Human Rights Project, August 2001.

consultancy firm contracted by the DSI, had interviewed 300 people of whom the vast majority were illiterate or only spoke Kurdish. The women and elderly people had to work through translators provided by SEMOR rather than family members, which many found socially awkward. The villagers were told that the decision to build the dam had been taken and they were then given options as to how they would like to be resettled: did they want a new village elsewhere? or cash to resettle by themselves? how many rooms would they need in their new houses? would they like to work on dam construction? It is important to note that the villagers were not offered compensation in land – a breach of World Bank guidelines which "*encourage 'land for land' approaches, providing replacement land at least equivalent to the lost land*".<sup>216</sup>

A questionnaire-based survey in Turkish was conducted in Hasankeyf and some neighbouring settlements. The first question asked villagers whether or not they were in favour of the dam. Many told the Mission that they felt that they had no option but to answer in the affirmative, although opposed to a dam that would flood Hasankeyf. This was in part due to the perception that the dam was a *fait accompli* and, in part, due to their experience that opposition to the dam is misconstrued by the authorities as evidence of sympathy for the PKK movement.

Villagers told the Fact-Finding Mission that they were concerned that the answers they gave to the questionnaire may have been subsequently altered. They stated that SEMOR representatives filled the forms in with pencil, but asked them to sign the form in ink. As one villager commented, "*We are worried that our answers were changed when SEMOR got back to their hotel.*" Because the Fact-Finding Mission was unable to see copies of the questionnaires used, it was unable to pursue this matter further.

These allegations have been repeated to a second, more recent, Fact-Finding Mission undertaken in June 2001. The Mission heard from one eye witness to the alleged falsification and was told by villagers in Hasankeyf that the falsification was common knowledge: "Everyone witnessed them [SEMOR] using pencils to fill in the forms and they then changed the results later to give different answers . . . Everybody knew about this." The Mission learned that the Governor of Batman had been informed about the allegations by concerned local officials. **We strongly recommends that ECAs insist on seeing copies of the original documents.**

It was also made clear to the Ilisu Dam Campaign that no efforts have been made by the authorities to consult directly with local municipal officials in Hasankeyf on the resettlement plan or other issues related to the dam. Officials interviewed told the Campaign's Fact-Finding Mission that they had not been consulted on the archaeological rescue plan for Hasankeyf. No one in Hasankeyf and Batman to whom the Mission spoke had seen a copy of the draft Resettlement Action Plan – or indeed heard from SEMOR since its one week visit to the area.

The Ilisu Dam Campaign's Fact-Finding Mission also heard evidence that pressure that

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<sup>216</sup> World Bank, OD 4.30 Involuntary Resettlement, para 13.

had been exerted on Hasankeyf residents to express support for the dam. The Mission was told of a visit by a Swedish delegation to the town when banners in favour of the dam were displayed and given to village children carrying slogans such as “I love my country, I love my dam”. No banners opposing the dam were permitted. The Mission also heard of the difficulties that villagers have had in organising events to express the opposition to the dam. In June 2000, for example, the Save Hasankeyf Platform had organised a festival to celebrate Hasankeyf, but permission was denied for any petition to be circulated and for any interviews to be given to the press. Given the very serious consequences attendant on being suspected of sympathising with the PKK, the authorities’ association of opposition to Ilisu with separatism is a major deterrent to any meaningful dissent. Put bluntly, people are frightened to take a public position against the dam. In February 2000, the mayor of Hasankeyf cut short a visit to Europe, where he was scheduled to talk to the Minister responsible for the UK ECGD, after receiving anonymous death threats.

#### FAILURE TO ENSURE PARTICIPATION

Relevant guidelines breached:

World Bank: *OD 4.20 (Indigenous Peoples) para 8*.<sup>217</sup>

OECD: *DAC 3, Involuntary Displacement and Resettlement, p.7*.<sup>218</sup>

WCD: *Strategic Priority 2 Comprehensive Options Assessment (para 2.1)*;<sup>219</sup> *Strategic Priority 5 Recognising entitlements and sharing benefits (para 5.3)*;<sup>220</sup> *Strategic priority 5 - Recognising Entitlements and Sharing Benefits, Key message*<sup>221</sup> and *para 5.3*.<sup>222</sup>

The "informed participation" of those affected by a project is a requirement of the World

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<sup>217</sup> OD 4.20 (Indigenous Peoples), para 8: "The Bank's policy is that the strategy for addressing the issues pertaining to indigenous peoples must be based on the *informed participation* of the indigenous people themselves."

<sup>218</sup> OECD, DAC 3, Involuntary Displacement and Resettlement, p.7: ". . . community participation in planning and implementing resettlement is essential and should include women."

<sup>219</sup> WCD, op. cit. ref 43, Strategic Priority 2.1 - Comprehensive Options Assessment, p.221: "Development needs and objectives are clearly formulated through an open and participatory process before the identification and assessment of options for water and energy resources development."

<sup>220</sup> WCD, op. cit ref 43, Strategic Priority 5, Recognising Entitlements and Sharing Benefits, para 5.3: "All recognised adversely affected people negotiate mutually agreed, formal and legally enforceable mitigation, resettlement and development entitlements."

<sup>221</sup> WCD, op.cit ref 43, Strategic Priority 5 - Recognising Rights and Sharing Benefits, Key message,p.240: "Joint negotiations with adversely affected people result in mutually agreed and legally enforceable mitigation and development provisions."

<sup>222</sup> WCD, op.cit ref 43, Strategic Priority 5 - Recognising Rights and Sharing Benefits, para 5.3, p.240: "All recognised adversely people negotiate mutually agreed, formal and legally enforceable mitigation, resettlement and development entitlements."

Bank's Operational Directive on Indigenous People. The World Bank states: "Public participation in project preparation, beyond consultation, is not an EA requirement except where a project involves involuntary resettlement or affects indigenous people."<sup>223</sup> The Bank defines participation as follows: "Participation is a voluntary process in which people including marginal groups (poor women, indigenous, ethnic minorities) come together with project authorities to share, negotiate and control the decision-making process in project design and management."<sup>224</sup> WCD guidelines go further, outlining a required decision-making process that is fully participatory and which is intended to ensure that a dam enjoys "demonstrable public consent." (The extent of compliance with this WCD requirement is considered in the sub-section below.)

Neither the EIAR nor the Executive Summary of the RAP present any evidence that a participatory process is in place at Ilisu or that the institutional structures exist to enable participation, as defined by the Bank, to take place. Indeed, we would agree with the conclusion of the 1999 Stakeholder Attitudes report commissioned by the UK ECGD: "Open consultative processes are not part of the institutional culture or political system."<sup>225</sup> The same report states: "Local stakeholders believe that they have no forum to express their concerns over adequate compensation for expropriated assets, decisions over new settlement locations and loss of social and cultural capital."<sup>226</sup> This is also the conclusion of successive fact-finding missions to the affected area.<sup>227</sup>

#### FAILURE ADEQUATELY TO ASSESS THE GENDER IMPLICATIONS OF RESETTLEMENT

Relevant guidelines breached:

World Bank: OD 4.30, Involuntary Resettlement, para 8.<sup>228</sup>

OECD: OECD DAC Guideline 3, Involuntary Resettlement, p.7.<sup>229</sup>

WCD: Strategic Priority 1 - Gaining Public Acceptance, para 1.2 and p.217.<sup>230</sup>

Both the OECD and the World Bank lay down that special provision should be taken to protect the livelihoods of women. The OECD states: "Since women ... contribute

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<sup>223</sup> World Bank, *Environmental Assessment Sourcebook Update, Public Involvement in Environmental Assessment: Requirements, Opportunities and Issues*, October 1993, p.1.

<sup>224</sup> *Ibid.*

<sup>225</sup> ECGD, *Stakeholders' Attitudes to Involuntary Resettlement in the Context of the Ilisu Dam Project, Turkey*, London, 1999, p.51.

<sup>226</sup> *Ibid.*, "Summary and recommendations", unnumbered.

<sup>227</sup> Ilisu Dam Campaign et al, *If the river were a pen . . . The Ilisu Dam, the World Commission on Dams and Export Credit Reform*, London, 2001.

<sup>228</sup> World Bank OD 4.30, Involuntary Resettlement, para 8: "Particular attention must be given to ensure that vulnerable groups such as . . . women are represented adequately in such arrangements."

<sup>229</sup> OECD DAC Guideline 3, Involuntary Resettlement, p. 7: "Since women ... contribute significantly to the well-being of their families ... planning for relocation should consider their preferences and should address their specific needs and constraints."

<sup>230</sup> WCD, *op. cit.* ref 43, Strategic Priority 1 - Gaining Public Acceptance, para 1.2 and p.217: "Access to information, legal and other support is available to all stakeholders, particularly indigenous and tribal peoples, women and other vulnerable groups, to enable their informed participation in decision-making processes."

significantly to the well-being of their families ... planning for relocation should consider their preferences and should address their specific needs and constraints.”<sup>231</sup>

In August 2000, Kudat reported: “*Despite the preparation of the survey instruments by female social scientists and despite the conduct of the qualitative fieldwork by them, no systematic effort has been made to capture the gender dimensions of resettlement.*”<sup>232</sup>

We have found no evidence in either the EIAR or the Executive Summary of the RAP to suggest that this failing has been addressed. The EIAR pays scant attention to the impacts of the Ilisu dam on women (just two pages in a report of some 300 pages). It claims that women will both benefit and suffer as a result of the project<sup>233</sup> but does not give any concrete substantiation for the claimed benefits.

#### FAILURE TO DEMONSTRATE ADEQUATE INSTITUTIONAL FRAMEWORK

Relevant guidelines: *World Bank, OECD, WCD*

*World Bank: OD 4.30 (Involuntary Resettlement), paras 6,*<sup>234</sup> *OP 4.12 paras 16,*<sup>235</sup> *17.*<sup>236</sup>

*World Bank guidelines lay great stress on governments' having the institutional capacity to implement a resettlement plan. For the Bank, such institutional capacity is viewed as a test of the “borrower commitment to, and capacity for, undertaking successful resettlement.”*<sup>237</sup>

*The review of the draft RAP by Kudat revealed the need for sweeping institutional*

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<sup>231</sup> OECD DAC Guideline 3, Involuntary Resettlement, p. 7.

<sup>232</sup> Kudat Report, op. cit., ref 7, p.23.

<sup>233</sup> EIAR, p.4-119.

<sup>234</sup> World Bank OD 4.30 Involuntary Resettlement, para 6: "The responsibility for resettlement rests with the borrower. The organisational framework for managing resettlement must be developed during preparation and adequate resources provided to the responsible institutions. The organisation responsible for resettlement should be strengthened when entities executing infrastructure or other sector-specific projects lack the experience and outlook needed to design and implement resettlement."

<sup>235</sup> World Bank Draft OP 4.12 para 16: “To achieve the objectives of this policy, different planning instruments are used depending on the type of project: a) a resettlement plan or abbreviated resettlement plan is required for all operations which entail involuntary resettlement unless otherwise specified.; b) a resettlement policy framework is required for operations referred to in paras 25-29. The resettlement policy framework (the resettlement instruments) present “ a strategy of achieving the objectives of the policy and cover all aspects of the policy.”

<sup>236</sup> World Bank Draft OP 4.12 Involuntary Resettlement, para 17: "Borrower commitment to, and capacity for, undertaking successful resettlement is key determinant of Bank involvement in a project."

<sup>237</sup> World Bank, Draft OP 4.12 Involuntary Resettlement, para 17.

reforms before “best practice” in resettlement could be achieved:

*"The GAP framework alone will not resolve all the institutional complexities of the resettlement projects. There is a need to have a more unified institutional framework, a single earmarked budget for resettlement implementation, and mechanisms for quality assurance, enforcement and monitoring and evaluation..." (p. 28).*

*The Kudat report pointed out that the ability of the DSI to implement and enforce the resettlement action plan is hampered by the security situation and by the lack of coordination with other institutions which each act independently and have separate budgets. As noted above, Emergency Rule in the provinces of Diyarbakir, Hakkari, Sirnak and Tunceli was renewed in June 2001 until the end of the year with the neighbouring provinces of Batman, Mardin and Siirt still suffering the direct affects of Emergency Rule; as Kudat comments “the Ministry of Interior and the military have very different sets of priorities”<sup>238</sup> from the DSI and GAP-RDA, the resettlement agency. The complexity and magnitude of how best to address the needs of the previously displaced population “goes beyond the ability of the project and the solutions require the decisions of security agencies.”<sup>239</sup> Kudat argued convincingly that Turkey needs to establish a single institution to ensure quality and monitor resettlement performance for all development projects, not just large dams. “Clearly the existing institutional arrangements will not suffice to meet the needs.”<sup>240</sup>*

*The admission of the need for such sweeping institutional reform is critical, since implementation of the RAP (however well conceived on paper) will depend on such reforms being undertaken. It is clear from the EIAR, however, that the issues identified by Kudat remain unaddressed, although a review has been initiated of possible reforms.<sup>241</sup> This could take years. There would thus seem to be a prima facie case for the ECAs refusing support for the project.*

#### FAILURE TO PRODUCE CREDIBLE BUDGET

*Relevant guidelines breached:*

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<sup>238</sup> Kudat Report, op. cit. ref 7, p.26.

<sup>239</sup> Kudat Report, op. cit, ref 7, p.6.

<sup>240</sup> Kudat Report, op. cit, ref 7, p.6

<sup>241</sup> EIAR, p. 4-90.

*World Bank: OD. 4.30 (Involuntary Resettlement) paras 4<sup>242</sup>, 29<sup>243</sup> and 30.<sup>244</sup> Draft OP 4.12 (Involuntary Resettlement) Annex para 20.<sup>245</sup> Draft BP 4.12 (Involuntary Resettlement), para 10.<sup>246</sup>*  
*OECD: OECD DAC Involuntary Resettlement, "Appraisal and Negotiations", p.9.<sup>247</sup>*  
*WCD: Strategic Priority 6 - Ensuring Compliance, para 6.3.<sup>248</sup>*

*The World Bank and OECD both stipulate: "The existence of a time-bound resettlement plan and budget must be a condition of initiating appraisal for projects involving resettlement."<sup>249</sup> Details required by the Bank include: "itemized cost estimates for all resettlement activities, including allowances for inflation, population growth, and other contingencies; timetables for expenditures; sources of funds; and arrangements for timely flow of funds, and funding for resettlement, if any, in areas outside the jurisdiction of the implementing agencies."<sup>250</sup>*

*In August 2000, Kudat made it clear that no budget had been prepared for resettlement and suggested that a paper commitment from the Turkish authorities to make the money available could not be trusted.<sup>251</sup> The EIAR also confirms that a budget has still to be prepared, let alone finalised and funded:*

*"The Resettlement Action Plan will have to specifically address all these issues in an*

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<sup>242</sup> World Bank OD 4.30 (Involuntary Resettlement) para 4: "Where large-scale population displacement is unavoidable, a detailed resettlement plan, timetable and budget are required."

<sup>243</sup> World Bank OD 4.30 (Involuntary Resettlement), para 29: "During project preparation, the feasibility of resettlement must be established, a strategy agreed upon, the resettlement plan drafted, and budget estimates prepared."

<sup>244</sup> World Bank OD 4.30 (Involuntary Resettlement), para 30: "Submission to the Bank of a time-bound resettlement plan and budget that conforms to Bank policy is a condition of appraisal for projects involving resettlement . . ."

<sup>245</sup> World Bank, Draft OP 4.12 (Involuntary Resettlement), Annex, p.20. The Bank requires: "Tables showing itemized cost estimates for all resettlement activities, including allowances for inflation, population growth, and other contingencies; timetables for expenditures; sources of funds; and arrangements for timely flow of funds, and funding for resettlement, if any, in areas outside the jurisdiction of the implementing agencies."

<sup>246</sup> World Bank Draft BP 4.12 (Involuntary Resettlement), para 10: "During project appraisal, [Bank staff assesses . . . c) availability of adequate counterpart funds for resettlement activities."

<sup>247</sup> OECD DAC Involuntary Resettlement, "Appraisal and Negotiations", p.9: "The existence of a time-bound resettlement plan and budget must be a condition of initiating appraisal for projects involving resettlement."

<sup>248</sup> WCD, op. cit, ref 43, Strategic Priority 6 - Ensuring compliance, para 6.3, page 244: "Costs for establishing compliance mechanisms and related institutional capacity, and their effective application, are built into the project budget."

<sup>249</sup> World Bank OD 4.30 Involuntary Resettlement, para 30, OECD DAC Involuntary Resettlement, "Appraisal and Negotiations", p.9. For text see refs 260 and 263.

<sup>250</sup> World Bank Draft OP 4.12 Involuntary Resettlement, Annex para 20.

<sup>251</sup> Kudat Report, op.cit. ref 7, p.31: "A resettlement budget is yet to be prepared and is likely to exceed previous estimates. The key challenge will be . . . to provide a convincing commitment by the State to this budget."

*articulated way. Subprogrammes will have to be designed and spelled out for each issue. Specific budgetary provisions will have to be developed for each program on a yearly basis. The organisations involved in the implementation of these subprograms must explicitly commit the resources required to reach their goals.*"<sup>252</sup>

*Given these strictures - and the wide range of studies which the EIAR deems necessary before the numbers to be resettled can be validated with any degree of confidence<sup>253</sup> - a credible budget for resettlement at Ilisu would appear to be some way off. The ECAs and their governments should therefore treat with great scepticism the figure of US \$570,135,230 posited in the Executive Summary of the RAP. We would also note that financial resources are not yet secured for the RAP<sup>254</sup> and the Executive Summary does not present any detailed budget line.*

## RELYING ON ECONOMIC GROWTH TO RELIEVE POST-PROJECT IMPACTS

*Relevant breached guidelines:*

*World Bank: OD 4.30 (Involuntary Resettlement), para 3b,<sup>255</sup> para 18.<sup>256</sup> Draft OP 4.12, para 9.<sup>257</sup>  
OECD: OECD DAC 3, Involuntary Displacement and Resettlement, p.7.<sup>258</sup>*

*According to the World Bank and OECD, resettlement projects should ensure that those resettled are not worse off than they were before the project. The World Bank and the OECD both state: "All involuntary resettlement should be conceived and executed as development programmes, with resettlers provided sufficient investment resources and opportunities to share in project benefits. Displaced persons should be . . . assisted in*

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<sup>252</sup> EIAR, p.5-15.

<sup>253</sup> EIAR, p.7-17.

<sup>254</sup> Executive Summary of RAP, p.3: "adequate financial resources *will* be secured" (italics added). The use of the future tense indicates that the financial resources are not yet secured.

<sup>255</sup> World Bank, OD 4.30 (Involuntary Resettlement), para 3b: "All involuntary resettlement should be conceived and executed as development programmes, with resettlers provided sufficient investment resources and opportunities to share in project benefits. Displaced persons should be . . . assisted in their efforts to improve their former living standards, income earning capacity and production levels, or at least restore them "

<sup>256</sup> World Bank, OD 4.30 (Involuntary Resettlement), para 18: "Normally, general economic growth cannot be relied upon to protect the welfare of the project-affected population."

<sup>257</sup> World Bank, Draft OP 4.12, para 9: "The implementation of resettlement activities is linked to the implementation of the investment component of the project to ensure that displacement or restrictions of access does not occur before necessary measures for resettlement are in place. Displaced persons should be . . . assisted in their efforts to improve their former living standards, income earning capacity and production levels, or at least restore them "

<sup>258</sup> OECD, DAC 3, Involuntary Displacement and Resettlement, p.7: "All involuntary resettlement should be conceived and executed as development programmes, with resettlers provided sufficient investment resources and opportunities to share in project benefits. Displaced persons should be . . . assisted in their efforts to improve their former living standards, income earning capacity and production levels, or at least restore them."

*their efforts to improve their former living standards, income earning capacity and production levels, or at least restore them.*"<sup>259</sup>

*Relying on future economic growth alone to restore or improve the living standards of the displaced population violates World Bank guidelines. The Bank states: "Normally, general economic growth cannot be relied upon to protect the welfare of the project-affected population."*<sup>260</sup>

*The EIAR gives no indication that the RAP has earmarked and secured a specific development budget for the resettlement programme. On the contrary, it appears that the RAP will rely primarily on the hope of future economic growth alone to protect the livelihoods of those who will be resettled. For example:*

*- ". . . The RAP currently developed for the Project will gradually be merged with this sub-regional development plan of the GAP, along lines of the 'resettlement with development' approach which is now widely promoted. GAP authorities hope that the implementation of this plan, combined with regained confidence will trigger a much needed economic development process in the region . . ."*<sup>261</sup>

*- "It can be expected that the major public investments planned for the Project implementation will also encourage the private sector investors and will greatly improve the economic outlook in Batman, Diyarbakir, Mardin, Siirt where most resettlers who chose urban resettlement are expected to move."*<sup>262</sup>

*The EIAR similarly assumes that "normalisation" - the coming of peace to the region - will occur: "The construction of the Ilisu dam and HEPP will coincide with a process of normalisation in the project area."*<sup>263</sup> Whilst we share this hope, the end of conflict cannot be assumed in the absence of political measures to resolve the "Kurdish Question". In the meantime, the continuing repression and emergency rule continue to depress the local economy and deter investors.

*We note that the Executive Summary of the RAP attempts to put flesh on the economic hopes for the region by citing the development benefits that will result from Ilisu's "annual \$300 million revenues generated."*<sup>264</sup> This figure, however, is misleading without a detailed accompanying breakdown of expected profits from these revenues; how much will be available once debt repayment, running costs, depreciation and amortisation have been taken into account. It should also be stressed that revenue projections for dams are notoriously unreliable: arid areas in particular are prone to long periods of drought which can severely reduce electricity

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<sup>259</sup> OECD, DAC 3, Involuntary Displacement and Resettlement, p.7: World Bank, OD 4.30 (Involuntary Resettlement), para 3b.

<sup>260</sup> World Bank, OD 4.30 (Involuntary Resettlement), para 18.

<sup>261</sup> EIAR, p.3-78.

<sup>262</sup> EIAR, p.3-82.

<sup>263</sup> EIAR, p.4-119.

<sup>264</sup> Executive Summary of RAP, p.1.

output.

*The RAP also argues that "the creation of new industries allowed by availability of [Ilisu's] additional energy will also create local employment."<sup>265</sup> Whilst World Bank guidelines encourage resettlement plans "where feasible" to "exploit new economic activities made possible by the main investment requiring the displacement,"<sup>266</sup> no details are given in the summary as to the new industries which are being considered, the investments required to secure them, the sources of finance, the status of funding or financing packages, or other data which would allow independent assessment of whether or not the livelihoods of those displaced would be improved or at least restored.*

*We also note with concern that the EIAR and Summary RAP uncritically accept the benefits and achievements claimed for the GAP programme. Given the widespread evidence that GAP has failed in its economic objectives (see sub-section on Ilisu, GAP and Forcible Assimilation, in Section 1 above) - and the criticisms made of GAP by Kudat<sup>267</sup> - this assumption cannot be justified. If GAP is to be the institutional vehicle through which "resettlement as development" is promoted, an independent assessment of GAP's record to date should be commissioned by the ECAs prior to project approval.*

## INDEPENDENT AND PARTICIPATORY MONITORING

*Relevant guidelines breached:*

*World Bank: OD 4.30, para 22;<sup>268</sup> Draft OP 4.12, Annex, para 21.<sup>269</sup>*

*OECD: DAC 3, Involuntary Displacement and Resettlement, p.12.<sup>270</sup>*

*WCD: Strategic Priority 6 - Ensuring compliance, para 6.1.<sup>271</sup>*

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<sup>265</sup> Executive Summary of RAP, p.1.

<sup>266</sup> World Bank OD 4.30, para 18.

<sup>267</sup> Kudat Report, op. cit, ref 7, pp. 25-26: "The urban centres of the Southeast Turkey that received high levels of migrants suffer from widespread unemployment and poverty. Educational levels are high and typhoid, dysentery and other infectious diseases are widespread. Staff shortages in schools and in the health sector are still acute. In some parts of the city of Diyarbakir, people continue to drink water from the irrigation canals."

<sup>268</sup> World Bank OD 4.30, para 22: "In-house monitoring by the implementing agency may need to be supplemented by independent monitors to ensure complete and objective information."

<sup>269</sup> World Bank Draft OP 4.12 Annex, para 21: "Arrangements for monitoring of resettlement activities by the implementing agency, supplemented by independent monitors as considered appropriate by the Bank."

<sup>270</sup> OECD DAC 3, Involuntary Displacement and Resettlement, Annex, p.12: "Arrangements for monitoring implementation of resettlement and evaluating its impact should be developed by the aid recipient agency during project preparation and used during supervision. Monitoring and evaluation units should be adequately funded and staffed by specialists in resettlement and provisions should be made to ensure a participatory approach."

<sup>271</sup> WCD, Strategic Priority 6 - Ensuring compliance, para 6.1: "A clear, consistent and common set of criteria and guidelines to ensure compliance is adopted by sponsoring, contracting and financing institutions and compliance is subject to independent and transparent review."

*Both the World Bank and the OECD require resettlement to be monitored. In the case of the World Bank, a requirement for independent monitoring is at the lender's discretion. The ECAs have made independent monitoring a fundamental condition of their support for Ilisu so compliance with World Bank guidelines would, in this instance, require independent monitoring. OECD guidelines make no stipulations about independent monitoring but require monitoring to be "participatory".*

*Although the EIAR stresses the importance of monitoring,<sup>272</sup> and proposes the inclusion of "regional and national NGOs" in the evaluation of monitoring results (though not the monitoring itself),<sup>273</sup> the Executive Summary of the RAP gives no indication that the EIAR's recommendations have been adopted in the final resettlement plan. No provisions whatsoever are made for monitoring - whether independent or in-house. As such, the RAP appears to fail one of the major conditions for ECA support of the project.*

*Even if, on paper, an independent monitoring programme were agreed, we are of the view that genuine participatory rehabilitation projects cannot be planned and carried out under martial law. We note that all of the independent Fact-Finding Missions carried out by the Ilisu Dam Campaign and others have been subject to police intimidation.*

#### PREVIOUS RECORD OF THE TURKISH AUTHORITIES ON RESETTLEMENT.

##### *Relevant guidelines breached:*

*World Bank: Draft BP 4.12 (Involuntary resettlement), para 2(d).<sup>274</sup>*

*World Bank Procedures require staff to review "past borrower experience and likely implementing agencies' experience with similar operations."<sup>275</sup> The EIAR's treatment of past resettlement schemes, however, is woefully inadequate and does not provide sufficient argumentation or data to support its conclusions. Its view that past resettlement problems have been remedied is disputed and conflicts both with evidence cited in the report itself and with the recent experience at the Birecik dam project (see Section 1).*

*The EIAR gives only cursory consideration to the problems encountered with resettlement in past dam projects in Turkey (just over two pages) and does not examine*

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<sup>272</sup> EIAR, p.7-18 -7-19: "Monitoring should be viewed as a complimentary tool which can reinforce the implementation of the RAP . . . Without monitoring programs carried out in a timely fashion, it would be difficult to assess how resettlement programs perform, to take corrective action in a timely fashion or to exploit more fully the economic opportunities."

<sup>273</sup> EIAR, p.7-21: "regional and national NGOs should be associated to the process of appraising the results of the monitoring."

<sup>274</sup> World Bank BP 4.12, para 2 (d): "When a proposed project is likely to involve involuntary resettlement . . . the Task Team and borrower staff . . . review past borrower and likely implementing agencies' experience with similar operations."

<sup>275</sup> World Bank BP 4.12, para 2 (d).

*or even cite any specific cases.*<sup>276</sup> It claims that "current resettlement packages have been significantly improved in several regards . . . recent resettlement programs have reportedly resulted in significant improvements of housing and infrastructure standards in new settlements."<sup>277</sup> However, no data are presented in support of this conclusion: on the contrary, the EIAR notes that urban resettlers from Ilisu could "experience unemployment and impoverishment due to a lack of training, job opportunities and general guidance."<sup>278</sup> The EIAR goes on to state: "These obstacles are so difficult to overcome that less than 10% of urban resettlers, according to a GAP-RDA Report have managed in the past to improve their standards of living in urban areas."<sup>279</sup> From the recommendations made by the EIAR, it would appear that "advisory services and comprehensive training programmes" are still not standard in Turkish resettlement schemes, despite claims that resettlement practice has improved.<sup>280</sup>

*Of particular concern is the failure of the EIAR even to mention the impacts of resettlement at Birecik, which has been claimed as a successful example of GAP's improved resettlement procedures. As noted in Section 1, many of those relocated at Birecik suffered grave violations of their human rights (with compensation cases being successfully prosecuted through the European Convention on Human Rights) and are worse off following their forced eviction. The experience is of particular relevance for Ilisu: the EIAR, however, ignores it entirely.*

*We conclude that the treatment of past resettlement practices is inadequate and biased. It does not serve as a sound basis for ECAs to evaluate Turkey's claim that past resettlement problems have been, or are being, addressed.*

#### FAILURE TO ANALYSE RESETTLEMENT ALTERNATIVES

*Relevant guidelines breached:*

*World Bank: OD 4.30 para 3a;*<sup>281</sup>

*OECD: DAC 3, Involuntary Displacement and Resettlement;*<sup>282</sup>

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<sup>276</sup> EIAR, 4-90.

<sup>277</sup> EIAR, 4-92.

<sup>278</sup> EIAR, p.4-111.

<sup>279</sup> EIAR, p.4-111.

<sup>280</sup> EIAR, p.4-111.

<sup>281</sup> "Involuntary resettlement should be avoided or minimized where feasible, exploring all viable alternative project designs." OD 4.30, para 3(a)

<sup>282</sup> "Alternatives to displacement and resettlement should be fully considered before decisions on displacement and resettlement are taken... In every case, the alternative to refrain from carrying out the project (the "non-action" alternative) should seriously be considered".

*WCD: Strategic Priority 2 - Comprehensive Options Assessment, paras 2.2,<sup>283</sup> 2.3,<sup>284</sup> 2.4<sup>285</sup>, 2.5.<sup>286</sup>*

*The World Bank state: "Involuntary resettlement should be avoided or minimized where feasible, exploring all viable alternative project designs."<sup>287</sup> The OECD's Development Assistance Committee guidelines, which the UK government says it will use to assess the project, go further: "Alternatives to displacement and resettlement should be fully considered before decisions on displacement and resettlement are taken... In every case, the alternative to refrain from carrying out the project (the "non-action" alternative) should seriously be considered".<sup>288</sup>*

*The EIAR does not study in any depth the impact of the various different proposals for resettlement. The report also offers no assessment of the resettlement implications of solar alternatives, gas or improving the performance of existing dams. Nor is there more than a cursory assessment of demand side management or the "non-action" alternative.*

*The inadequate treatment of the resettlement impacts of alternatives to Ilisu violates both World Bank and OECD guidelines for projects involving involuntary resettlement.*

## Assessment of compliance with WCD guidelines

### 1. GAINING PUBLIC ACCEPTANCE

#### *WCD Guidelines*

*"Public acceptance of key decisions is essential for equitable and sustainable water and energy resources development." Decisions relating to the planning and implementation*

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<sup>283</sup> WCD, op. cit ref 43, Strategic Priority 2 - Options Assessment, para 2.2, p.221: "Planing approaches that take into account the full range of development objectives are used to assess all policy, institutional, management and technical options before the decision is made to proceed with any programme or policy."

<sup>284</sup> WCD, op. cit ref 43, Strategic Priority 2 - Options Assessment, para 2.3, p.221: "Social and environmental aspects are given the same significance as technical, economic and financial factors in assessing options."

<sup>285</sup> WCD, op. cit ref 43, Strategic Priority 2 - Options Assessment, para 2.4, p.221: "Increasing the effectiveness and sustainability of existing water, irrigation, and energy systems are given priority in the options assessment process."

<sup>286</sup> WCD, op.cit ref 7, Strategic Priority 2 - Comprehensive Options Assessment, paras 2.5, p.221: "If a dam is selected through such a comprehensive options assessment process, social and environmental principles are applied in the review and selection of options throughout the detailed planning, design, construction and operations phases."

<sup>287</sup> World Bank, OD 4.30 (Involuntary Resettlement) para (3a))

<sup>288</sup> OECD Development Assistance Committee (DAC), 'Guidelines for Aid Agencies on Involuntary Displacement and Resettlement in Development Projects, Paris 1992: DAC p. 6.

*of a project must be jointly negotiated by affected communities and the project developers. The negotiations should be conducted through a stakeholder forum in which “those whose livelihoods, human rights and property and resource rights . . . are core stakeholders.”*<sup>289</sup> Negotiations “should result in demonstrable public acceptance of binding formal agreements among the interested parties with clear, implementable arrangements for monitoring compliance and redressing grievances.”<sup>290</sup> Where indigenous groups are affected, the project must have their prior informed consent.<sup>291</sup>

### *Evaluation of Compliance*

*As noted in Sections 1 and 4, the Ilisu area has been devastated by armed conflict, and remains under emergency rule. Freedom of expression and freedom of association do not exist, and the Kurdish communities affected by the Ilisu dam cannot voice their opposition to the project. In this context, the conditions do not exist for ensuring “an open and transparent process” in which negotiated agreements on all key decisions can be reached between all stakeholders, as recommended by the WCD. As a result, the WCD’s pre-condition for project approval – that “all key decisions” should enjoy “demonstrable public acceptance” - has not been, and cannot be, met. The continuing Emergency rule – and accompanying security presence – also renders compliance through independent and transparent review unachievable.*

*More specifically, the project currently fails to meet the following WCD guidelines with respect to “demonstrable public acceptance”:*

*No stakeholder analysis has been undertaken in order to identify key stakeholders for inclusion in a stakeholder forum empowered with negotiating agreement on key decisions.*<sup>292</sup>

*No stakeholder forum has been established (and none is contemplated) and stakeholders have not “participated in the project design and the negotiation of outcomes that affect them”;*<sup>293</sup>

*Key decisions are not being agreed through a negotiated process in which all stakeholders “have an equal opportunity to influence decisions”;*<sup>294</sup>

*No measures have been taken, or are contemplated, to address power imbalances*

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<sup>289</sup> World Commission on Dams, *Dams And Development: A New Framework for Decision-making*, Earthscan, November 2000, p.279.

<sup>290</sup> *Ibid*, p.217.

<sup>291</sup> *Ibid*, p.218.

<sup>292</sup> *Ibid*, p.279. “The government planning body sponsoring the planned interventions is responsible for initiating the stakeholder analysis leading to the constitution of a forum and will participate in it. The final structure of a stakeholder forum should be decided upon in a consultative process.”

<sup>293</sup> *Ibid*, p.271.

<sup>294</sup> *Ibid*, p.280.

*between various stakeholders*<sup>295</sup> in order to ensure "an open and transparent decision-making process in which the rights and entitlements of vulnerable groups [are safeguarded]";<sup>296</sup>

*The project proponents have not undertaken to prohibit acts of intimidation against stakeholders;*<sup>297</sup>

*Access to the "information, legal and other support necessary for informed participation in decision-making" has not been made available, particularly for vulnerable groups;*<sup>298</sup>

*Where consultation exercises have been held, communities have not been given "sufficient time to examine various proposals and consult amongst themselves";*<sup>299</sup>

*The Turkish authorities have failed to demonstrate a willingness "to negotiate in good faith through all key stages, from options assessment to final implementation, operation and monitoring";*<sup>300</sup> and

*Stakeholders have not "participated in baseline, impact and investigative studies"*<sup>301</sup> and have not been invited to do so.

*We also note that, even if the conditions imposed by the ECAs are met in full, the project would still be in violation of the WCD's guidelines with regard to the WCD's Strategic Priority of achieving demonstrable public consent. For example, there is no requirement to set up a stakeholder forum; no requirement to take measures to address power imbalances between stakeholders; and no commitment by the Turkish authorities – or indeed the ECAs themselves – to abide by a negotiated decision-making process involving all stakeholders.*

## COMPREHENSIVE OPTIONS ASSESSMENT

### *WCD guidelines*

*"Alternatives to dams do often exist" states the report. Development needs and objectives should be "clearly formulated through an open and participatory process" before any one*

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<sup>295</sup> **Ibid, p.280: "Authorities should make available adequate financial resources to enable stakeholder groups who are politically or financially weak, or who lack technical expertise or organised representation to participate effectively in the process."**

<sup>296</sup> **Ibid, p.217.**

<sup>297</sup> **Ibid, p.218.**

<sup>298</sup> **Ibid, p.217.**

<sup>299</sup> **Ibid, p.217.**

<sup>300</sup> **Ibid, p.217.**

<sup>301</sup> **Ibid, p.269 and p. 268: "Meaningful participation in preparatory studies is central to the success of the investigation and the ultimate outcome . . . Preliminary negotiations with project-affected people, their community representatives, and other stakeholders are central to the preparatory studies in considering mitigation measures for any unavoidable adverse impacts and investigating benefit sharing plans."**

*option is selected. In the assessment process, "social and environmental aspects" should have "the same significance as economic and financial factors."*<sup>302</sup> The assessment of options should continue "through all stages of planning, project development and operations." Planning "must give priority to making existing water, irrigation and energy systems more effective and sustainable before taking a decision on a new project."<sup>303</sup>

### *Evaluation of Compliance*

*We consider that Ilisu fails this second strategic priority on all counts:*

*- No participatory assessment of development needs and objectives has been undertaken - and none is planned. Moreover the institutional arrangements for such an assessment do not exist in Turkey.*

*- No comprehensive, participatory options assessment has been undertaken - and none is planned. Assessments of alternatives to Ilisu have been minimal: no consideration has been given to the solar energy option, nor to the use of gas fired power stations, nor to the "no dam" option. Yet alternatives to Ilisu exist which are both economically competitive and less socially and environmentally destructive.*

*Given the potential offered by abundant solar energy in the region, it may also be argued that the Republic of Turkey would be better advised to opt for a solar programme, particularly in view of the potential opportunity for Turkey to establish a competitive edge in the technology. In addition to possible cost advantages, embarking on such a programme could promote Turkey to a leading position in a key technology for the 21<sup>st</sup> century. At present, no other country has established a mold-breaking programme in this area. A large-scale solar programme would also be likely to be highly beneficial to Turkish trade. The use of solar energy avoids the import of fuel. Indigenous production would ensure that the overwhelming majority of the value of the projects would be retained in Turkey, with Turkey lining itself up to become a major exporter of solar technology in the future. Moreover, because solar power is flexible, a solar programme can easily be adjusted as power requirements emerge. An additional advantage would be that solar plants can be installed in relatively small numbers near key areas of demand, so avoiding the need to expand the power grid at great cost. In this way, local people would be major beneficiaries, as intended under the GAP.*

*Gas-fired plants also appear to offer a cheaper alternative to Ilisu. In November 1998, the Swiss government guaranteed contracts for Ankara gas power project. At US\$380/kW, this project costs less than a third of Ilisu. The recent private sector investment in three gas-fired power plants in the Marmara region has also demonstrated the attractiveness of this option from a financial point of view. A Fact-Finding Mission, undertaken in October 2000 by the Ilisu Dam Campaign, was also informed that the Marmara plants' contribution to power supply in Turkey was sufficient to allow the government to reject the Akkuyu nuclear project without the danger of creating power cuts.*

*The attraction of such alternatives is enhanced still further by recent drought in the GAP*

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<sup>302</sup> **Ibid, p.221.**

<sup>303</sup> **Ibid, p.224 (italics added).**

region which has caused an acute shortage of electricity due to low water levels in many large hydro reservoirs, which are experiencing their lowest water levels in ten years. Officials said the levels in the dams – which supply one fifth of the nation’s electricity - were so low that it might take four or five years before they return to normal.<sup>304</sup>

The recent financial crisis in Turkey is likely to decrease demand in the near future, permitting an extended review of future projections and option in the energy sector in Turkey.

Priority has not been given to improving the effectiveness of existing energy systems, as recommended by the WCD, or to improving the performance of existing dams, despite numerous studies that have repeatedly documented the inefficiency of Turkey's existing energy systems. Yet a number of independent studies reveal that demand-side management and improvements in transmission both represent less costly, more sustainable alternatives to Ilisu. A January 2000 report on Turkey by the International Energy Agency, citing the Turkish Government’s own State Planning Organisation’s 1996-2000 Five Year Development Plan, concludes that “energy efficiency is considered the cheapest energy source [and] potential gains to be achieved by increased energy efficiency are substantial.”<sup>305</sup> The IEA estimates “the total energy saving potential for the three consumptive sectors to be approximately 13.2 mtoe [million tonnes oil equivalent] per year, corresponding to slightly more than the current final energy consumption in the energy sector.”

$$\mu \quad \mu \quad \mu \quad \mu$$

$$\mu \quad (40-60\%) [ \quad ] \quad \mu$$

$$\mu \quad (\mu \quad ) \quad 18\%$$

- No attempt has been made to compare the Ilisu site's environmental and social impacts to those of other possible dam sites. The WCD recommends that, where a comprehensive options assessment leads to a dam being selected, "the same multi-criteria approach proposed for the earlier stages of option assessment" must be used to "determine its precise location, alignment and height." The DSI, however, has actively refused to consider a number of possible alternative dam sites whose impacts would be less severe than Ilisu. Even where sites have been considered, the DSI has failed to compare environmental and social impacts.<sup>306</sup>

## ADDRESSING EXISTING DAMS

### WCD Guidelines

“Opportunities to improve the efficiency, environmental and social performance of

<sup>304</sup> “Drought causes energy deficit for Turkey”, International Water Power and Dam Construction, September 2000.

<sup>305</sup> International Energy Agency, Turkey - Update, International Energy Agency, Vienna, 2000.

<sup>306</sup> Kudat, A., Ilisu Dam’s Resettlement Action Plan (RAP) – Achieving International Best Practice”, unpublished, circulated to ECAs, August 2000, p.10.

*existing dams and optimise their benefits must be taken.*<sup>307</sup> Outstanding social issues associated with existing large dams should be identified and assessed – and “processes and mechanisms . . . developed with affected communities to remedy them.”<sup>308</sup> The WCD is emphatic that “priority must be given to financing a negotiated reparation plan before funding new dam projects in a specific location or river basin in a country.”<sup>309</sup>

#### *Evaluation of Compliance*

*We found the Ilisu project to be in complete violation of the guidelines proposed by the WCD:*

*No "comprehensive post-project monitoring" has been undertaken of dams already built under the GAP,*<sup>310</sup>

*No mechanisms are in place - or are being put in place - to make reparations for the loss of livelihood and other damages suffered by those who have been forced to move as a result of dams already built as part of GAP. Existing dams in the area have already displaced hundreds of thousands of people. Most of those evicted have not received any compensation or rehabilitation:*<sup>311</sup> *as the Mission confirmed in meetings with those evicted to make way for the Ataturk Dam, the problems suffered by those who have been evicted by past dams are severe (see Annex 2: Ataturk's Victims - The Continuing Misery).*

*Funding new dam projects is being given priority over funding "a negotiated reparation plan", contrary to the WCD's recommendations.*<sup>312</sup>

## RECOGNISING ENTITLEMENTS AND SHARING BENEFITS

### *WCD Guidelines*

*The rights of affected people must be recognised. "Mutually-agreed, formal and legally enforceable mitigation, resettlement and development provisions" should be jointly negotiated by the project developer and affected people.*<sup>313</sup>

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<sup>307</sup> **Ibid, p.225.**

<sup>308</sup> **Ibid, p.225.**

<sup>309</sup> **Ibid, p.230.**

<sup>310</sup> **Ibid, pp.225-226.** The WCD recommends that such evaluations should "be comprehensive, integrated, cumulative and adaptive" and that they should be participatory. Moreover, "where dams are part of a larger river basin and regional development scheme, the evaluations should take into account basin-level evaluation of all project and programme components linked to the dam that affect the environment and society."

<sup>311</sup> As Ayse Kudat points out in her preliminary assessment of the draft resettlement action plan for Ilisu: "There are still a large number of people affected by previously constructed dams who are still waiting to be resettled, sometimes for many years." She also notes: "In the past 30 years resettlement was [only] provided for about 100 families annually."

<sup>312</sup> **Ibid, p.230.**

<sup>313</sup> **Ibid, p.240.**

### *Evaluation of Compliance*

*As noted in Sections 1, the rights of communities affected, or potentially affected by Ilisu, have not been recognised by the Turkish authorities. In particular, the following entitlements - all specified by the WCD - have been denied to villagers:*

- The right "to participate in negotiating the outcomes of the options assessment process";*
- The right "to participate in negotiating the implementation of the preferred option"; and*
- The right "to negotiate the nature and components of mitigation and development entitlements".<sup>314</sup>*

*In addition:*

- Ilisu lacks a Mitigation, Resettlement and Development Action Plan, accepted by affected people and backed by "a master contract that outlines the obligations of government and the developer";<sup>315</sup>*
- No performance contracts have been signed - or even considered - between the government and individual affected families, as recommended by the WCD. Such contracts should specify "entitlements (compensation, resettlement where necessary and direct benefits from the project), delivery schedule and recourse procedures"; and*
- No legally enforceable benefit sharing mechanisms have been negotiated with affected communities.*

### ENSURING COMPLIANCE

#### *WCD Guidelines*

*The WCD's report states: "A clear, consistent and common set of criteria and guidelines to ensure compliance [with commitments made for the planning, implementation and operations of dams]" should be adopted "by sponsoring, contracting and financial institutions". The WCD recommends a Compliance Plan should be drawn up and be subject to independent monitoring. The costs for establishing compliance mechanisms and ensuring their effective application should be "built into the project budget."<sup>316</sup>*

#### *Evaluation of Compliance*

*We note that the WCD's recommended mechanisms for ensuring compliance are entirely absent from Ilisu. For example:*

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<sup>314</sup> **Ibid, p.240.**

<sup>315</sup> **Ibid, p.243.**

<sup>316</sup> **Ibid, p.244.**

- No "clear, consistent and common set of criteria and guidelines to ensure compliance" has been adopted - let alone agreed - by "sponsoring, contracting and financing institutions",<sup>317</sup>
- No "Compliance Plan"<sup>318</sup> has been agreed - let alone considered - for Ilisu;
- No independent review panel<sup>319</sup> has been agreed for Ilisu;
- There are no requirements for the DSI, as project sponsor, to set up performance bonds "to provide financial security that obligations will be met",<sup>320</sup>
- No provisions have been made in the project budget "for compliance mechanisms and related institutional capacity".<sup>321</sup>

*Although the ECAs' first condition - on resettlement - specifies the need for independent monitoring, the condition fails to meet other compliance requirements stipulated by the WCD. Moreover, as noted in Sections 1 and 2, there are grave doubts that independent monitoring is possible whilst the region remains under Emergency Rule.*

*Other suggested compliance mechanisms also fail to meet the WCD guidelines. For example, the UK Export Credits Guarantee Department has undertaken to write "clawback" mechanisms into any contract undertaken in support of Ilisu, whereby the credit could be voided if its conditions are not met. No details have been made public, however. In addition, it is also questionable whether clawback conditions, though welcome, would suffice to ensure long-term compliance with agreements undertaken by the Turkish authorities, for example on environmental mitigation and resettlement, since the involvement of Balfour Beatty, the company which would receive ECGD support, is likely to be over before many problems emerge.*

#### NON-COMPLIANCE WITH SPECIAL PROVISIONS FOR DAMS IN THE PIPELINE.

*The World Commission on Dams makes special provisions for "dams in the pipeline". At least one ECA - Switzerland's ERG - has stated that it will use the criteria in this section of the WCD report as a benchmark (alongside others) to evaluate compliance with the ECAs' condition on resettlement.*

*WCD guidelines*

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<sup>317</sup> **Ibid, p.245.**

<sup>318</sup> **Ibid, p.244**

<sup>319</sup> **Ibid, p.246.**

<sup>320</sup> **Ibid, p.247.**

<sup>321</sup> **Ibid, p.248.**

*The WCD lays down five guidelines for projects at the detailed design stage, of which four are related to social issues and resettlement:*

- "The stakeholder forum is consulted on decisions related to project layout, operation and mitigation and development measures and relevant agreements are negotiated with affected groups."*
- "A compliance plan is prepared and recourse mechanisms are identified."*
- "Compliance mechanisms are provided for in the tender documents."*
- "Benefit-sharing contracts are negotiated for displaced and project affected people."*
- "A process for stakeholder involvement during operation is established."*

*Evaluation of compliance:*

*Ilisu fails to comply with any of these conditions.*

- No stakeholder forum exists.*
- There is no evidence presented in either the EIAR that a compliance plan has been agreed or that compliance clauses are envisaged in the contracts for the dam.*
- Whilst the Turkish government has stated that it will consult further with affected people, there is no indication in the EIAR that Turkey is willing to agree or even consider negotiated "benefit-sharing contracts" with displaced or project-affected people.*
- No process for stakeholder involvement in the dam's operations is mentioned in the EIAR and there are no other indication that it is even being considered.*

## Evaluation of compliance with ECA and government conditions, objectives and benchmarks

### ***1. Having reviewed the EIAR and the Executive Summary of the RAP, we find that as currently planned and executed, the Ilisu Dam and HEPP:***

- Breaks 2 Ex-Im guidelines on one count each
- Breaks seven major World Bank safeguard policies relating to resettlement on thirty counts.
- Breaks the OECD's two guidelines relating to resettlement on fourteen counts.
- Breaks six of the World Commission on Dams' resettlement-related Strategic Priorities and Guidelines on thirty-one counts.

### ***Such violations lead us to conclude that current resettlement plans for Ilisu:***

- Fails to comply with the benchmark guidelines to which ECAs have singly or collectively bound themselves with respect to evaluating Ilisu's compliance with the ECAs' joint condition on resettlement.
- Fails to achieve the objectives laid down by the UK government when imposing conditions to ECGD support for Ilisu. In particular, the continuing repression in the region renders the key objective of proper consultation unattainable.
- Fails to comply with the UK's broader policies on sustainable development, particularly those relating to participation.
- Fails to comply with the ECA's condition on resettlement. From the evidence presented in the EIAR and the Executive Summary, there are no credible grounds for concluding that a resettlement plan has been drawn up which "reflects internationally acceptable practice."

### ***We further conclude that***

- Support for support for Ilisu would result in breaches either of international law or the rights of Turkish citizens under the European Convention on Human Rights.
- The ECAs considering export credits applications for the project should reject the applications forthwith.



## European Court of Human Rights Cases Relating to GAP

*(Extract from: Ilisu Dam Camp et al., If the river were a pen - The Ilisu Dam, the World Commission on Dams and Export Credit Reform: The final report of a Fact-Finding Mission to the Ilisu Dam region 9-16 October 2000, London 2001.)*

*"The Mission met with lawyers in Birecik, and asked what remedies were available in the courts to people whose lands were expropriated. The lawyers indicated that there were a large number of cases which were currently being adjudicated in the European Court of Human Rights.*

*The Mission later obtained transcripts of two settlements and one judgement in cases which have been taken to the European Court of Human Rights. In each case the applications had been based upon the premise that the delay in the payment of the compensatory award was so great that it amounted to violations of Article 6 and Article 1 of the First Protocol of the European Convention on Human Rights, Article 1, 1<sup>st</sup> Protocol states that:*

*"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No-one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by general principles of international law."*

### Yasar and others v Turkey. (Judgment)

*Case Numbers 27697/95 and 27698/95*

*Applications were made to ECHR by Yasar and seventeen others concerning violations of their rights under Article 1 of the First Protocol.*

*In August 1988, the DSI indicated its intention to expropriate land at the village of Bagacik, as part of its dam-building plans. Transfer of title in the land took place on 1<sup>st</sup> June and 1<sup>st</sup> September 1992, with compensation of 30,790,000TL and 34,456,100TL (65,240,100 TL in total) being paid to the Applicants. Appeals were lodged in the Court of first instance for the awards to be re-assessed in late 1992. (The case numbers were 93/93 and 93/109). The tribunal ordered that an expert opinion should be sought to value the land. The expert report was then contested by DSI, and a second report commissioned. Subsequently, in respect of 93/93, DSI was ordered to make a further payment of 91,824,379 TL, which sum included a simple interest rate of 30% pa, calculated from the dates on which the title had passed, on 1<sup>st</sup> September 1992. In*

*respect of 93/109, DSI was ordered to make a similar further payment of 187,000,000TL, the interest being calculated from 1<sup>st</sup> June 1992. The Court of Appeal confirmed these judgements on 20<sup>th</sup> October 1992.*

*On 10<sup>th</sup> October 1996, the Appellants in Case 93/93 received 209,230,000TL, and in Case 93/109, the Appellants received 432,607,000TL. During the relevant period, the interest attracted by debts of the State was running at 7% per month, ie 84% pa. (Article 51, Law 6183, and Rule 89/14915 of the Council of Ministers) However, according to Law 3095, interest payable on State debts was calculated at 30% pa during the period concerned. Between 1994 and 1996, the ECHR found as a matter of fact that inflation in Turkey was running at 93.76%*

*The Applicants to the European Court of Human Rights submitted that there were breaches of their rights under 1<sup>st</sup> Protocol, Article 1, since four years had passed since the original first instance rulings, and two years since the Appeal Court had confirmed their award of further compensation. This delay in payment, coupled with the dire economic state of the Turkish economy, amounted to the breaches of which they now complained. They also submitted that there was no means in Turkish law by which they could enforce against the State for money owed to them.*

*In its judgement, the Court considered the margin of appreciation to which a State is entitled, in the determining of interest rates, bearing in mind the State's obligations to its citizens. It also considered that a balance must be struck, between the rights of the individual and the rights of the community at large. It referred to previous jurisprudence, in which the nature and degree of prejudice caused by delay was considered. [Akkus v Turkey, 9<sup>th</sup> July 1997], Lithgow and others v United Kingdom 8<sup>th</sup> July 1986]. It concluded that the delay between the final judgement and payment of the compensation lay at the hands of the Turkish government, and that it had caused disproportionate prejudice to the Applicants. The delay, coupled with the length of the procedure which the Applicants had had to endure, did not reflect an appropriate balance between the rights of the property owning individual and the community at large. There had been a violation of Article 1, 1<sup>st</sup> Protocol. Compensation, damages and costs of the hearings in the domestic courts were therefore payable, in the total sum of \$24,895 US, (interest on the judgement at 6% pa).*

## **BT and others v Turkey. (Settled)**

*Case Numbers 26093/94 and 26094/94*

*Nine applications were joined in this case. DSI gave notice of its intention to expropriate three areas of land at Bulanik, as part of its dam-building programme in 1990.*

*Compensation became payable at the date on which the three parcels of land were expropriated. In August 1992 the applicants appealed to the domestic court of first instance, for the level of the award to be re-assessed. Their applications were given three separate numbers, 92/51, 92/65 and 92/70. The domestic court ruled in November 1992 that the level of each of the three awards should be raised, and it calculated new sums payable in respect of each piece of land. The sums incorporated damages, and interest at 30% pa, to be calculated from the date at which title in the land had been*

*transferred, which had occurred in July and November 1992. These judgements were confirmed in the Court of Appeal in May, November and April 1993 respectively.*

*Compensation was finally paid in respect of 92/51 in November 1996, three years and six months after the Appeal Court ruling; in respect of 92/65, one year and nine months after the Appeal Court ruling, and in respect of 92/96, three years and nine months after the Appeal Court ruling.*

*These cases were not pursued by the Applicants, upon the Turkish government settling the matter by undertaking to pay to the Applicants the sum of 23,200\$US, which figure included compensation and costs.*

### **V.N.K. and 44 others v Turkey. (Settled)**

*Case Numbers 29888-96/96*

*DSI expropriated land in 1993 in the village of Tekaağac. The Applicants appealed to the domestic court of first instance for the award of compensation to be re-assessed. Between 1993 and 1995, thirty-one appeals were successful. Between 1994 and 1995, these judgements were confirmed in the Court of Appeal. Applications were made to the Strasbourg Court between 1995 and 1997, during which time payment was made by DSI, with delays having amounted to between eleven and twenty three months between judgement and payment. On 12<sup>th</sup> August 2000, the Turkish government settled the matters, by paying US\$66,840 to the applicants, which again reflected compensation costs and interest.*

## Ataturk's Victims: The Continuing Misery

*It is generally acknowledged that the resettlement programme at the Ataturk Dam, completed in 1993, which affected between 150,000 and 200,000 people - more than twice the number originally estimated or currently acknowledged by the authorities<sup>322</sup> - has fallen far short of international standards. Although the entire town of Samsat and nearly 300 hundred villages were flooded by the Ataturk Dam, no comprehensive Resettlement Action Plan was prepared by the DSI whatsoever.*

*The Mission met with villagers affected by the Ataturk project and learned that compensation was frequently inadequate and delayed,<sup>323</sup> that more than 80 per cent received no compensation whatsoever and no replacement houses; and that those few who obtained compensation have often lost that money because of rapid inflation, and a lack of familiarity with city life and commercial activities.*

*Many villagers told the Fact-Finding Mission they “were not resettled, but evicted”. Others stated that “resettlement had resulted in major social problems, including the breakdown of social networks, clashes and disputes among neighbours over compensation, and resulting injuries and deaths”.*

### Companies and financiers involved

*The Ataturk Dam, dedicated to the founder of modern Turkey, is the largest structure ever built in Turkey for irrigation and hydropower generation.<sup>324</sup> It is located on the Euphrates river and constitutes the centrepiece of the Southeastern Anatolia Project (GAP).<sup>325</sup>*

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<sup>322</sup> The official figure from GAP authorities is 75,000.

<sup>323</sup> Until recently the average yearly inflation ratio in Turkey has reached over 50 per cent.

<sup>324</sup> This section draws substantially from John Wicks, “Harnessing the waters”, SHZ Publications, Switzerland, September 1992

<sup>325</sup> The Hydropower component of the dam was planned to generate 8.9 billion KWh of electricity annually before irrigation started; when the first scheme of irrigation went into operation it was expected to generate about 8.1 billion KWh of energy per year. According to project authorities 882,000 hectares of land would be irrigated by the water of the impounded in the Ataturk reservoir: 476,000 hectares by gravity flow through the 57.8 km long Sanliurfa tunnels system and the remaining 406,000 hectares by pumping. The 166-meter-high and 1664-meter-long Ataturk Dam created a reservoir which has a surface of 817 square km and a total storage capacity of 48.7 million cubic meters.<sup>325</sup> The Ataturk dam is the ninth-largest rockfilled dam in the world. Construction work started in 1981 and all the eight hydropower units, totalling 2,400 MW installed capacity, came into operation at the end of 1993. The dam was built downstream of the 1,800 MW Karayaka Dam, the first water scheme downstream of the old Keban Dam built on the Upper Euphrates under the GAP project which was completed in 1988 and cost US\$1.2 billion.

*When the Ataturk project was approved, the DSI awarded the contract for building the dam to the Ataturk Engineers Joint Venture (AEJV), consisting of Electrowatt and Societe Generale pour l'Industrie from Switzerland and Dolsar from Turkey. The electromechanical contracts went to the Swedish-Swiss transnational Asea Brown Boveri AG,<sup>326</sup> Sulzer-Escher Wyss GmbH, Noell GmbH and Voest Alpine from Austria. Earthmoving and construction work was made the responsibility of the Turkish Consortium ATA-insaat.*

*The overall cost of the project was around US\$2.3 billion USD. The original contract value of Swiss francs (Sfr.) 960 million mushroomed to well in excess of Sfr. 1,000 million. A banking consortium led by Union Bank of Switzerland came up with a 18-year export credit of Sfr. 5,734 million. The fact that Swiss, German, Italian and Austrian companies were involved meant optimum risk management, with coverage from Switzerland's export credit agency, as well as Hermes in Germany, SACE in Italy and OKB in Austria.*

### Health impacts<sup>327</sup>

*Before the construction of the Ataturk dam, malaria was not present in the region. However, the dam's reservoir, together with its associated irrigation channels, created an ideal breeding ground for the disease's mosquito vectors which rapidly spread the disease. The malaria parasite had been introduced to the area through infected migrant workers' returning home from seasonal work in the cotton-growing Cukurova region – 400 km west of Urfa. Malaria deaths have already occurred in a number of villages.*

*Other tropical diseases - notably schistosomiasis and leishmaniasis - have also spread after the introduction of intensive irrigation in the region. Animals are also reported to have died because of new diseases, forcing farmers to slaughter their stock in order to prevent the spread of infection.*

*At present, there is no authority charged with monitoring the dam's health impacts and doctors and medical staff receive no training in dealing with malaria. Once a year, during the cotton harvest, malaria tablets are distributed by a "Malaria Group" run directly by the Health Ministry – but, the Mission was told, people are only given one malaria tablet each. It is very unlikely that such interventions will prevent the spreading of malaria in the area.*

*The authorities' response to the advent of the disease has been limited to spraying chemical products in urban areas. No public education programme accompanied the spraying and many people became ill after drinking water from canals which had been sprayed. The use of agro-chemicals is also reported to be problematic. The Mission met*

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<sup>326</sup> Two ABB subsidiaries, Asea Brown Boveri AG from Germany and ABB Tecnomasio from Italy, were also awarded contracts.

<sup>327</sup> This section draws on an interview with journalist Mehmet Dikec.

*with families who worked for eight months of the year in cotton fields. It was told that severe inflammation and irritation of their skin and acute stomach upsets invariably occurred after the crops had been sprayed.*

*In June 1999, a local journalist collected a sample of water from Akcakale town, where 25,000 people live, and brought it to an official public laboratory in Urfa in order to obtain a detailed chemical analysis. Staff from the laboratory told him that they lack adequate facilities and thus, "We don't deal with these things". The story appeared in the newspaper "The Voice of Akcakale" in mid-June, prompting many people to go to the Town Hall to request further information. Officials responded by telling people that they "didn't need to know about chemicals in the water." The local newspaper was subsequently closed down.<sup>328</sup>*

### Social and Environmental impacts

*The lack of any training for farmers in managing irrigation water and handling pesticides has led to the indiscriminate use of both, resulting in the salinisation of land and the poisoning of farmers.*

*Overuse of fertilisers is also causing soil degradation and pollution. Many fear that the problems will get worse following the planned introduction of cotton farming in the Urfa region. Some effort has been made to reduce salinisation, however, including the building of drainage canals.*

### Resettlement and compensation issues<sup>329</sup>

*Those interviewed told the Mission that, although aware that the dam would be constructed, they were unable to conceive of the extent of its reservoir. They were not consulted over compensation, the levels of which were unilaterally decided on by the government*

*Affected villagers were given no opportunity to voice their views on compensation and resettlement. Land was only offered as compensation if the villagers were prepared to move to distant resettlement sites elsewhere in Turkey. Since few spoke Turkish, the majority were unwilling to move. Those eligible took cash compensation. "What people really wanted was some land with some farming equipment in the area close to the reservoir," the Mission was told.*

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<sup>328</sup> The closure followed further exposés by the journalist. In particular, a series of articles called for the closure of an illegal chemical dump in the area. A local MP told the journalist, "Who are you to say that? You don't have the right to call for its shutting down."

<sup>329</sup> Section based on interviews with two villagers from the Ataturk area: Mustafa Karael from Ercek, (200 inhabitants) and Ali Isik from Nasreddin (250/300 inhabitants). Both villages were submerged in 1992.

*Problems rapidly emerged over land titles: some properties had more than one owner whilst others had no owner at all. In some instances, disputes led to bloody clashes among villagers.*

*Most people received no compensation. The few who did had never seen so much money in one lump sum and "they didn't know if it was the right amount due to them." The first instalment to be paid was very low and a number of villagers went to court to challenge the compensation payments. Those interviewed report that "many lawyers exploited the situation by trying to collect 10-15 cases for each village in order to earn more money."*

*The compensation appeals lasted three years, after which the courts generally ruled in favour of the villagers. On average, the original compensation payments were one-sixth of those finally awarded. Many cases are still pending.*

*Many of those evicted "didn't know how to survive and decided on their own to move to cities, where they soon felt like foreigners." They also didn't know how to invest their money in urban commercial businesses. Often they were cheated by city-based partners and lost all their money.*

*Those who received no compensation were forced to migrate to the major cities of the region.*

*"They just resettled on their own and tried to look for any kind of job. Children and youngsters started to sell a few things on the street; they didn't go to school anymore and then left their families to move to bigger cities looking for a better future." Families were forced to borrow money from relatives, but often it was not enough and many now have large debts.*

