



Challenge A: Public Participation in Water Management

Water and democracy: Can local communities influence water management in the Tigris-Euphrates River Basins?

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This paper will outline some of the mechanisms by which relevant actors (including activists, civil society organizations, social movements, local communities, academics/researchers, municipalities, and regional administrations) can cooperate with and apply pressure on governments, large corporations and small/medium-size enterprises (SMEs) to achieve sustainable approaches to water sharing. Some of these methods are cooperative, others oppositional.

Introduction

Poor management of the Tigris-Euphrates basin has greatly diminished the quantity and quality of water available to diverse communities across the region, depriving many households of access to adequate supplies of clean water. Many argue that mismanagement is due at least in part to the general lack of transparency, weak accountability, and the exclusion of key stakeholders. The discrepancy between the actual situation and the ideals of human rights and sustainable development is jarring.

International legal and ethical standards emphasize that the design, planning and implementation of projects that have potential impact on human rights – including health and well-being – should include, at a minimum, stakeholder consultation or, in cases where social and environmental impacts are significant, more substantive participation. Generally, the minimum standard for these interactions is that they be material and substantive, involve two-way communication, be free from coercion, and have the possibility of affecting the outcome of the development project.

The following pages highlight the international human rights conventions and international guidelines and standards that affirm these rights. The paper concludes with examples of international organizations and initiatives that seek to strengthen public participation in the realization of water rights and environmental justice. The conclusion calls for closer coordination and collaboration among groups across the Tigris-Euphrates basin.

I. Water rights, freedom of expression, and the right to peaceful assembly

International human rights recognize the right to public participation in the management of water resources.

The Universal declaration of human rights:

- ***Everyone has the right to freedom of opinion and expression;*** this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. (Article 19)
- ***Everyone has the right to freedom of peaceful assembly and association.*** (Article 20.1)
- ***Everyone has the right to a standard of living adequate for the health and well-being*** of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. (Article 25.1)
- ***Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.*** (Article 27.1)

We begin with two observations:

First, **everyone has a right to safe drinking water and sanitation**, as part of the universal human right to a standard of living adequate for health and well-being. In addition, the UN General Assembly has explicitly recognized “the human right to safe drinking water and sanitation as essential for the full enjoyment of the right to life and all other human rights,” in 2010 (resolution 64/292) and again in 2015 (resolution 70/169). The 2030 Agenda for Sustainable Development also addresses the right to water in Goal Six: “ensuring the availability and sustainable water management of water and sanitation for all.”

Second, **participation is a right**. It is not a privilege granted or extended at the discretion of the government. Water rights, freedom of express, and the right to peaceful assembly go hand in hand.

Human Rights Council Resolution 33/10 (adopted 26 September 2016) is one of several conventions and resolutions that reinforce the right to participation in realizing all human rights. This resolution, which affirms “**the human rights to safe drinking water and sanitation,**” recognizes the role of civil society “at the local, national, regional and

international levels in facilitating the achievement of the purposes and principles of the United Nations . . . including the human rights to safe drinking water and sanitation.” HRC 33/10 also affirms the importance of regional and international technical cooperation in realizing these rights.¹

It is also important to note that HRC Resolution 33/10 also underlines (in Paragraph 8) that citizens and groups have redress through judicial, quasi-judicial, and other appropriate remedies for “avoid[ing] infringements of such rights with a view to ensuring justice for all for violations in the context of the realization of the rights to water and sanitation as components of the right to an adequate standard of living, including taking the measures necessary to ensure that women and girls and persons at risk have equal access to effective remedies.”² Legal vigilance is, of course, an integral part of the human rights system along with the primary responsibility of States for ensuring that the right to water and sanitation is fully realized (in Paragraph 6) and the role played by regional and international cooperation (in Paragraph 7).

The rights to participation are reinforced broadly in the **International Covenant on Civil and Political Rights**. Article 1.1 (the right of self-determination), Article 19.2 (**the right to freedom of expression**), Article 21 (**the right of peaceful assembly**), Article 22 (**freedom of association with others**) are particularly relevant.

¹ Human Rights Council Resolution 33/10: *Affirming also* the importance of regional and international technical cooperation, where appropriate, as a means to promote the progressive realization of the human rights to safe drinking water and sanitation, without any prejudice to questions of international water law, including international watercourse law, *Recognizing* the important role that civil society plays at the local, national, regional and international levels in facilitating the achievement of the purposes and principles of the United Nations, fundamental freedoms and human rights, including the human rights to safe drinking water and sanitation,

² HRC Resolution 33/10: 6. *Reaffirms* that States have the primary responsibility to ensure the full realization of all human rights and must take steps, nationally and through international assistance and cooperation, especially economic and technical, to the maximum of their available resources, to achieve progressively the full realization of the rights to safe drinking water and sanitation by all appropriate means, including in particular the adoption of legislative measures in the implementation of their human rights obligations;

7. *Stresses* the important role of international cooperation and technical assistance by States, specialized agencies of the United Nations system and international and development partners, and by donor agencies, in particular in the timely achievement of the relevant Sustainable Development Goals, and urges development partners to adopt a human rights-based approach when designing, implementing and monitoring development programmes in support of national initiatives and plans of action relating to the rights to safe drinking water and sanitation;

8. *Underlines* the importance of an effective remedy for violations of economic, social and cultural rights, including the human rights to safe drinking water and sanitation, and in this regard of judicial, quasi-judicial and other appropriate remedies, including procedures initiated by or on behalf of individuals or, as appropriate, groups of individuals, and of adequate procedures to avoid infringements of such rights with a view to ensuring justice for all for violations in the context of the realization of the rights to water and sanitation as components of the right to an adequate standard of living, including taking the measures necessary to ensure that women and girls and persons at risk have equal access to effective remedies;

Finally, Human Rights Council Resolution 33/22, “Equal participation in political and public affairs” (adopted 30 September 2016), affirms the importance of “***Creating a safe and enabling environment for human rights defenders and civil society organizations, which together with other actors play a key role in the effective promotion and protection of all human rights***” (Paragraph 6.j). It also affirms the importance of new information and communication technology (Paragraph 6.h) and the right to association (Paragraph 6.i).

Also of note is Article 15.1 of the **International Covenant on Economic, Social and Cultural Rights**:

1. The States Parties to the present Covenant recognize the right of everyone:
 - (a) To take part in cultural life;
 - (b) To enjoy the benefits of scientific progress and its applications;
 - (c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

II. The World Commission on Dams – Best Practices in Participation

The World Commission on Dams emerged from the Manibeli Declaration of 1994, which was signed by more than 2,000 organizations and called on the World Bank to establish an “independent comprehensive review of all Bank-funded large dam projects. The report of the World Commission on Dams, published in 2000, is an example of internationally coordinated public participation and civil society action having a global impact.

The report identifies best practice for broad stakeholder participation. Among the principle recommendations (as relayed by International Rivers):

No dam should be built without the “demonstrable acceptance” of the affected people, and without the free, prior and informed consent of affected indigenous and tribal peoples.³

In addition, *Development needs and objectives should be clearly formulated through an open and participatory process, before various project options are identified.⁴*

As part of the “rights and risks” approach, the WCD report also calls for strengthening the standard of informed participation for all stakeholders:

All stakeholders should have the opportunity for informed participation in decision-making processes related to large dams through stakeholder fora. Public acceptance of all key decisions should be demonstrated. Decisions affecting indigenous peoples should be taken with their free, prior and informed consent.

³ International Rivers Network, “Citizens’ Guide to the World Commission on Dams,” 2002, p. 3.

⁴International Rivers,” The World Commission on Dams Framework – A Brief Introduction,” February 29, 2008 <https://www.internationalrivers.org/resources/the-world-commission-on-dams-framework-a-brief-introduction-2654>

For the purposes of local communities, activists, and NGOs seeking to strengthen public participation in the management of water sources, the WCD presents a broad plan of action, including “five key decision points” and “approaches to high-quality public participation.”

Five Key Decision Points: The WCD Criteria⁵

As noted, the Commission has identified five key stages and associated decision points for the energy and water sector. The most fundamental of these is selection of the preferred development plan. This determines what options will be pursued to meet needs and whether or not a dam is to be built.

1. Needs assessment: *validating the needs for water and energy services. Confirmation is required that plans for water and energy development reflect local and national needs adequately. An appropriate decentralized consultation process is used to validate the needs assessment and modify it where necessary.*

2. Selecting alternatives: *identifying the preferred development plan from among the full range of options. The preferred development plan is selected through a participatory multi-criteria assessment that gives the same significance to social and environmental aspects as to technical, economic and financial aspects and covers the full range of policy, programme, and project options.*

Where a dam emerges as a preferred option, the following key decision points occur for project preparation, implementation and operation.

3. Project preparation: *verifying agreements are in place before tender of the construction contract. The preparation stage covers detailed planning and design. Licences issued for development of a project incorporate any conditions that emerge from the options assessment process. Tendering the construction contract is conditional upon reaching negotiated agreements for benefit sharing mechanisms and for mitigation, compensation, development and compliance measures, in addition to technical requirements.*

4. Project implementation: *confirming compliance before commissioning. The implementation stage covers procurement and construction. Issuing the licence to operate is contingent on implementation of specific benefit sharing and mitigation measures at various stages through the implementation period. Compliance with all relevant time-bound commitments is required before commissioning the project.*

5. Project operation: *adapting to changing contexts. Any decisions to modify facilities, operating rules, and licence conditions to meet changing contexts are based on a participatory review of project performance and impacts.*

WCD Principles for Involving the Public in Decisions

In a report on “Participation, Negotiation and Conflict Management in Large Dam Projects,” the WCD notes that all public involvement should be based on two principles: First, “the public should have a meaningful and continuous voice in decisions that affect their lives,”

⁵ World Commission on Dams, “Dams and Development: A New Framework for Decision-Making,” Earthscan, 2000, 262ff

and second, “their participation must influence or have an impact on those decisions.” These principles are fundamental to democratic societies. The report enumerates four approaches to achieve best-practice or high-quality public participation and five steps to promote stakeholder participation within a community.⁶

Approaches to High-Quality Public Participation

The two central principles above underpin four approaches for building good public participation:

- A. **The public must speak for itself.** *Although there are representation mechanisms in many governance structures and many experts believe they know what the public interest is or what the public wants, the public must be involved in articulating for itself and in its own ways what its interests are.*
- B. **The public participation process must seek out and facilitate the involvement of those potentially affected.** *It is not enough to have a public participation process, if participation is difficult for diverse people who are unorganized and/or uneducated on technical issues. The process must proactively reach out to discover who might be affected by the decision and involve them in ways that are meaningful to them.*
- C. **The public participation process must address the process needs of all participants.** *Participatory processes must be designed to address the important issues of all individuals and groups substantially affected by the decision. People understand issues, communicate, and make decisions in many different ways. Gender, class, race, culture, religion, and education shape these differences. The process must be designed to include issues that may not be important or equally important to all parties. The process must involve the participants in defining and designing how they will participate. This is particularly important when working across cultural or organisational differences. The process must be flexible, inclusive, and designed to elicit information and increase participants’ comfort with the process. An example of such a process is the one used between Hydro Quebec and native peoples of Canada. In this process Hydro Quebec and the affected tribes (i) negotiate the specifics of how the public will be involved, (ii) directly involve First Nation and local officials, (iii) have extensive discussions with the local populations, and (iv) codify procedures on land claims.*
- D. **The public participation process must provide participants with the information they need to participate in a meaningful way.** *Meaningful public participation requires timely and full access to information about proposals, problems, impacts, and alternatives. Good faith in a participatory process requires those with resources to produce this information to share it with those who do not have such resources. These four approaches point the way to help decision makers, process planners and participants to ensure that the public has a meaningful and continuous voice in decisions that affect their lives and how that participation can have an impact on those decisions.*

⁶ WCD Thematic Review v.5 Institutional Processes, “Participation, Negotiation and Conflict Management in Large Dam Projects,” 2000, pp. 23-24.

Five steps for building participation form a process continuum:

1. **Stakeholder and Process Analysis.** *Process managers need to determine who the stakeholders are and engage them in discussions about how they can be, should be, and will be involved in the overall participation process.*
2. **Education and Awareness Creation** *(One-way Information Transfer).* *Stakeholders cannot participate meaningfully in the absence of information. Information transfer, education, and capacity building are ongoing activities that underpin the entire process of public participation and consensus building.*
3. **Consultation and Information Sharing** *(Gathering Diverse Opinions and Contributions).* *Hundreds or even thousands of stakeholders may initially participate in one way or another in a watershed management or large dam process.*
4. **Option Creation, (Possible) Convergence in Opinions, and a Decision.** *Eventually, convergence in opinions and perspectives should start to emerge, and fewer stakeholders may be directly involved, until a decision is reached.*
5. **Consensus-Building for the Long Term** *(During Project Implementation).* *Focused consensus building can start to take place once a semi-permanent group or institution is established, and its members from different sectors of society can work with each other across a table. For Roberts, this highest level of public participation is collaborative decision making, which involves consensus-building procedures (see Section 3.8).*

III. International Finance Corporation (IFC) standards and guidelines on stakeholder engagement

The IFC, a member of the World Bank Group, is the largest global development institution focused exclusively on the private sector in developing countries. IFC's "Sustainability Framework" articulates the Corporation's commitment to sustainable development and is integral to its approach to risk management. The Performance Standards on Environmental and Social Sustainability form part of the Sustainability Framework and "are designed to help avoid, mitigate, and manage risks and impacts as a way of doing business in a sustainable way, including stakeholder engagement and disclosure obligations of the client in relation to project-level activities" (Performance Standards on Environmental and Social Sustainability, p. 1).

IFC's Basic principles of good practice in stakeholder engagement

The IFC has published the following list to guide good practice in stakeholder engagement:⁷

- Targeted at those most likely to be affected by the project

⁷ IFC-Stakeholder Consultation, https://www.ifc.org/wps/wcm/connect/5a4e740048855591b724f76a6515bb18/PartOne_StakeholderConsultation.pdf?MOD=AJPERES

- Early enough to scope key issues and have an effect on the project decisions to which they relate
- Informed as a result of relevant information being disseminated in advance
- Meaningful to those consulted because the content is presented in a readily understandable format and the techniques used are culturally appropriate
- Two-way so that both sides have the opportunity to exchange views and information, to listen, and to have their issues addressed
- Gender-inclusive through awareness that men and women often have differing views and needs
- Localized to reflect appropriate timeframes, context, and local languages
- Free from manipulation or coercion
- Documented to keep track of who has been consulted and the key issues raised
- Reported back in a timely way

IFC Performance Standards

We provide below an overview of IFC guidelines on different levels of stakeholder engagement in order to show the difference between the more open and inclusive principles of the WCD guidelines on participation and the restrictive approach to stakeholder participation promulgated by major international organizations. The latter type of guidelines typically privileges the interests of commercial enterprises over those of affected communities in ways that are at times subtle, and at others quite direct.

The standards of the International Finance Corporation (IFC) for its borrowers require a level of “engagement” commensurate with the severity of the impacts on Affected Communities. In particular, Performance Standard 1 outlines a process for managing and mitigating potential adverse human rights impacts. First, the company must establish a policy setting out the environment and social objectives of the project. The company must also establish and maintain a process for identifying environmental and social risks and impacts, including those caused by third parties⁸ and along the project supply chain.⁹

The company receiving IFC financing for a development project must also have a plan for stakeholder engagement.

⁸ In the event of risks and impacts in the project’s area of influence resulting from a third party’s actions, the client will address those risks and impacts in a manner commensurate with the client’s control and influence over the third parties, and with due regard to conflict of interest. (IFC PS 1, Paragraph 9)

⁹ Where the client can reasonably exercise control, the risks and impacts identification process will also consider those risks and impacts associated with primary supply chains, as defined in Performance Standard 2 (paragraphs 27-29) and Performance Standard 6 (paragraph 30). (IFC PS 1, Paragraph 10)

Stakeholder Engagement

Performance Standard 1 states that the intensity of Stakeholder engagement varies by project, from disclosure of information¹⁰ to an ongoing process to secure the free, prior and informed consent of Indigenous Peoples. If an adverse impact or risk is identified, the company is required to “undertake a process of consultation in a manner that provides the Affected Communities with opportunities to express their views on project risks, impacts and mitigation measures, and allows the client to consider and respond to them.”¹¹

This a basic standard of disclosure, transparency, and public consultation, and should serve as an example of what internationally is recognized as a minimum standard for sharing information but also for taking into consideration the views of the Affected Communities.

Even at this basic level of engagement, the IFC states that consultation should:(1) be a two-way process; (2) start early in a project; (3) include the disclosure and dissemination of relevant, transparent, objective, meaningful, and easily accessible information prior to consultation; (4) be free of external manipulation, interference, coercion, or intimidation; (5) enable meaningful participation, and (6) be documented. A consultation on projects with potentially adverse impacts should involve an in-depth exchange of views and information in repeated meetings. Again, this is already significantly higher standard that what often happens.

For projects where more intensive engagement with stakeholders is deemed appropriate, the IFC Performance Standard requires the company to conduct an “Informed Consultation and Participation” (ICP).¹² The main difference between the basic consultation and the ICP

¹⁰ Disclosure of relevant project information helps Affected Communities and other stakeholders understand the risks, impacts and opportunities of the project. The client will provide Affected Communities with access to relevant information²⁶ on: (i) the purpose, nature, and scale of the project; (ii) the duration of proposed project activities; (iii) any risks to and potential impacts on such communities and relevant mitigation measures; (iv) the envisaged stakeholder engagement process; and (v) the grievance mechanism. (PS 1, Paragraph 29, p. 8)

¹¹ When Affected Communities are subject to identified risks and adverse impacts from a project, the client will undertake a process of consultation in a manner that provides the Affected Communities with opportunities to express their views on project risks, impacts and mitigation measures, and allows the client to consider and respond to them. The extent and degree of engagement required by the consultation process should be commensurate with the project’s risks and adverse impacts and with the concerns raised by the Affected Communities. Effective consultation is a two-way process that should: (i) begin early in the process of identification of environmental and social risks and impacts and continue on an ongoing basis as risks and impacts arise; (ii) be based on the prior disclosure and dissemination of relevant, transparent, objective, meaningful and easily accessible information which is in a culturally appropriate local language(s) and format and is understandable to Affected Communities; (iii) focus inclusive²⁷ engagement on those directly affected as opposed to those not directly affected; (iv) be free of external manipulation, interference, coercion, or intimidation; (v) enable meaningful participation, where applicable; and (vi) be documented. The client will tailor its consultation process to the language preferences of the Affected Communities, their decision-making process, and the needs of disadvantaged or vulnerable groups. If clients have already engaged in such a process, they will provide adequate documented evidence of such engagement. (PS 1, Paragraph 30, p. 8)

¹² For projects with potentially significant adverse impacts on Affected Communities, the client will conduct an Informed Consultation and Participation (ICP) process that will build upon the steps outlined above in Consultation and will result in the Affected Communities’ informed participation.

is, first, that, the company should incorporate into its decision-making process “the views of the Affected Communities on matters that affect them directly, such as the proposed mitigation measures, opportunities, and implementation issues,” and second, it should capture both men’s and women’s views and “reflect men’s and women’s different concerns and priorities about impacts, mitigation mechanisms, and benefits, where appropriate” (PS 1, paragraph 31, p. 8).

According to IFC Performance Standards, projects that affect Indigenous Peoples must always, at a minimum, include a process of Informed Consultation and Participation (PS 1, paragraph 32, p. 9). However, this standard does not make the outcome of the consultation binding on the company. In Guidance Note 7, paragraph GN19, the expectation is simply that the company will allow adequate time to take the views of Indigenous Peoples into consideration: “clients should allocate sufficient time to fully consider and address Indigenous Peoples’ concerns and suggestions about the project in the project design and implementation.”

The highest level of engagement identified by the IFC is reserved for certain cases involving Indigenous Peoples.¹³ The requirements related to Indigenous Peoples and the definition of the special circumstances requiring Free, Prior and Informed Consent (FPIC) are described in Performance Standard 7 and Guidance Note 7. In summary, “projects adversely impacting Indigenous Peoples are required to facilitate a process of FPIC with the Affected Communities of Indigenous Peoples with regard to project design, implementation and expected outcomes if any of the following adverse impacts are anticipated:

- Impact to Indigenous Peoples’ land or natural resources
- Relocation
- Significant impacts to critical cultural heritage
- Use of cultural heritage, including knowledge, innovations or practices of Indigenous Peoples for commercial purposes

While the IFC requires FPIC for certain projects affecting indigenous peoples (whose right to self-determination is enshrined in international law), other affected communities are only entitled to ICP, at most. The IFC standards are not legally binding, but adherence to them is written into IFC loan agreements.

It is important to note that a significant distinction between the IFC Performance Standards and the WCD guidelines for best practice in participation is what happens in the event free,

ICP involves a more in-depth exchange of views and information, and an organized and iterative consultation, leading to the client’s incorporating into their decision-making process the views of the Affected Communities on matters that affect them directly, such as the proposed mitigation measures, opportunities, and implementation issues. The consultation process should (i) capture both men’s and women’s views, if necessary through separate forums or engagements, and (ii) reflect men’s and women’s different concerns and priorities about impacts, mitigation mechanisms, and benefits, where appropriate. The client will document the process in particular the measures taken to avoid or minimize risks to or adverse impacts on the Affected Communities, and will inform those affected about how their concerns have been considered. (PS 1, Paragraph 31, p. 8)

¹³ For projects with adverse impacts to Indigenous Peoples, the client is required to engage them in a process of ICP and in certain circumstances the client is required to obtain their Free, Prior, and Informed Consent (FPIC). The requirements related to Indigenous Peoples and the definition of the special circumstances requiring FPIC are described in Performance Standard 7. (PS 1. Paragraph 32, p. 9)

prior and informed consent (FPIC) is not obtained. The underlying assumption in the IFC standards is that the company will ultimately find a way to secure FPIC. In the WCD process, by contrast, there is both a recognition that it is possible that FPIC will not be granted and that an alternative approach to development will be necessary. In fact, part of the WCD process is a rigorous process to evaluate alternative projects and identify the best approach in consultation with stakeholders/affected peoples.

IV. Water rights, environmental justice, and grass-roots participation

The following is a sampling of national, regional, and global civil society organizations and non-governmental initiatives promoting awareness of water rights and the urgent need to protect water resources.

Ecopeace Middle East
<http://ecopeaceme.org>

Ecopeace Middle East brings together Jordanian, Palestinian, and Israeli environmentalists with the primary objective to promote cooperative efforts to protect the shared environmental heritage. It was formed in 1994 as environmental non-governmental organizations from the Middle East met with the goal of furthering sustainable development and peace in their region. Programs include:

Bottom-up

- **Good Water Neighbors:** Initiated in 2001, the GWN program remains EcoPeace's flagship program for environmental peacebuilding, whereby we create local constituencies that empower youth, adult residents, mayors and other municipal officials to call for and lead necessary cross-border solutions to regional water issues.
- **Jordan River Faith-based Initiatives:** Through this faith based component of our Jordan River project, we aim to create local and international faith based constituencies that empower clergy and members to call for and lead Jordan River rehabilitation efforts.
- **Water cannot wait:** Given water scarcity and pollution, highlight to both the Palestinian and the Israeli public that water allocation and management issues can no longer be held hostage to other final status Israeli Palestinian peace process issues

Save the Tigris and Iraqi Marshes Campaign (STC)
<https://www.savethetigris.org>

Launched in March 2012 by a coalition of Iraqi and international non-governmental organizations, the STC is a civil society advocacy campaign aiming to save and protect the heritage and water resources of Mesopotamia from the impact of large dams and other mega projects, and to promote sustainable management of the Tigris River and its tributaries. STC advocates for safe access to water for all the people of Iraq and policies that secure the sustainable and equitable use of water for all those who live in the Mesopotamian region and for the coming generations. Its

advocacy and awareness activities involve all relevant actors: local communities, civil society organizations, media, authorities, academics, research centers, etc. Activities focus on

- Construction of large dams on the Tigris and its tributaries, in particular Ilisu Dam in Turkey
- The use of watercourses and water-related infrastructure as a weapon and tool for achieving political hegemony
- Threats to cultural heritage along the Tigris River, in the face of water scarcity
- Water pollution and unsustainable management of water resources

Kurdistan - Iraq Upper Tigris Waterkeepers

<https://waterkeeper.org/waterkeeper/MDAxMWEwMDAwMEh0cjhCQUFS/iraq-upper-tigris-waterkeeper/>

Upper Tigris Waterkeepers raises awareness among the public and government officials about practices that degrade the quality of rivers, such as over-fishing, garbage dumps, trash left at picnic sites, car washing by the river, etc. Many of these are illegal, but laws go unenforced. The organization's response is to create a loud voice for rivers and using the law to push the government to fulfill its obligations. Combines art and performance with scientific data collection and analysis to keep people informed about the condition of their rivers and invite them to join the cause. Iraq Upper Tigris Waterkeepers, which has a steadily expanding base of volunteers, is part of the global Waterkeeper Alliance.

Suhakki / Right to Water Campaign

<https://www.suhakki.org>

The 'Right to Water' campaign, which is conducted by activists of the Civil and Ecological Rights Association, endeavors to become a platform for those who oppose the privatization of water and (accordingly to that) turning it into a commodity, the destruction of nature by building new dams and hydroelectric plants and accelerate the deterioration of the ecological balance. To reach these goals, the Right to Water campaign publishes research reports, conducts radio programs, seminars and conferences. Maintaining a global perspective, the campaign welcomes the contribution of all who advocate for similar objectives.

Environmental Justice Atlas

<https://ejatlas.org>

The EJ Atlas collects stories of communities struggling for environmental justice from around the world. It aims to make these mobilizations more visible, highlight claims and testimonies and to make the case for true corporate and state accountability for the injustices inflicted through their activities. The EJAtlas is based on the work of hundreds of collaborators, from academia, concerned citizens, informal committees, NGOs and other activist groups, who have been documenting

environmental and social injustice and supporting communities on the ground for years. Affiliate programs:

- The **ACKnowl-EJ** network emphasizes the transformative nature of movements against 'extractivism' in charting paths towards sustainable and equitable futures from the ground up.
- **EJOLT** is a global research project bringing science and society together to catalogue and analyze ecological distribution conflicts and confront environmental injustice. Environmental justice organizations (EJOs) are civil society groups involved in conflicts over resource extraction or waste disposal, which increase as the world economy uses more materials and energy.
- **Environmental Justice** is research project to study and contribute to the global environmental justice movement

World Youth Parliament for Water

<https://pmje-wypw.org>

The World Youth Parliament for Water is a youth network acting for water around the world. Young people from over 80 countries are working to make sure that youth voices are heard by decision makers, taking local action in their communities, and teaming up for shared solutions. Conceived by the International Secretariat for Water in 2002, the WYPW holds a General Assembly every three years during the World Water Forum. Activities include:

- **Advocacy:** Motivating international decision makers to respond to the voices of the world's youth.
- **Awareness:** Spreading the word about major water-related challenges, pushing stakeholders to act.
- **Local Action:** Supporting concrete local projects from our global network of members.

"World Commission on Dams Report: What South Africa is Doing About It," The Water Wheel September/October 2003

<https://www.internationalrivers.org/resources/wcd-in-africa-3632>

Following the publication of the World Commission on Dams (WCD) report, a number of multi-stakeholder initiatives, notably in South Africa, were undertaken in an effort to reach consensus on a national framework for water.

For example, representatives of South Africa's stakeholders (in respect of water management) gathered together in a symposium in July 2001 to evaluate the findings of the WCD report in the context of South Africa. They declared themselves to be broadly supportive of the strategic priorities outlined in the WCD report but believed that the guidelines needed to be contextualized in the South African situation. A Steering Committee was accordingly elected under the title "The South African Multi-Stakeholder Initiative on the World Commission on Dams" with a mandate to carry the local contextualization process forward.

Four clear priorities emerged from a poll conducted among the participants of South Africa's 2002 Multi-Stakeholder Forum

- The question of reparations/ compensation for outstanding problems from existing dams;
- Whether social and environmental issues are accorded equal weight with economic, financial and technical issues when assessing water development options, and how this should be improved;
- The meaning of stakeholder involvement in South Africa, and how the rights-and-risks method of identifying stakeholders should be used;
- How to determine the point at which it can be said that public acceptance has been demonstrated.

International Rivers Network, "Citizens' Guide to the World Commission on Dams"

<https://www.internationalrivers.org/resources/citizens'-guide-to-the-wcd-3990>

In its summary of the World Commission on Dams Report, International Rivers notes the opportunity to push governments to pay reparations to communities affected by dams: "The report sets out a process for assessing claims and making reparations. The WCD states that responsibility for initiating the process of reparations rests with the government, but that multiple actors may be involved, including financial institutions, international organisations and private corporations" (Citizens' Guide, p. 21). Citizens and NGOs can "use the WCD recommendations to advocate for reparations for communities affected by existing dams," and push their "government to establish an independent, multi-stakeholder committee to address the unresolved legacy of past dams."

V. Tigris-Euphrates Basin-wide Collaboration

Collaboration across the Tigris-Euphrates basin could be a tool for a social and ecological water policy, including independent civil society organizations, vulnerable communities, profession organizations, unions, researchers and experts, municipalities and regional administrations. State borders should not be a limit for cooperation. This initiative rejects the ways that, up until now, have governed how the four states have negotiated over the waters of the Tigris and Euphrates rivers and their tributaries. This has included:

- Imposition of policies by upstream states,
- Discussions and agreements behind closed doors,
- Short-term agreements instead of mutual comprehensive agreements between all four states considering the real needs of the people,
- No transparency, and
- The exclusion of civil society and local levels of administration.

As has been broadly established both by intergovernmental and non-governmental international organizations, fair and equitable social and ecological decisions cannot be made without substantive, systematic, and sustained public participation and the involvement of democratic institutions. The first steps in this direction have been taken by

local and regional campaigns against destructive dams and poor water policies in recent years. These efforts have contributed to a growing consciousness in the societies of the Tigris-Euphrates basin.

Coordinated effort among diverse organization across Mesopotamia should comprise multiple sub-basin and even at the local community level (towns and villages) and challenge all policies that abuse water and river ecosystems, often for the sake of “hydro-hegemony.” People and civil society organizations with different political, social, ethnic and religious background should sit at the same table with higher political authorities in order to find a consensus that considers the water rights of all people, the interests of diverse economic sectors, and nature.

Appendix A: UN Guiding Principles on Business and Human Rights

The Guiding Principles on Business and Human Rights mirror the structure of the 2008 “protect, respect and remedy” framework and provide 31 principles for putting it into operation. According to the framework:

- All States have a duty to protect everyone within their jurisdiction from human rights abuses committed by companies. “This means States must prevent, investigate, punish and redress human rights abuses that take place in domestic business operations.” (FAQ UN Guiding Principles, p. 19)
- Companies have a responsibility to respect human rights—i.e., avoid infringing on the rights of others wherever they operate and whatever their size or industry, and address any impact that does occur. This responsibility exists independently of whether States fulfil their obligations.
- When abuses occur, victims must have access to effective remedy, through judicial and non-judicial grievance mechanisms.

Regardless of the context, States and companies retain these distinct but complementary responsibilities. (FAQ UN Guiding Principles, p. 7)

According to the UN Guiding Principles, companies must “have policies and processes in place to prevent and mitigate any risk of causing or contributing to adverse human rights impact.” If they determine that they have caused or contributed to adverse impacts, they should ensure that these impacts are addressed. Companies are also responsible for identifying and mitigating the potential for adverse impacts that are “directly linked to their operations, products or services through their business relationships” (FAQ UN Guiding Principles, p. 25).

Appendix B: OECD Guidelines for Multinational Enterprises

The Guidelines for Multinational Enterprises of the Organization for Economic Cooperation and Development (OECD), are generally aligned with the UN Guiding Principles. The OECD Guidelines, which like the UN Guiding Principles, comprise a set of legally non-binding ethical standards for businesses and require companies to develop a human rights policy, and to make it available to the public.

The OECD Guidelines make it clear that due diligence is crucial for identifying potential human rights risks and determining how to mitigate and/redress those risks, and stakeholder consultation is part of due diligence.¹⁴ Businesses should also take steps to reduce the potential for adverse human rights impacts along their supply chains. For example, banks and other institutions that provide financial backing for a project can be held accountable for human rights violations).

Enterprises, regardless of their size, sector, operational context, ownership and structure, should respect human rights wherever they operate (OECD Guidelines Commentary, Item 37)

Leverage is the key criterion, both in the UN Guiding Principles and in the OECD Guidelines. Item 19 of the Commentary on “General Principles” (of the OECD Guidelines) states: “If the enterprise identifies a risk of contributing to an adverse impact, then it should take the necessary steps to cease or prevent its contribution and use its leverage to mitigate any remaining impacts to the greatest extent possible. Leverage is considered to exist where the enterprise has the ability to effect change in the wrongful practices of the entity that causes the harm.”

The OECD Guidelines define stakeholder engagement as involving “the interactive processes of engagement with relevant stakeholders, through, for example, meetings, hearings or consultation proceedings” (OECD Guidelines Commentary, Item #25). Effective stakeholder engagement is characterized by two-way communication and depends on the good faith of the participants on both sides.

The OECD Guidelines for Multi-national Enterprises apply to companies that are headquartered and/or operate in member state of OECD. This means, for example, that a Turkish construction company working in Iraq, Syria, or Iran is encouraged to observe the standards of corporate ethics set forth in the Guidelines. Companies that breach the

¹⁴ Compare these guidelines (From IFC Policy on Environmental and Social Sustainability, paragraph 28, p. 6): From the beginning, a business must conduct environmental and social due diligence, which typically includes: (i) Reviewing all available information, records, and documentation related to the environmental and social risks and impacts of the business activity; (ii) Conducting site inspections and interviews of client personnel and relevant stakeholders, where appropriate; (iii) Analyzing the business activity’s environmental and social performance in relation to the requirements of the Performance Standards and provisions of the World Bank Group Environmental, Health and Safety Guidelines or with other internationally recognized sources, as appropriate; and (iv) Identifying any gaps therewith, and corresponding additional measures and actions.

Guidelines can become the subject of a complaint filed by affected communities and their representatives through the national contact point (NCP) of the OECD in the country where the alleged breach occurred or, less frequently, in the company's home country.

In 2017, Fivas, The Initiative to Keep Hasankeyf Alive, and Hasankeyf Matters filed a complaint against the Dutch firm Bresser with the Dutch NCP. The complaint accused Bresser of failing to conduct adequate due diligence, including substantive stakeholder consultation, in its role as a sub-contractor providing technology and expertise that were critical to the removal of the Zeynel Bey Tomb in Hasankeyf.

While “consultation” is a weak form of “participation,” the fact that Turkish law¹⁵ requires systematic and substantive consultation with the public in projects that involve a significant change to a historical monument, strengthened our argument that Bresser had a responsibility under OECD Guidelines to perform due diligence to ensure that local and regional stakeholders had been properly consulted in the planning of the monument removal project.

In the end, this complaint was, at best, only partially successful. The Dutch NCP for the OECD found that Bresser had violated the Guidelines.¹⁶ However, the NCP did not recommend that Bresser halt its work in Hasankeyf to allow time to remedy the established violation of the human right to culture (including the right to participate in the cultural life of the community) of the local people. As Bresser was under no pressure to ensure that the ongoing monument removal project in Hasankeyf was conducted in a way that respected the human rights of all stakeholders, the company continued working with its Turkish partner – Er-Bu Construction – and the DSI (Turkey's State Hydraulic Works) to dismantle and additional monuments (including mosques) from historic Hasankeyf. What is more, these additional monument removal efforts were conducted with even less transparency than the removal of the Zeynel Bey Tomb and completely ignored the value of these buildings had for the local people, as reflected in the daily use of these structures.

At the very least, the proceedings affirmed that local people a legal right to be consulted in matters that affect their human rights and may even have helped to strengthen resolve, e.g., when members of the town decided in Spring 2018 to protest against the closing of the historic market.

<http://www.savethetigris.org/international-mesopotamian-water-forum>

¹⁵ Council of Europe Convention on Architectural Preservation (CETS 121, Article 14.1): [each Party to the convention undertakes] to establish in the various stages of the decision-making process, appropriate machinery for the supply of information, consultation and co-operation between the State, the regional and local authorities, cultural institutions and associations, and the public;

¹⁶ Dutch National Contact Point (NCP) for the OECD Guidelines for Multinational Enterprises, “Final Statement: Fivas, The Initiative to Keep Hasankeyf Alive and Hasankeyf Matters vs. Bresser,” 20 August 2018 <https://www.oecdguidelines.nl/latest/news/2018/08/20/fs-fivas-the-initiative-to-keep-hasankeyf-alive-and-hasankeyf-matters-vs-bresser>