

Subsistence Rights and Cultural Heritage Rights in the case of Hasankeyf: Human Rights Violations Perpetrated by the Turkish Government

“If people do not have the basic capabilities to support themselves in dignity, their human rights are under threat.” –Wolfgang Sachs

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Introduction

Universal Declaration of Human Rights:

Article 25:

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 even to unemployment, sickness, disability, widowhood, old age or the lack of livelihood in circumstances beyond his control

Article 27:

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.

These are two articles from the Universal Declaration of Human Rights. This report will examine how the construction of the Ilisu Dam in southeastern Turkey violates these articles, specifically, the subsistence rights and cultural rights of the people in this region. For the purpose of this paper subsistence rights will be defined according to the definition of Wolfgang Sachs, the right to nourishment, health, housing and livelihood.ⁱ Cultural rights will be defined as the right to take part in cultural life and see that culture conserved and developed.

The report will first look at the socio-economic effects of the dam and how the forced resettlement that has been carried out in order to construct the dam prevents those living within its vicinity from the right to an adequate standard of living, including adequate food and housing, as well as to the continuous improvement of living conditions.

The detrimental effects of the dam on the environment and relation to human rights will be discussed in terms of subsistence rights and how transforming the environment will impact the subsistence rights of the people of southeastern Turkey. According to Wolfgang Sachs, human rights and the environment come into play when a people's subsistence is dependent upon the right to use natural spaces. A third of humans rely directly upon nature and access to fields, forests, pastures, and water for their livelihoods making the environment an important factor in today's human rights issues.ⁱⁱ

This dam project additionally will destroy a site of huge cultural and historical significance. According to international human rights law, governments are obligated to work for the conservation of cultural activities and artifacts. People have a right to their cultural heritage, to know where it is that they came from, and to be able to enjoy their culture freely. This dam project directly threatens the town of Hasankeyf, a place of great historical significance and endangers the right of minority groups to maintain their cultural traditions. This report will further examine the ways in which the project violates cultural rights.

In June 2014, Human Rights Watch published a report entitled “We Suffered When We Came Here.”ⁱⁱⁱ The report was written about a dam project in Tajikistan that has led to the forced displacement of thousands of people from the new reservoir area. Inside the report, the harmful effects of the dam are meticulously detailed, including the social, economic, and environmental effects the dam has had and will have on the region. This project is strikingly similar to the Ilisu Dam project. Due to their obvious similarities, I will use the report published by Human Rights Watch as the main reference when discussing recommendations for the Turkish government in terms of resettlement and maintaining the rights and dignity of those they have forcibly resettled.

Background

The Ilisu Dam project being carried out in the city of Batman, Turkey is part of a larger regional development project called the GAP Project (Guneysdogu Anadolu Projesi/Southeastern Anatolia Project). According to the government’s website, GAP is a “multi-sector and integrated regional development effort approached in the context of sustainable development.”^{iv} The southeastern region of Turkey has been largely neglected since the formation of the Turkish Republic. It is important to note that the east of Turkey is home to the Kurdish population which comprises close to 20% of Turkey’s population.^v The entire project was originally planned in the 1970s for irrigation and hydraulic energy production on the Euphrates and Tigris, but has since transformed into a multi-sector social and economic development project. The goal is to improve the agricultural and industrial potential of the region, therefore increasing regional income and creating new employment opportunities. The Ilisu Dam project is one of 22 dams that are part of the plan. The dam is being built downstream from the historic town of Hasankeyf on the Tigris River and the reservoir that will form following the completion of the dam will completely submerge the town. The project will affect about 108 villages. Of the total affected villages, 6 are located in dam construction sites while the other 102 are located in the reservoir area, Hasankeyf being one of them.^{vi} It is because of this reservoir that the people of Hasankeyf are being resettled into government built communities outside of Hasankeyf and away from the reservoir. This resettlement is very important both in terms of subsistence and cultural rights as will be later explained. Though the dam’s construction has legally been suspended by the court, construction continues and the dam is set for completion in 2015.

Resettlement and Subsistence Rights

Wolfgang Sachs says, “Environmental human rights come into play when subsistence is dependent on the right to use natural spaces. In addition to income and community ties, nature is another important source of livelihood, especially for the third of humanity who rely on direct access to its fields, forests, pastures, and waters.”^{vii} This ties into Article 25 of the Universal Declaration of Human Rights, found in the introduction of this report, that every human has the right to an adequate standard of living. If one is

deprived of the tools to care for himself, tools for subsistence, then his or her basic human rights are being violated.

The Ilisu Dam project alone has affected tens of thousands of people in the southeastern region of Turkey. The exact number is not certain, but the United Nations estimates it to be around 80,000.^{viii} The military has already forced many residents of Hasankeyf out of their homes and into new, government provided housing. This forced resettlement is not only disrupting the lives of the residents but rendering most incapable of sustaining themselves in their new environments.

One of the most important issues with resettlement in this case is the lack of land redistribution. As stated before, those who are being evicted have the right to choose between replacement housing and financial compensation. In this region, it is traditionally a small number of people who control the land while the rest live and work the land. The system can be compared to the feudalism, which was based upon patron-client relations. According to the law regarding the resettlement of residents, landowners will be compensated for their losses. However, without land redistribution, only the 10% of people who own the land will receive compensation while the remaining residents who also depend on the land will be left with no reimbursement and no means to sustain themselves.

Another issue with the planned financial reimbursement is that the amount will not be enough to sustain a family in a new city where living costs are much higher. If a family opts for replacement housing near Hasankeyf, they would not be able to sustain themselves because only a small amount of arable land will remain and the rest of the surrounding area is dry and rocky. This replacement housing is also too expensive for most who are displaced and the financial compensation that has been offered is not enough to afford this option. This is a problem because these families have traditionally survived on their ability to farm, fish, and offer touristic services to the town of Hasankeyf. This issue also applies to those who chose to move to the city. Most do not have the skills required to join the urban workforce. Even those who have the required skills will have difficulty finding work due to the large influx of people coming to the city and the low availability of employment opportunities.

The World Commission on Dams has found that women are disproportionately affected by this dam project and the other GAP dams. Women are often the ones who are responsible for the livelihoods of their families. The construction of the dams will destroy the fisheries and flood the agricultural land and forests originally used by women to provide for their families. When the families are forced to move to urban areas, the women's subsistence skills are no longer enough to provide for their families and their lack of Turkish language skills make the transition very stressful. This stress combined with poverty cause many displaced women to suffer from depression.^{ix}

In a United Nations report, it is stated that the Turkish resettlement law (No. 5543) clearly violates standards set by the World Bank intended to safeguard the standard of living for those that are resettled. It states that those who do not receive enough financial compensation to purchase a house be offered loans. This is difficult for these people who have been forced to move to a new environment and no longer have the skills to generate income, which would subsequently leave them unable to repay the loans they have been offered. The report also stipulates that the Turkish expropriation laws (2942 and 4650) which are in place to regulate the amount of compensation one is to receive for a loss of assets does not appropriately compensate people for the loss of business opportunities. The current compensation only takes into account the market value of the material assets, leaving the recipient without enough money to restart their lives elsewhere. The report concludes that the resettlement and expropriation laws deny those being resettled the right to adequate food and the right to housing.^x

Environment and Subsistence Rights

Dam projects are generally touted as green projects that will produce clean energy. There has been much research carried out on dams and their effects since the use of hydroelectric energy became popular. It is clear now more than ever that dams are incredibly damaging to the environment. While the negative effects of dams do not just apply to the case of the Ilisu Dam, they are important in how they will affect the surrounding environment and the population's ability to sustain themselves.

The Ilisu dam will have detrimental effects both upstream and downstream of the dam. There will be a buildup of sediment behind the dam, depriving of the water downstream of the sediments that are used as natural fertilizers. This will lead farmers to turn to artificial fertilizers in order to grow their crops. There will also be minimal water flow from the dam which will lead to water stagnation in the reservoir. Stagnant water is a breeding ground for diseases such as malaria, dysentery and pneumonia. It also reduces the number of organisms that live and breed in the reservoir. Local residents then face the possibility of losing the ability to sustain themselves with a healthy supply of fish.

Downstream, the river will have lost the ability to purify itself which makes it more difficult for the river to cope with waste. As cities see an influx of migration due to the resettlement, their infrastructures face more pressure to perform. The population increase leads to an increase in the untreated solid waste and wastewater that is released into the river without any primary treatment processes. The inability of the river to purify itself will lead to an increase in pollution levels and increased health issues.^{xi}

Due to the trans-boundary nature of the river, the people of Syria and Iraq will suffer from the dam project as well. The project has already significantly decreased the water flow enough that people who rely upon the Tigris in Syria and Iraq are experiencing drought-like conditions. With the completion of the dam, there is a possibility that the water flow will be completely stopped. This will have incredibly detrimental effects on the populations downstream and will ruin the fragile ecosystems downstream, for example the newly rebuilt marshlands in southern Iraq.^{xii} Though Turkey is not a signatory to the Treaty on International Watercourses, they are still obligated to uphold the subsistence rights and human rights of all human beings, even those who are not living within their borders.

It is important to note that the Turkish government did not order any Environmental Assessment Reports to be carried out on the dam project though there were some completed by international assessors.

The Loss of Hasankeyf: A Cultural Tragedy

In their book, "Cultural Heritage and Human Rights", Helaine Silverman and D. Fairchild Ruggles argue that cultural heritage should rank with religion, political expression, and movement in terms of human rights that should be protected.^{xiii} According to UNESCO, "Cultural heritage is an important component of the cultural identity of communities, groups, and individuals and/or social cohesion so that its intentional destruction may have adverse consequences on human dignity and human rights."^{xiv} Again, Silverman and Ruggles say that the "right of access to sacred sites and the pain of exclusion from them fall within the realm of human rights."^{xv}

Hasankeyf is a special case in that it is the only heritage site in the world to meet 9 out of 10 of UNESCO's criteria for a World Cultural Heritage Site. It is a place of significant cultural and historical importance. It is historically and culturally important to the current population and other peoples who no longer inhabit the area. Though archaeologists have been working on excavating as much as they can before the dam project is completed, they are still nowhere near being finished. Once the city is flooded, all of its history will be lost under the water. Depriving the people of access to their cultural history is

ethnically discriminatory. This loss of history and cultural heritage that will come with the dam's completion will directly violate Article 27 of the Universal Declaration of Human Rights which states that everyone has the right to participate in the cultural life of the community. The destruction of Hasankeyf will essentially lead to the destruction of the culture of its residents, therefore denying them their right to participate. Those who have been resettled have been placed into communities and residences with which they cannot culturally identify and are unable to participate in and advance their cultural life.

Turkey's Responsibilities under National and International Law and Standards

In constructing this particular dam, the Turkish state is not only violating International Human Rights Law, but also several provisions of the Turkish Constitution:

According to Article 19 of the Constitution, the Turkish government must uphold every citizen's right to personal liberty and security. Security includes knowing that one's home and livelihood is not endangered. This right is clearly being violated by completing the dam project and resettling the residents of Hasankeyf.

Article 21 of the Constitution upholds the "inviolability of the domicile." The domicile of a Turkish citizen cannot be violated unless there is an urgent matter such as national security or the prevention of a crime and, further, that a judge give permission for the domicile to be violated. By forcibly removing people from their homes, this Article is not being upheld.

Articles 44 and 56 guarantee the provision of sufficient land to farmers and guaranteeing the right of citizens to live in a healthy and balanced environment. Article 56 also mentions the state's duty to improve the natural environment and making sure that it is healthy and unpolluted.

Article 63 covers the state's duty to protect historical, cultural, and natural assets and wealth.

The Constitution states in Article 15 that the fundamental rights outlined in the constitution can only be suspended "in times of war, mobilization, martial law, or a state of emergency."^{xvi}

According to the United Nations, there are certain guidelines that should be upheld concerning Development-Based Evictions and Displacement. These guidelines were drafted by the UN expert on housing rights and state that these guidelines come from various legal instruments that protect human rights. These guidelines warn against forced evictions and displacement and state the obligations the state has to the people in the case that they do forcefully evict them from their places of residence.

The guidelines that according to international law, states must ensure protection without discrimination against forced evictions. It then goes on to say that all groups have the right to resettlement on alternative land of better or equal quality and housing that satisfies certain criteria. The legal rights of those who have been evicted should be upheld and the state should not interfere in the legal proceedings.^{xvii}

In regards to the implementation of State obligations, the guidelines state that the state shall ensure that evictions only occur in exceptional circumstances and that full justification is required. The eviction is required to be (a) authorized by law; (b) carried out in accordance with international human rights law; (c) undertaken solely for the purpose of promoting the general welfare; (d) reasonable and proportional; (e) regulated so as to ensure full and fair compensation and rehabilitation; and (f) carried out in accordance with the present guidelines.^{xviii} In addition, states should adopt the appropriate legal measures to prevent

the execution of evictions that do not meet international human rights obligations. The state should also use the maximum amount of available resources to ensure that its citizens equally enjoy the right to adequate housing and that no form of discrimination prevents one from enjoying this right.

Prior to evictions, the guidelines require that all urban or rural planning and development processes include appropriate notice to all potentially affected parties that eviction is being considered, a reasonable time period for public review of the proposed plan, the opportunity for those affected to obtain legal and technical advice concerning their rights and options, and the opportunity for public hearings for those who wish to challenge the eviction decision and to present alternative proposals and articulate their demands and development priorities. In addition, states should fully explore all possible alternatives to evictions and include affected persons in the planning processes giving them the opportunity for dialogue and consultation. Before coming to a final decision, the authorities should demonstrate that the eviction is unavoidable.

Once eviction has been decided upon, those affected have the right to read the decision in their native language. The officials should provide their announcement, in writing, in the local language. The eviction notice should contain a detailed justification as to how the decision was reached.

Under the guidelines, once evictions begin to take place, government officials or their representatives must be present and identify themselves to the persons being evicted. The evictions should not, in any way, violate the dignity and human rights of those affected. Any use of force must respect the principles of necessity and proportionality.

Following eviction, the government has an obligation to provide immediate relief and relocation to those affected, including providing just compensation and sufficient alternative accommodation or restitution. They should have, at minimum, (a) essential food, potable water, and sanitation; (b) basic shelter and housing; (c) appropriate clothing; (d) essential medical services; (e) livelihood sources; (f) fodder for livestock and access to common property resources previously depended upon; and (g) education for children and childcare facilities.

If resettled, the relation sites must meet certain standards which include: (a) security of tenure; (b) services, materials, facilities and infrastructure such as potable water, energy for cooking heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage, and emergency services, and to natural common resources, where appropriate; (c) affordable housing; (d) habitable housing providing inhabitants with adequate space, protection from cold, damp, heat, rain, wind or other threats to health, structural hazards and disease vectors, and ensuring the physical safety of occupants; (e) accessibility for disadvantaged groups; (f) access to employment options, health-care services, schools, childcare centers, and other social facilities, whether in urban or rural areas; and (g) culturally appropriate housing.

Following eviction, states have the duty to monitor those affected to determine the consequences of the eviction. The findings of their research should be made available to the public and international parties. States are also obligated to allow independent national bodies to monitor and investigate forced evictions and the state's compliance with the guidelines offered by the U.N.

Recommendations

This report's recommendations will largely be based upon those offered by Human Rights Watch in their report, "We Suffered When We Came Here", a 2014 report on the Rogun Dam in Tajikistan which is being built under similar circumstances.

First and foremost, our greatest recommendation for the Turkish government is the complete cessation of the dam project for the aforementioned reasons. The project as a whole is outdated and no longer viable. There are more sustainable options available for the Turkish government to improve its energy security. We suggest instead the implementation of wind energy projects in the region which are more economically and environmentally friendly and would not require the evacuation of the valley. The implementation of wind energy in Turkey could easily meet the country's energy needs within 5-10 years if the initiative is taken to implement the technology.^{xix} If not wind energy, perhaps solar energy or geothermal energy. Using renewable energies such as these offers the potential of cutting Turkey's energy needs by as much as 50%.^{xx} Stopping the dam project will protect the environmental integrity of the region, the ability of its residents to sustain themselves, and the cultural rights of Hasankeyf's residents.

If construction is to continue, the Turkish government should re-evaluate property assessments to make sure that the compensation offered to those evicted reflects the true amount needed to resettle themselves within the living standards set by the U.N. guidelines. There should also be sufficient compensation for land lost and alternative means of sustenance provided for those moved to the new housing sites as farming will no longer be possible in the flooded valley. There should be a new plan developed and implemented to offer the residents an alternative means to sustain themselves.^{xxi}

The Turkish government is under the obligation to do all in their power to restore the livelihoods of those evicted to the quality that preceded their resettlement in all domains mentioned in the above report. Additionally, it is in the interest of the state to recognize the importance of maintaining the environmental quality of southeastern Turkey so that its residents may continue to reside there prosperously and not become financial burdens to the state.

ⁱ Sachs, Wolfgang. "Environment and Human Rights." *Development* 47, no. 1 (2004): 42-49. Accessed August 27, 2014. www.palgrave-journals.com.

ⁱⁱ Ibid.

ⁱⁱⁱ "We Suffered When We Came Here." Human Rights Watch. June 1, 2014. Accessed August 27, 2014.

^{iv} "What Is GAP?" Republic of Turkey Ministry of Development Guney Anadolu Projesi. January 1, 2011. Accessed August 1, 2014.

^v "Assessment for Kurds in Turkey." University of Maryland. December 31, 2006. Accessed August 1, 2014.

^{vi} "Ilisu Dam and Hepp Project Update of Resettlement Plan." General Directorate of State Hydraulic Works (DSI). September 1, 2005. Accessed August 1, 2014.

^{vii} Sachs, Wolfgang. "Environment and Human Rights." *Development* 47, no. 1 (2004): 42-49. Accessed August 27, 2014. www.palgrave-journals.com.

^{viii} GegenStromung-CounterCurrent, The Initiative to Keep Hasankeyf Alive. "Proposed questions to the Government of the Republic of Turkey Regarding Economic, Social and Cultural Rights of the population affected by large dams, notably the Ilisu Hyrdopower Plant. (Paper Presented to the Pre-Sessional Working Group of the Committee on Economic, Social and Cultural Rights, May 25-28, 2010.)

^{ix} "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." The Corner House. October 16, 2000. Accessed August 1, 2014.

^x GegenStromung-CounterCurrent, The Initiative to Keep Hasankeyf Alive. "Proposed questions to the Government of the Republic of Turkey Regarding Economic, Social and Cultural Rights of the population affected by large dams, notably the Ilisu Hyrdopower Plant. (Paper Presented to the Pre-Sessional Working Group of the Committee on Economic, Social and Cultural Rights, May 25-28, 2010.)

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- ^{xi} Thomas Moran, The Environmental and Socio-Economic Impacts of Hydroelectric Dams in Turkish Kurdistan 24-25 (June 10, 2004)
- ^{xii} "Democracy." Todd Southgate, Tolga Temuge. Doga Dernegi, 2013.
- ^{xiii} Silverman, Helaine, and D. Fairchild Ruggles. *Cultural Heritage and Human Rights*. New York: Springer, 2007.
- ^{xiv} Ibid.
- ^{xv} Ibid.
- ^{xvii} "Dam construction in Turkey and its impact on economic, cultural and social rights." CounterCurrent-GegenStromung. (Submitted to the UN Committee on Economic, Social and Cultural Rights for its 46th Session, May 2-20, 2011.)
- ^{xviii} Ibid.
- ^{xix} Burgermeister, Jane. "Turkey Looks to Exploit Wind Energy Potential." Renewable Energy World. September 14, 2007. Accessed August 1, 2014.
- ^{xx} Ibid.
- ^{xxi} "We Suffered When We Came Here." Human Rights Watch. June 1, 2014. Accessed August 27, 2014.