



# General Assembly

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## Human Rights Council

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Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

**Joint written statement\* submitted by France Libertes:  
Fondation Danielle Mitterrand, a non-governmental  
organization in special consultative status; International  
Educational Development, Inc., Mouvement contre le racisme  
et pour l'amitié entre les peuples, non-governmental  
organizations on the roster**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[22 August 2013]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

## **Large dams: An obstacle to the right to water. The Bujagali dam in Uganda\***

The Bujagali hydropower project (Uganda) has been contested for years by Ugandan and international civil society. The project is developed by Bujagali Energy Limited<sup>1</sup> (BEL), with loans from the World Bank (360 millions of dollars of loans and guarantees), from the African Development Bank (110 millions of dollars) and from the European Investment Bank (EIB, 136 millions of dollars). The Italian company Salini is in charge of the construction.

This power-generating facility with an estimated power of 250 megawatts (MW), located on the Upper Nile, downstream of Lake Victoria, has had disastrous impacts on the environment and on local communities. Almost 6 800 people's means of existence are already under threat.

On 8<sup>th</sup> September 2008, the World Bank Inspection Panel concluded that this project disrespected the Bank's policies and principles with regard to the protection of environment, climate change risks and water availability considerations, the involuntary displacement and resettlement and the respect of the communities' spiritual and cultural practices<sup>2</sup>. On 20<sup>th</sup> June 2008, the African Development Bank's Independent Inspection Mechanism denounced, inter alia, an insufficient consultation process<sup>3</sup>. Following a number of field studies, civil society filed complaints contesting the project's conformity with the EIB's policies.

### **1. Violation of fundamental rights, including the right to water**

According to the World Bank's Inspection Panel, the dam's impact on surrounding ecosystems has not been properly assessed. The submersion of 8 islands and the reduction of fishing reserves will lead to a loss of biodiversity. As the Bujagali River springs from Lake Victoria, the hydropower project could impact the lake's water level. Indeed, Kenya and Tanzania filed a complaint at the East African Community, forcing Uganda to accept to reduce pumping rates. The impact of climate change on Lake Victoria's water levels has not been anticipated either, although it could reduce the amount of electricity production. Both phenomena could lead to lower electricity output than expected. The economic viability having been over-estimated, there is a considerable risk of excessive electricity costs, which will especially affect poorest households<sup>4</sup>.

The dams' impact has also been socio-economical: the submersion of fishing areas and cultivated alluvial plains, plus population displacements, has led to the loss of local communities' sources of food and income. Over 150 local workers were injured in the course of the project's construction. Observers have denounced their dismissal without

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\* Les Amis de la Terre (France), National Association of Professional Environmentalists (NAPE - Uganda), NGOs without consultative status, also share the views expressed in this statement.

<sup>1</sup> BEL is a joint venture between Kenya-based Industrial Promotion Services (IPS), the Aga Khan Fund for Economic Development and US-based Sithe Global Power

<sup>2</sup> [http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2004/03/25/000265513\\_20040325181116/Rendered/PDF/23998.pdf](http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2004/03/25/000265513_20040325181116/Rendered/PDF/23998.pdf)

<sup>3</sup> <http://www.afdb.org/fileadmin/uploads/afdb/Documents/Compliance-Review/30740990-FR-CRMU-RAPPORT-BUJAGALI-FRENCH-FINAL.PDF>

<sup>4</sup> World Bank Inspection Panel Report, p. xxvii, xxviii, xxix, xxi, xxii, xxi-xxxv

proper treatment of their injuries, nor suitable compensation. Women who used to sell fish<sup>5</sup> or farm the fertile riverbanks, now submerged, have become unemployed.

Moreover, submersion of the symbolically important Bujagali Falls means the disappearance of the Busoga people's cultural and spiritual inheritance. The Falls were also a tourist attraction and a source of income for the region. Indigenous people, local populations and vulnerable groups disproportionately suffer from the dams' impacts.

In return, the project, despite claims to the contrary, will not improve access to electricity for the poorest, in spite of what has been claimed<sup>6</sup>. Only 5% of Ugandans are connected to the electricity grid and despite efforts to improve accessibility, the rural poor will not be able to benefit from electricity whose prices have more than tripled in two years.

These facts transgress national law, in particular article 37 of the Electricity Act of 1999, by which the Electric Regulatory Authority must take into consideration the energy needs of the country and the community's region, as well as operations' impact upon the community's social, cultural and recreational life and the need to protect the environment.

## **2. Non-respect of principles of indigenous people's consultation and participation**

When compensation was awarded in 2006, it had not been preceded by any proper dialogue process, enabling communities to express their expectations. The process was limited to a brief feedback form in English, not translated into local languages and distributed to a mainly illiterate population, without explanation of the issues at stake and what each person's signature implied<sup>7</sup>. The 39<sup>th</sup> spiritual and cultural leader of Bujagali Falls, Jaja Bujagali, and his community, have not been consulted either about their needs in terms of spiritual relocation. Civil society denounces the lack of meaningful consultation, in spite of recommendations in national law (e.g. art.35 of the Electricity Act) and by the World Commission on Dams which states that: "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".

The lack of consultation and participation leads to under-evaluation of the possible alternatives to the large dam project<sup>8</sup>. Realistic options for the Ugandan context, such as geothermal, solar and wind energy or micro-dams, would have enabled local management of resources by the communities.

## **3. The responsibility of multinational companies and international financial institutions**

150 families have been displaced by the project and only 38 of them have been resettled. Others have chosen compensation and have settled elsewhere. 11 years on from resettlement, some of BEL's obligations have still not been undertaken. These include provision of job seeking help; specific representation in local advisory bodies and property deeds for displaced persons. BEL was meant to provide compensation to the displaced

<sup>5</sup> World Bank Inspection Panel Report, pp. xlii-lvi

<sup>6</sup> One of the justifications for EIB support to the energy sector is to « improve access of the population of [developing countries] to modern sources of energy, particularly the poorest segments of the population», EIB Eligibility Guidelines (2007), p. 46

<sup>7</sup> Field study by the civil society for their complaint to the Office of Complaint, available here : [http://www.counterbalance-eib.org/wp-content/uploads/2011/02/BujagaliComplaint\\_25-11-2009.pdf](http://www.counterbalance-eib.org/wp-content/uploads/2011/02/BujagaliComplaint_25-11-2009.pdf), p.12

<sup>8</sup> World Bank Inspection Panel Report, pp xxxi-xxxv

persons (houses, electricity, water, school, hospital, etc...). Compensation – when it was given – was awarded late<sup>9</sup>.

The Ugandan government's promises, supported by the EIB, to offset the economical, environmental, social and cultural loss of Bujagali Falls by compensatory measures on the neighbouring site of Kagala has been highly controversial. Firstly, because it is not ethically sustainable to suggest that the disruption of thousands of people's lifestyles is compensable and secondly, because civil society<sup>10</sup>, as well as the World Bank<sup>11</sup>, express serious doubts about the Ugandan government's willingness to concretely achieve such a commitment.

EIB loans are conditioned to certain internally defined rules. For local and international NGOs (NAPE, Counter Balance, Sherpa and CLAI), the Bujagali project goes against the EIB's principles. The EIB granted a loan to the dam project despite the fact that the World Bank Inspection Panel's report was not yet finished. In 2009, the above NGOs filed a complaint to the EIB Complaints Office. Two years on, no official answer had been received, in spite of the Office's obligation to process complaints within 140 days. So the NGOs submitted the case to the European Ombudsman. The slowness of EIB administration and the disbursement by the Bank of the first payments when the complaint process was already underway<sup>12</sup> show its lack of consideration of local communities' opinion.

We thus hereby request that the Office of the High Commissioner for Human Rights demand that international financial institutions, such as the European Investment Bank:

Put an end to their financial support to large dams and make sure that all new micro-hydropower projects respect the recommendations of the World Commission on Dams

Focus on funding alternative renewable energy options (geothermal, solar, wind, sustainable hydropower projects)

Respect the principle of the free, prior and informed consent, as formulated in several international texts<sup>13</sup>

Properly assess and monitor the projects' compliance to social and environmental standards

Complaints and consultation mechanisms should be fully operational and should allow communities potentially affected by a project, in particular indigenous peoples, to be able to veto it.

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<sup>9</sup> Field study by the civil society for their complaint to the Office of Complaint, pp. 9-11

<sup>10</sup> Field study by the civil society for their complaint to the Office of Complaint, p. 20

<sup>11</sup> World Bank Inspection Panel Report, pp. xxiv-xxv

<sup>12</sup> When NGOs filed the complaint, the Banks had disbursed 42,5 million of Euros. One of the plaintiffs' request was the suspension of EIB payments during the inquiry. Despite the request, in January 2011, an additional 40 million Euros were disbursed.

<sup>13</sup> International Labour Organisation's Convention on Indigenous and Tribal Peoples in Independent Countries – 169/189 ; Rotterdam Convention on the Prior Informed Consent procedure for certain hazardous chemicals an pesticides in international trade, 1998