

# **Comments on the Resettlement Action Plan for the Ilisu Dam and HEPP Project**

**Prepared for The Berne Declaration, Switzerland  
and the Ilisu Campaign Europe**

**Prepared by**

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## **About the author**

Berne Declaration and the Ilisu campaign invited Professor Dr. **Michael M. CERNEA**, the world's leading social scientist in the field of population resettlement, to assess the RAP for Turkey's Ilisu Dam. For over two decades, Prof. Michael Cernea has served as the World Bank's Senior Adviser for Social Policies and Sociology. He wrote the World Bank's first Policy on Involuntary Resettlement (1980) and OECD's Policy Guidelines on Resettlement (1992). Currently, he advises in this field various Governments, private sector corporations such as British Petroleum, multilateral Development Banks, and also teaches development resettlement at George Washington University, USA. He has published numerous books and studies on resettlement theory, policy and economics, on development and social change, and on cultural subjects.

## **About the Ilisu campaign**

**The Ilisu campaign is a network of the following NGOs:**

Berne Declaration - Erklärung von Bern, Schweiz; WEED - Weltwirtschaft, Ökologie und Entwicklung, Germany; ECA-Watch, Austria; Fern, Belgium; The Cornerhouse, UK

## ***About the report: Update of Resettlement Action Plan-Ilisu Dam and HEPP Project***

These comments refer to the final report titled "*Update of Resettlement Action Plan-Ilisu Dam and HEPP Project*" dated July 2005, Ankara, and comprising 12 chapters in several volumes. The Annex that reproduces the survey instruments is attached in a separate volume. The report is issued by the "Real Estate and Expropriation Department" of Turkey's Ministry of Energy and Natural Resources, the General Directorate of State Hydraulic Works.

On the ground, the RAP was prepared by ENCON (Environmental Consultancy Co) which relied also upon some of the previous preparation work and on some earlier surveys.

Michael M. Cernea

## Comments on the Resettlement Action Plan for the Ilisu Dam and HEPP Project

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## **1) General Observations: The Key Question** **Addressed by this Review**

The Resettlement Plan for the Ilisu Dam and HEPP Project appears, both at first sight and at detailed review, as a gigantic undertaking. It reflects considerable work and consideration of a large number of parameters. It also appears that the present version has deliberately addressed some of the criticisms made public during the debates on Ilisu Dam that have taken place during the last 5-8 years. **The material contained in the present update of the Resettlement Action Plan is definitely part of what is needed for finalizing the resettlement planning for Ilisu, and the efforts of its authors must be appreciated; yet it is only a “part”, and its content will have to be considerably enriched, at times re-considered, and improved as a time-bound prescriptive and planning instrument.**

On the other side, the present document still has a number of gaps and incomplete analyses regarding Ilisu’s proposed resettlement policy and program, expropriation and compensation norms, grievance mechanisms, and especially with respect to the restoration and improvement of the incomes and livelihood of the affected population. **The most serious deficiencies of the current RAP are: the absence of a full-planning for income restoration and the absence of an adequate plan and outline for creating the *organizational set up and capacity for managing* the enormous process of displacing, resettling and reconstructing the economic basis for over 54,000 people (likely more).**

Therefore, in the following pages this review will comment in sequence on the major issues identified, including signaling the positive elements and explaining the weaknesses and gaps in the existing RAP.

### **The key question.**

The present review aims to address, overall, one fundamental question: **whether the quality of this RAP and its readiness for proceeding to implementation**

**are such as to allow final decision-making regarding financial credit granting and the launching, on its basis, of actual project operations ?**

To answer this question, the adequacy of the RAP will be examined in light of existing international resettlement policy guidelines and in terms of the RAPs capacity to chart and actually plan practical operations on the ground. The chronology included in the present RAP, in fact, indicates that expropriation activities had to start in 2005, while now we are already in 2006. It is not clear whether expropriations have been indeed launched, or not yet. But it is clear that the present RAP assumes that the preparations and planning were fully ready for starting execution even during 2005. This assumption justifies our asking the above question.

The response to our defined “key” question must start by acknowledging, and praising, the vast data-gathering and preliminary planning accomplished until now by the sponsoring Turkish authorities and by the successive teams of consultants preparing the present RAP. During this work, much has been learned about the complexities of the resettlement operation resulting from the difficult and rather unusual socio-ecological circumstances of the Ilisu Dam. This review itself was able to understand better, due to this RAP, the difficulties and unique challenges confronting Ilisu.

While recognizing all the research and progress to date, however, the present review believes that **international lenders intent on consistency with accepted international policies and standards cannot regard this RAP version as ready for decision making on granting export risk guarantees, construction credits and starting actual project implementation.** The RAP has structural and content problems in itself, in terms of incomplete due diligence work, inadequate income restoration and reconstruction planning, and overall design for the organization and management of resettlement. These can and

must be addressed by the authors of the RAP and other related specialists, including by the relevant Turkish Authorities.

Beyond these issues, the RAP also helps to signal and illuminate [for the benefit of the international lenders and of Turkey's Government itself] the presence of serious constraints existing in Turkey's institutional, legislative, and grievance systems, that need to be considered and resolved by the country's authorities themselves, **before** the decision to proceed can be made. This is crucial, because unless such decisions are reached before the start of the project, it will be much more difficult, or virtually impossible, to reach them after the start and to change course in midstream on important matters.

In making the above statement, this review is fully aware that in a project of this complexity nobody can reasonably expect that every single detail is nailed down from the outset and every single stitch is in place for unfolding the construction canvas. Sure enough, all large-scale projects starts with some still pending items and issues that await clarification and finalization during implementation, allowing for adjustments and changes during execution.

But it is not about such more or less routine items that the present review is concerned. On the contrary, the review is prepared to accept that not every "t" can be crossed, even in a future revised RAP. We do not propose to deal in these comments with all the innumerable specific routine items that need corrections, but to dwell attention on the macro-issues of policy, strategy, concept, organization, and financing of resettlement. By this measure , this review calls attention to issues which are **fundamental** and which require recognition and a-priori resolution, both at **(a)** the higher level at which this project is being negotiated internationally (and decided upon internally in Turkey), and at **(b)** the operational level, for the basic characteristics of required preparedness on the ground and in the design documents.

## 2) Three Fundamental Issues

In this spirit, this review identifies three sets of such issues of fundamental concern. They are concisely outlined below and substantiated in detail further throughout this report:

### **A) Inadequacies in Turkey's Resettlement Policy and Legal Frameworks**

Turkey's existing current policies and laws about land expropriation and population displacement are not in line with internationally accepted policies and standards on development-induced displacement and resettlement (DIDR). Major content gaps persist in Turkey's Laws with respect to resettlement and reconstruction post-displacement (see more details further, in sections 2 and 3 below). Therefore, the RAP (and implicitly the project) are still lacking the legal platform that can lead to equitable resolution of resettlement's social and welfare issues. The discourse of the Turkish authorities to this respect, and the corresponding intent of the international lending agencies, are not yet backed up in country law. It is not even clear if a RAP is actually required and is binding under Turkish present Law, which makes the standing of this, or any, Resettlement Action Plan rather ambiguous and subject to "promises" rather than to enacted legal norms. Such key issues normally need to be made crystal clear from square one.

### **B) The Organizational Set-up and Management of the Resettlement and Reconstruction Process are not up to the Tasks at Hand.**

The Ilisu Dam is the largest dam and resettlement operation envisaged in Turkey in the last two decades, but it is not in line with the state-of-the-art experiences accumulated during this period for organizing and managing such an extraordinary, vast, and risk-prone resettlement operation.

The entire Ilisu international endeavor faces a high risk of failure and political fallout resulting from the outdated and ineffective organizational arrangements proposed in the RAP for managing the resettlement process. The traditional way of having a large number of central ministries, plus the provincial governorates in five provinces, loosely contributing under a "Resettlement Commission" in the SPO (state-planning organization) which does not even have its own staff, is an anachronistic pattern, which historically has caused enormous loss of focus, time, and effectiveness in many other dam-projects elsewhere in the developing world. The RAP lacks also the required description/analysis of how the management of resettlement will be coordinated with, or subordinated to,

the management of the main engineering components for dam and reservoir building.

. Each of the listed Central Ministries and of the other agencies has **The RAP's proposed organizational arrangements are simply not commensurate with the huge task at hand, lack coherence and focus.** Normally many other activities at a national and regional scale, and no single agency or organization appear to be focused only, with exclusive responsibility, on carrying out the Ilisu RAP. The RAP does not specify who is responsible for what, and when those responsibilities will be carried out. Five area Governorates are to be involved, yet no image or structure for this is provided. The activities of the RAP are **vastly dispersed among countless central and local agencies, not concentrated under a unitary, single command execution and coordination organization, and thus are at high risk of failure to achieve their objectives.**

#### **Resettlement as a full scale development project**

What recent management experiences indicate, particularly from successful dam building and resettlement projects assisted by the World Bank in China, is the need for treating resettlement not as a second-ranked component under the general structure of a dam building project, but practically as a **full scale development project on its own**, on a par footing and closely coordinated with the dam engineering and civil works project. Each one of the twin projects has its own full scale management structure, fully empowered to carry out and mobilize all activities needed for the success of their tasks: the dam building, on one hand, and the resettlement and reconstruction operation, on the other hand. This pattern offers much higher promise and was successfully adopted and executed in the **World Bank-assisted Xiaolangdi Dam and Xiaolangdi Resettlement twin projects in China (1994-2004)**, with a 160,000 people resettlement process, and is used in creating now routinely two distinct command-and-execution systems in other large projects, including Three Gorges. The twin project approach is now spreading to other sectors and countries as well, to secure capacity for carrying out resettlement as development.

#### **C) The RAP itself has gaps, inconsistencies, certain fully inadequate chapters, and needs still revision and completion.**

The current version of the updated RAP devotes great attention to reporting on the due diligence preparation work, surveys of populations and buildings, etc., after which some important gaps and insufficiencies in data are signaled (recognized) by the RAP itself. This implies that the authors themselves do not consider the document to be ready for the actual "go". They are surely right. This needs and can be all sorted out, to



also enable a real cost-assessment of what the displacement and resettlement would entail. The due diligence work to reach an acceptable level of preparedness needs to be completed, including some important revisions and additions to the design, content and strategy of the RAP.

The updated RAP's planning for the socio-economic reconstruction of the incomes, livelihood and economic basis of those displaced is still weak. It reads like a mix of (a) factual assessments, with (b) some recommendations or suggestions as consultant usually do (but it is not sure these are acceptable to project owners and are part of the "plan") and with (c) actual plan-provisions. This mix, therefore, cannot work yet as a clear, crisp plan, to be placed in the implementers hands.

Further, a plan also has other well known demands, that this RAP doesn't meet: It does not chart a time bound, step by step route for overcoming the severe risks of impoverishing parts of the displaced population. This weakness is attributable partly to the RAP itself, to its gaps, and to the non-prescriptive way in which many chapters are written. But it is attributable not only to the RAP: it is also rooted in Turkey's limited legal provisions for compensation of, and support to, those dispossessed, and in Turkey's traditional practices, that concentrate primarily on the expropriation and displacement segments of such mass-processes, and much less on the reconstruction and income restoration/development segment of this process, that must necessarily follow. Some matters of principle, from which action-provisions would result, are not on the RAP's screen; for instance, the planning of benefit sharing and allocation of a very small percentage of power benefits to the re-development of displaced and host areas. The RAP should outline and plan, much more substantively and creatively than it does now, for the economic reconstruction activities, for avoiding impoverishment, and for putting the displaced population back on "sustainable feet".

Some other chapters of the current RAP also require thorough revision and rewriting, with a reconsideration of how the subjects of those chapters are now conceived. **One example is Ch. 9, devoted to the Grievance Redress process and procedures, which in the way it is currently written does not acceptably protect the interests and rights of the population expropriated and physically displaced.** Ch. 8 on Institutional Arrangements and Organization is, sorry to say, simply superficial: it reads like a telephone directory of government agencies, with no real capability analysis, no organizational chart, no time bound and site-based chronology of execution, and too loosely related organizationally to various specific activities upon which RAP implementation depends. The Ch. 11 on monitoring also omits important elements and tools of the process.

The above three fundamental sets of issues are documented more specifically in the following pages, with references to the relevant RAP chapters. Nevertheless, the main purpose of this analytical review is not to list every defect of detail, but rather to *outline the big picture*. It **aims to help create a consensus on the further round of work necessary on the big issues**, both at the high negotiation level between the foreign co-sponsors and Turkey's governmental agencies, and at the operational level of the expert consultants' work<sup>1</sup> for continuing and finishing the planning of the RAP in the field.

To achieve this, we recommend also to consider convening a **working brainstorming or seminar session**, with limited attendance by key specialists and managers, able to discuss systematically over say 3-4 days, in explicit detail, what should be the sequence of further actions, in order to reach an agreement on how each major component of the RAP needs to be and could be completed and finalized. At such working session level a specific list of what needs to be done for each chapter to address also other routine aspects could be made and agreed upon to produce a final, and full-scale real, "Plan". It is important to maintain the size of participation limited, to make the brainstorming conducive to practical agreements and decisions, rather than having just a forum for extended general debates.<sup>2</sup>

Also, to help Turkish officials understand the big advantages of the (to them) novel concept of "twin projects" for large dams, we recommend **having a Turkish delegation visit China's Xiaolangdi dam and resettlement projects**, accompanied by the ENCON or other consultants and by export agencies staff working on the RAP.

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<sup>1</sup> The present review assumes that the physical environmental issues and the risks to and recovery of cultural property assets are the subject of other assessments, plans, and reviews.

<sup>2</sup> Such a working seminar would be able to address also a number of more "technical" aspects, such as the valuation methodology for land and other assets, or benefit-sharing methods, etc., which cannot be all treated in the present text.

### 3) Policy Framework, Resettlement's Objectives and the RAP's Concept

Every Resettlement Action Plan is expected to outline explicitly the *policy framework and the legislative framework* within which the RAP is designed and is going to be executed. It also has to state the **central objectives** in resettlement, not only for enabling dam+reservoir building but primarily with respect to the welfare and development of the affected area population.

The current document, including vol. I (Executive Summary), begins with a brief Glossary of the main terms, which reflect some of the ideas/notions employed in international documents and standards regarding resettlement. However, it is rather striking from the outset that this updated RAP does not contain anything else, besides this Glossary, for **defining the fundamental policy and principles** that ought to guide this formidable social and economic undertaking, involving a very large population and substantial means.

Equally surprising, nor are the **basic objectives** which the Resettlement Action Plan proposes to pursue being stated and discussed from the outset, with respect to the in built **obligation to restore and improve the welfare and livelihoods** of the vast populations involved. This deprives the RAP plan (and likely has deprived the planners themselves of a clear understanding of the RAP's goals) from defining and setting up usable yardsticks against which to compare the measures included in the plan itself, so as to infuse a consistent rationale in the RAP and **to ascertain whether or not the totality of the proposed measures is likely to accomplish the objectives** of the resettlement operation. This is a basic demand to any RAP, not yet met and answered here.

Our review is taking as its reference criteria for analysis the internationally accepted policy principles and standards in resettlement, as defined in a series of

well-known documents [and explained for practical purposes in recognized socio-technical *Handbooks for Resettlement*]. These documents are:

- 1) The *Policy on Involuntary Resettlement issued by the World Bank*<sup>3</sup>, which is also the policy of the International Finance Corporation;
- 2) The *OECD Policy Guidelines for all Aid Agencies on Involuntary Displacement and Resettlement in Development Projects*, prescribed and formally adopted by Governments of all 25 industrialized countries' members of the OECD.<sup>4</sup>

The OECD Guidelines are binding for the various types of Aid Agencies operating in the OECD countries, including Export Credit agencies, inasmuch as these receive credit guarantees from their Governments.

It is to be noted that the guidelines embodied in these documents have gained, during the last 15 years, a continuously broader acceptance. For instance, the guidelines of the World Bank and OECD have been adopted by all multilateral donor agencies (such as the Asian Development Bank, Inter-American Development Bank, EBRD, and African Development Bank). In turn, the private sector as well, as represented by some 25-30 major transnational banks, has made a major public statement in 2003 known as the "*Equator Principles*", in which explicit commitment is expressed to the safeguard policies of the World Bank and IFC, including the Involuntary Displacement and Resettlement policy. The private transnational banks have committed themselves to finance only those projects of their borrowing clients, which, in turn, respect and implement the same safeguard policies.

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<sup>3</sup> The World Bank, OP/BP (Operations Policy and Bank Procedures) on Involuntary Resettlement Nr. 4.12, Washington DC: 2001

<sup>4</sup> OECD (Organization of Economic Cooperation and Development) Development Assistance Committee, Guidelines for Aid Agencies on Involuntary Displacement and Resettlement in Development Projects, Nr. 3. OECD, Paris: 1992.

By taking these policies as reference “pegs” for assessing the quality and adequacy of the Ilisu Dam and HEPP Resettlement Action Plan, the present review aims not only to apply accepted objective criteria, but also to assist the RAP’s authors and the export credit agencies in an effective re-examination, revision, improvement and completion of the present document.

**Objectives and Concept.** The fundamental thrust of the above policies is expressed in their objective, defined as doing resettlement in ways which will ensure the restoration and improvement of the welfare and livelihood of the population being displaced for constructing an infrastructure project. This objective is supported by a series of other explicitly defined goals, one of which is to minimize the magnitude of the necessary displacement through technical optimization solutions and to reduce as much as possible the impoverishment risks and the socio-economic disruption that displacement and resettlement inevitably inflicted on the affected populations. In the same vein, the policies prescribe and require that commensurate financing must be allocated for the resettlement process.

Altogether, these points are summarized in World Bank policy in the statement that any development project that displaces and deprives a population of its prior economic basis **should be conceived and conducted as a development project**, to restore and improve the economic basis and livelihood of those displaced and resettled.

The above principles are also detailed in two important Handbooks issued by the World Bank<sup>5</sup> and, respectively, by the IFC<sup>6</sup>, both devoted to operational measures through which the policies should be applied on the ground.

Examining the RAP for the Ilisu Dam and HEPP in light of these objectives, it is impossible to overlook the fact that a solid statement and rationale about the objectives of the given RAP are missing. Moreover, what is missing is also a consistent discussion, from the outset and throughout the entire document, on whether and how various components of RAP respond to, and are

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<sup>5</sup> The World Bank, *Involuntary Resettlement Sourcebook*. The World Bank, Washington DC, 2004

<sup>6</sup> International Finance Corporation *Handbook for Preparing Involuntary Resettlement Plans*. IFC: Washington DC, 2003.

consistent with, these objectives. This is not simply a bureaucratic requirement for including some pages in the RAP on policy and objectives, just for the sake of “political correctness”. On the contrary, this is a germane content requirement. It is intrinsic to the thinking process for including in the RAP the content-measures, the organizational mechanisms, and the financing that are truly conducive to the desired results..

Indeed, the examination of the RAP, as shown in this review, reveals that only a part of precisely this kind of socio-economic content is now included in the reviewed document. This part, even when it is accurate in itself, is insufficient to achieve the policy goals. The major fallacy in this respect is a **reverse tilt in the document to the means for displacement rather than to the means and end-goals of resettlement**. Namely, the emphasis is primarily on the conduct of expropriation and dislocation of the population resident in the project area, while much less attention and detail are dedicated to what in fact is the hardest part of such a project and social process: namely, the proper and well-planned, tenacious reconstruction of the economic basis, productive systems and communities of the uprooted population.

This is both a conceptual imbalance and a planning and operational imbalance. It is hoped that this comment will be properly thought through by the authors of the document, and the project sponsors, to internalize its implications and to reconsider the document in this regard.

Further observations document in more detail why this imbalance is detrimental to the RAP and why the resettlement cannot be conducted properly unless the plan itself is corrected and rebalanced toward mobilizing all the necessary means for reconstruction.

Also reflecting this imbalance is the fundamental deficiency of the RAP in not including a full-scale chapter dedicated to the design and creation of the organizational capacity needed to carry out the displacement and resettlement. How the entire process will be managed, who will manage it, what will be the

relationship between the management of the resettlement process and the management of the main engineering construction of the Ilisu Dam Project – are totally –and surprisingly- missing. A **detailed chronology** for unfolding the displacement in the several Governorates affected, **key-ed explicitly to the critical path and needs of the civil works' advances**, is also missing. This is part and parcel of showing how the process will be managed. In other words, the finality of the RAP, which must be successful resettlement, is not credibly outlined and demonstrated because it lacks meticulous planning and a germane management design as well.

While the present review does not cover the feasibility studies for constructing the dam itself, it is well-known from other dam-building projects that no feasibility dam project could be ever conceived and submitted without a very explicit and detailed design of the management capacity and of the critical path which that part of the operation would follow. The same is necessary for the social processes indispensable for building the Ilisu Dam, which in their totality are no less complex than the engineering part itself. In all likelihood, it appears that the massive social processes of displacement and resettlement will be even more complex than the **dam's engineering, because dam building technology is today much better known and codified than the enormous and very unpredictable complexity of transferring over 54,000 people (or more) and rebuilding their communities and economies.**

To conclude this section, it is necessary in our view to reexamine the very concept of the plan, formulate and state the policy objectives which inform the RAP, and ensure that those objectives are not simply uttered at the beginning but inform everyone of the following chapters, and the clusters of specific activities described in those chapters. Obviously, this is not just an editorial matter: it is an intrinsic issue of project policy and project good planning.

#### 4) Turkey's Legislation: Old Expropriation and Resettlement Laws Compared with Current International Standards

The RAP devotes chapter 4 to the discussion of Turkey resettlement legal frameworks and principles. To Turkey's credit, it has to be recalled that Turkey was one of the first developing countries to adopt a detailed law for expropriation and relocation, decades ago. By the same token, however, all involved must recognize that since then international state-of-the-art and in terms of the formulation of policies and legislation has considerably advanced and the early adopted legal documents in Turkey do not reflect these recent advances. This is a major problem that needs to be addressed primarily not by the international lenders but by the Turkish authorities themselves, in order to bring the country's legislation in line with the current aspiration of the country itself, and with the evolution of international norms and practices. Some of the gaps and discrepancies between Turkish laws and current international standards are in fact explicitly and candidly highlighted in the RAP itself, on a series of major points (see ch. 4). However, beyond such concise highlighting, the RAP fails in outlining the true dimension of this policy problem, its implications, and does not provide effective solutions to it. We wonder whether the consultants who prepared the updated RAP are informed up to date about the best international practices on managing resettlement and reconstruction, which could have provided replication idea for this RAP

The RAP makes the assumption that the identified gaps could be filled by introducing in the RAP some proposals and measures that are more in line with WB/IFC policies and thus "fill in" some but not all of the identified gaps. However, this cannot be considered sufficient for international assurances, as well as for internal purposes and by the affected population, because by definition **the measures proposed only by the RAP would not have yet a foundation in the laws of the country.** The RAP is not a basis that legal recourse could use to enforce the provisions it includes, unless those provisions emanate from Turkish laws and policies. The affected population cannot take legal action if the



promises contained in the RAP are not respected because the RAP is not a law. Notwithstanding Ch. 9 of the RAP devoted to grievance procedures (as will be seen further in the comments on Ch. 9), going to the courts is a very, very last resort for the affected people, who are left with their grievances to the discretion of the project sponsors and also of the contractors to the project, and even if ultimately they reach a court, there is no basis in existing law for enforcing RAP's promises.

A logical question surfaces: Is it realistic and feasible to request that Turkey's policy and legislation be amended? The answer to this question cannot be but **affirmative**. This is so because such request is not primarily for the sake of the lenders, but is in order to meet the country's current needs, and this would also bring legislation in line with international standards as well. First, it is known that the Turkish authorities themselves expressed the desire to construct the Ilisu Dam and to carry out the resettlement at levels matching international standards. The general political statements inside the country state this as well. In fact, SPO (the State Planning Organization) apparently gave the green light for proceeding with planning a RAP that exceeds the country's laws, as they are known from the books. That willingness of the country's official authorities needs to be translated, however, not simply in a RAP but in much more weighty legal guiding norms and documents.

Facilitating this process is also the fact that although Turkey did renew some of its relevant laws recently, it is not fully clear whether all these new laws apply to Ilisu, because the initial planning of Ilisu had started some 20-25 years ago, before the new laws were adopted. We hope that the most recent laws do apply fully to Ilisu, not the old ones, and this needs to be spelled out in the RAP, since for the Laws referenced in the RAP only a number is given but not their adoption date.<sup>7</sup> Certainly, nobody in his right mind would argue to build in 2007 the Ilisu dam itself at the level of engineering technology achieved only before

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<sup>7</sup> Even the content and provisions of the new laws need to be examined systematically through a gap analysis, to ascertain consistency with international standards, OECD guidelines, etc.

the planning started 20-25 years ago! Why should this criterion apply to people's livelihood?<sup>8</sup>.

In turn, in the Ilisu case, international lenders are fully justified and entitled to require legal guarantees. This is done constantly in current international practice under large-scale projects negotiated by multilateral donors such as the World Bank, the Asian Development Bank, the European Union, and also by individual OECD governments. It is known that the World Bank has asked for and has obtained in countless cases the improvement of formal domestic legislation regarding such matters in many developing countries. It is therefore realistic to require and expect that such a process can be followed in the case of Ilisu Dam itself. The benefits for the country will far exceed the Ilisu Dam project as it would create a better framework conducive to accomplishing many other large-scale projects in addition to Ilisu, while affording improved protection for the entitlement and rights of Turkey's citizens themselves.

How can this improvement of the legislation be done? Again, recent practices offer the response. There are two options: maximal and minimal.

The maximal option is to pursue the revision and updating of the general laws for resettlement which are on the country books, and the updated resettlement laws will be generally valid.

However, if this path is likely to take too long, another option, usually seen as the "minimal option" is also feasible. This consists of issuing a special legal regulatory framework focused on the Ilisu Dam construction only, but with the same weight and legal authority as any other law (depending on circumstances to be confirmed by legal experts, this may mean approval by the Turkish legislature of a special law for Ilisu, or approval by the legislature of a detailed legal decree to be issued by the government for Ilisu and confirmed by the legislature. In both cases, that document should be valid for courts.) This minimal

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<sup>8</sup> Note, for instance, that the planning for the world's largest dam, Three Gorges in China, started during Sun Yat Sen's time, about 70 years ago, yet China's authorities do not rely on the laws valid then: on the contrary, China's Government adopted for Three Gorges Project the single most favorable resettlement **legal framework**, better even than for any other dam in China, because TGP is so important to China and displaces so many people

option has been adopted by some developing countries which agreed at their highest level to create special frameworks with more advantages for special projects of high national priority. (see examples in China, India, Brazil, and other countries, and their experience can be studied).

This obviously is not as good a solution as the “maximal option”, but is nevertheless acceptable with the understanding that it will set a model for gradual extension and generalization of the same norms in the given countries.

How important are the policy and legal gaps which are confronted by the Ilisu Dam resettlement and that need to be bridged? The response appears, partly, in RAP’s Ch. 4 (see the three tables all numbered 4.2 titled “Main Gaps...”, pages 21, 22, and 23 of 23). Below is a summary, after which we will signal other gaps not yet reflected in the RAP:

1. Turkey’s current laws **separate expropriation and resettlement** works rather than integrating them and making them reciprocally mandatory. International standards require full integration and demand that every expropriation be implemented together with the entailed resettlement and economic reconstruction.
2. **Minimization.** There is no provision for minimizing resettlement in Turkish law, as also stated in the RAP, but this is a major requirement in World Bank and OECD standards.
3. **Compensation provisions are outmoded** in Turkey’s law, being calculated on paying only the market value of the depreciated and condemned assets, while in international standard calculation market value has been long discarded in favor of replacement value. This is a fundamental difference, which is likely to have important cost implications. Otherwise, significant costs are externalized to the affected population, a practice condemned and rejected now in international law.

4. **Opportunity losses and transaction costs to the displaced population are not recognized** or only partly recognized under Turkish law, while they must be fully compensated under current international standards.
5. **Income restoration strategy** to be implemented by the project which is displacing people is not required under Turkish existing law, but is now the *sine qua non* requirement in current standards.

There are other important discrepancies as well, which are not identified as such in Table 4.2 of the RAP. For instance, elsewhere in the RAP it is mentioned that Turkish law discriminates between different categories of affected people and does not provide relief for some sub-categories, even if those people *reside in the reservoir area* and their households and assets are inundated. For instance, the resettlement law

“explicitly denies illegibility for resettlement to the subcategory of artisans and small traders earning more than 12 times the minimum official wage annually” (and additionally) for “government officers or permanent workers (in the administration or area services) who reside in the expropriation area”.

Obviously, this discrimination is unwarranted. It cannot and should not survive in an internationally supported Ilisu project.

Given experience with similar situations encountered elsewhere, this review believes that direct assistance for resolving this issue could be effectively provided if the working/brainstorming seminar recommended above would address the issue of updating legal norms and prepare a set of proposals for consideration by Turkey’s authorities as to how existing laws can be brought closer to the state of the art in this development domain.

## **5) Population Assessment, Expropriation and Resettlement Planning**

Perhaps the single most important indicator for resettlement’s implications in a project of this magnitude is the actual size and composition of the affected

population, primarily that part of the population which has to be physically relocated. Other subcategories that may be partially affected, or are affected only in their assets because they don't reside in the area add to the complexity of the process (this is the case in Ilisu, where many landowners live now outside the area.) Much of the design and execution of the resettlement plan depends on a reliable count of the population **before** project start, so that no surprises of large magnitude surface during implementation. This enables designing tailored solutions for each sub-group. It also allows *ab ovo* the allocation of financing proportionate with the nr. of people, so as to meet execution needs without running into budget shortages.

The examination of the RAP must conclude, however, that despite progress in the counting of local population, the numbers now in the RAP are still **far from reliable and complete** estimates. This risks generating surprises later, and deserves attention now. The relevant chapters are ch. 3, a short one, and ch. 5, the longest RAP chapter with over 130 pages and over 100 tables, which describes in excruciating detail the socio-economic surveys carried so far.

It is to the credit of the RAP that the document itself expresses ENCON's warnings about the un-reliability of some of the data, primarily of the data collected earlier. The attentive reading of the RAP finds several statements (buried in the text, but important) which explicitly caution about uncertain numbers. In commenting on the data collection processes and tools, the RAP states that *"this data from the past is insufficient."* Further, that *"the studies conducted by several governmental institutions in the project-affected region, have lost their validity."* (Ch. 5, pg. 6 of 134). Again further, that *"population studies carried out by state institutions in the region do not give clear information about the affected region."* (pg. 6 of 134). These warnings leave the issue of size in limbo, at this time. Therefore, the warnings must be taken seriously by project sponsors and be acted upon, to ascertain realistically the resettlement size to be expected.

Even from the beginning of the Executive Summary, the reader is faced with two figures about the total number of affected population, at one page distance one from the other: the first put the number of to be displaced people at 52,433 (page 2/1) and the second gives the number of 54,742 (page 3/1). This is a relatively minor difference, and the issue is not the number in itself, but the uncertainty itself reflected in the RAP. Further in the RAP there are again several other different and confusing numbers. Being realistic, this review can understand some lack of “perfect” statistical precision, given circumstances. But once this is acknowledged in the RAP, it would be better to stick to one and the same figure throughout. There are many numbers in further chapters that conflict with the above numbers, confusing the reader and instilling doubts in the RAP.

The problem to address is whether or not this figure is at least a close working approximation, or it will prove, during implementation, to be a substantial undercount and understatement. There are good reasons to fear that ***this is a significant understatement***, and this review gives a warning on this specific issue, based on our long experience with similar situations and based also on implications of the RAP itself, once you read the text attentively. First, previous figures circulated in earlier stages of the preparation and debates around Ilisu Dam, mentioned magnitudes with tens of thousands of people larger (around 80,000 or so). Perhaps those figures were overstated, but we don’t know this and the RAP should address this comparative aspect frontally, explaining the sudden reduction<sup>9</sup>. Then the RAP itself questions the census basis of the data it uses, indicating that the census of year 2000 provides “old data”.

Further: what about the population growth rate? This factor is not considered in the RAP. Yet, the average family size in the project area is in fact very high, reflecting a high birthrate. The data given shows that the average

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<sup>9</sup> The historical record shows that dam proponents very frequently tend to understate displacement size at feasibility and appraisal stage, to secure financing easier. The World Bank’s review of projects submitted by many Governments for Bank financing reported inaccurate surveys and staggering initial understatements in numerous dam projects, which subsequently caused vast problems during execution (See The World Bank: *Resettlement and Development. Report of the Bank-wide Review of Projects Involving Resettlement*. ESD, Washington DC, 1996, Table 5.2, page 131)

family size varies from 6.36 persons in the lowest district to 8.65 persons as family average in Sirnak, the district with the highest family average. If the birthrates are high, it is warranted to assume that the total number of families/households, and individuals, at the time of actual displacement and relocation over the next 8 years, will be considerably higher than the year 2000 base data used by the RAP. Normally, for such situations, resettlement planners apply the population growth rate coefficient to the base data, to project the real size of the population to be displaced and relocated (in another country, with a low population growth rate, such population estimates are made on a year by year basis, to avoid surprises at resettlement time compared with data at feasibility/appraisal stages). Therefore, we strongly recommend that RAP's authors re-examine the numbers and provide adjusted, more realistic population magnitude estimates.

Another source for doubting the total magnitude figure is the high number of what the RAP calls "*vacant settlements*" (about 49). The RAP does not include any population figure for them. These settlements are a specific problem in Turkey, since their population left primarily because of security reasons, and partly because of migration propensities. But the settlements comprise still important physical assets (pictures are given in the RAP) and large amounts of land which even by current Turkish law would have to be expropriated and paid for. It is also predictable, in light of international experiences, that the moment the construction starts many people of the so-called "vacant settlements" will return, given expectations to derive legal entitlements from their physical presence, and much larger number of people will have to be displaced than it is now stated in the RAP. Whether or not the "cut off date" can be applied to people whose assets are in the area while they were temporarily forced away involuntarily, by security considerations, is an open question. If such likely increases are not forecast in the RAP as possibilities, with incremental allocations, the project may be caught unprepared, in midstream, by surprises in resettlement scale, otherwise avoidable.

The auxiliary infrastructural constructions surrounding the entire Ilisu reservoir would generate linear expropriations and displacements for area highways and roads, train corridors, **totaling hundreds of kilometers** in length and large numbers in total hectares lost. The systematic assessment of displacement's extent in dams and reservoirs is surely able and must estimate these as well, adding not omitting it from the displacement's total magnitude, It is surprising, from a professional view point, that the ENCOM team has not done that.

### **Missed Opportunities: Income Restoration Without Planning ?!**

The “make or break” criterion for success in resettlement is ultimately whether people's incomes are restored and improved, or whether they end up worse off, impoverished. This is why the income restoration planning of any RAP is crucial. The Ilisu RAP devotes the full Ch. 7 to income restoration.

We regret to have to make a severe critical assessment of the quality of this chapter, because a large part of it simply **is not a plan for income restoration but a vague wishful thinking description** of things that might happen. This is not how the Guidelines of the World Bank and IFC require a RAP to be written. But the potential for income restoration does exist. This review sees the need, and strongly recommends, to revise this RAP and dramatically improve the planning for income restoration, based on what can be realistically accomplished in Ilisu's conditions with better planning and good organization & management.

The best example of this weakness in planning is how amorously and vaguely the RAP treats the potential for employing thousands and thousands of displaced people in Ilisu's civil works. The RAP talks for pages in a row of this possibility, but it offers no concrete indicators, no approach, sets no obligations for contractors, no numbers. It contains only a vague, non-binding discourse on this. The Ilisu project needs a PLAN, not a wish list, a plan with targets, mechanisms, a distinct sub-section in the overall budget, and allocated responsibilities for implementation, reporting and monitoring. The RAP is



supposed to provide exactly this kind of PLAN. I wonder if the authors of the RAP have studied and are aware of the best planning practices described in the literature today, to replicate them in Ilisu ? Or whether they have consulted the best RAPs posted publicly by the World Bank and ADB for their projects? The revised RAP must be re-written as an action-compelling planning for resettlers income-generating employment.

Why is this indispensable ? Ch. 7 does discuss insufficient compensation levels in Ilisu and assumes that these levels will be increased by SHW. But even if this will happen (recall that this is just a SHW promise, not the Law), compensation payments are only one of the tools for restoration, needed and warranted, but also one that has been proven chronically insufficient (see the vast literature on resettlement compensation and ineffectiveness). Thus, no illusions should be harbored about the miracles that compensation alone never accomplishes. One other important tool is to channel substantial amounts of money (and professional training) to displaced, expropriated, and unemployed people in the area. Ilisu's infrastructural works will include, beyond the thousands of low skilled jobs for building the dam and power plant, many other thousands of jobs for building roads, bridges, railway lines, water-pipes, etc etc . It is essential that **the majority of these jobs go to the vastly unemployed area affected people**, rather than to the crews that outside contractors tend to bring with them from outside areas. This way huge cash amounts will be channeled to resettlers (cash that is not an added cost to the project) and will go a long way to improving/restoring livelihoods. This would be a vast source of income over the 8-10 years of construction works, even if it would largely disappear at end project. But if also combined with professional training to employed resettlers, this would equip resettlers also with employable income-generating skills usable after project civil works drop off.

Because this is so vitally important, we'll offer more detailed suggestions below.

To make employment of displaced people actually happen, firm planning and organization are necessary. It is a time-worn, naïve illusion that if a RAP only exhorts contractors to give priority in hiring to resettlers, this is enough for it to

happen. Experience shows that tight planning and **firm hiring rules** need to be enforced. The RAP must include estimates and **targets for minimum hiring levels** in various project components, and institute **employment monitoring** procedures, based on clear eligibility criteria.

Further, the RAP must prescribe that **tender offers** would include verbatim the **obligations for all contractors to hire local laborers** from lists of displaced PAPs and families, to be supplied by the project. Indicate in RAP that no bid will be acceptable to Ilisu management, from any contractor, local or foreign, unless it commits to a certain proportion of hiring to go to PAPs.

The same is to be done regarding the contractors' obligations to arrange for training a certain nr. of unskilled employees, at their cost. The organization managing the Ilisu Resettlement project should have a "labor exchange" office to keep track/statistics of the hiring and training process, oversee, and make sure that this component of the income-restoration strategy is consistently implemented.

Including such action oriented prescriptions, targets and mechanisms will indeed lift up the revised RAP to its function as a real "action-plan", a guide to implementation, and a reference point for monitoring.

Other strategies that need to be included in Ilisu's plan for income restoration/improvement are those involving benefit sharing, missing from the current RAP, but on which information can be found in the up-to-date available resettlement literature

### **Risks and Risk-Perception Analysis**

The RAP attempts, quite laudably, to explore the level of the local people's information about the State's plans to build a dam.<sup>10</sup> It must be noted that a very high percentage of people (40% of total) are estimated even now as un-informed. The RAP must include explicit measures as to how the Organization managing

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<sup>10</sup>Some methods used to consult the local people appear questionable, but it is not necessary to correct them now or start another cycle of assessments. Substitutes will have to be found and are feasible later.

the resettlement process will have to continue and improve the information delivered to the local populations.

In this respect, we would like to call attention to the need to make the RAP widely available in the project area, in languages accessible to the population. This is a basic **transparency requirement** for internationally sponsored projects, currently omitted by the updated RAP, that must be incorporated.

To the credit of the RAP's authors, a notable attempt was made to assess risk-perception levels among the area population, through survey questions about the basic impoverishment risks in displacement. This is one of the best analyses in the document (Ch. 7). The RAP has the merit of reporting the findings, signaling that despite the low level of information on the dam project, the local population has an acute concern/sensitivity to likely impoverishment risks (landlessness, homelessness, employment loss, increased sickness level and others). This is an important finding. Yet the RAP stops at reporting it, rather than using it further to develop a response strategy keyed to the identified risks and propose communication measures to explain to the locals how these perceived risks will be mitigated by the project, and how the people themselves can act for risk reduction. It would be very useful to do so in revising the RAP, as it is important to both decrease the perceived insecurity about project impacts and enhance people's propensity to initiate their own risk-counteractions.

Even more importantly, the risks framework that the RAP's authors are already using, has also a second part: its reconstruction strategy matrix. For an even fuller use of this framework than the what the RAP has already done, the authors have also one more option: they can employ the risks-reversal (reconstruction) part as an organizing structure for the various elements now contained in Ch. 7, to give a structured image of the main lines along which the RAP plans the risks-reversal processes, the reconstruction and income restoration strategy.

In the context of discussing risks, the population's ethnic composition and the area's known history should have determined the RAP to signal also the political

risks of discontent escalating because of low compensation and impoverishment from uprooting, leading to political tensions, with national and international implications. Silence would not wish away these risks. This is to be carefully considered and mitigated by all parties, including the foreign aid parties.

## **6) Organization and Management of the Resettlement and Reconstruction Process**

As indicated from the beginning in this review, the construction of Ilisu Dam and the resettlement and economic reconstruction of a very large population in 5 Governorates (complicated also by cultural property excavations and protection) represents in fact two simultaneous development projects squeezed into one like in a distorting Procrustean bed.

In real life, each one of these projects requires a capable full-fledged organization that would concentrate in its hands the two different sets of activities, and have jurisdiction for execution and for cooperation with the respective line agencies required to contribute. This clearly calls for a distinct approach to resettlement and economic reconstruction through the **creation of twin projects**: One to accomplish the technical and civil works for building the dam, power plant, transmission lines, plus the additional required infrastructure; Another distinct full-scale project, correlated to the dam project but designed as a full-scale project on its own right for carrying out the displacement, transfer, resettlement and socio-economic reconstruction activities.

Of course, the management of the two projects will broadly coordinate between themselves the advance on their critical paths, so that resettlement is **always two steps ahead of the civil works phases**, ensuring the right of way timely, and having full responsibility for accomplishing the resettlement in ways acceptable to the large local population affected. Provisions in the World Bank's policy and experiences in several countries with the twin-project approach have confirmed so far the superior effectiveness of this way of organizing and

managing large-scale resettlement operations triggered by infrastructure construction as distinct development projects.

In light of the above, we strongly recommend that the revised RAP should develop and include a **clear organizational chart** reflecting the structure and competencies of the organizational setup for actually managing and executing the displacement, resettlement, and reconstruction activities. These activities together represent the core content of the entire resettlement plan. The design of organizational arrangements, the organizational chart for the structure of the managing and executing organization, need to be included as well.

Of course, this capacity does not exist now. No realistic contemplation of building the Ilisu can ignore the need of such capacity, short of signing up for certain failure. Only various elements of this new capacity exist, dispersed as parts of various agencies and line administration structures, either in Turkey's central Government or in the five Governorates comprised in the project area. Proposing and designing such an unified organizational capacity is not a simple task. But it is indispensable. It will have to combine activities to be done by that organization itself with contributions to be delivered by line agencies, which will continue to exist and perform their functions.

We emphasize that the need of such a clear organizational capacity and **structure for managing the resettlement process** is indispensable, even regardless of whether resettlement will be dealt with routinely as a subordinated "component" in the overall Ilisu project, or it will be dealt with as a twin resettlement full-scale project, parallel and correlated with the Ilisu Dam construction project. The second option, of course, is the option recommended by this review, because it is the option which will enable the creation of a clearer organizational capacity, with vested authority for decision-making in it's areas of responsibility, able to deliver a much better resettlement and reconstruction performance than the current un-structured hodge-podge of institutions and agencies, thus benefiting both resettlers and project owners, Turkey at large.

Another advantage must also be recorded and pondered: a full scale project will enable the hiring and use of much more qualified and better paid staff specialists for managing the multidimensional resettlement activities, than can be hired and paid at the level of a subordinated component in another project. This will be an inbuilt advantage, resulting in a higher guarantee of a reliable professional performance in resettlement. In turn, the management of the distinct Dam Project would be (gratefully !) relieved of social tasks for which it has a comparative **disadvantage**, and enabled to focus fully on advancing and **delivering timely** the dam and power plant .

In this connection, we also recommend that the revised RAP includes a set of **training activities**, currently missing altogether. The large staff to be employed for carrying out the multisided RAP tasks will need initial training, and constant retraining, during implementation, to learn the rules and principles under which this process is to be carried out, learn about peoples entitlements, absorb the recommended procedures. Such training could preempt much of the typical errors and unnecessary conflicts and complaints that bedevil such large scale projects, simply because the employed staff is not properly trained for the tasks it has to perform. A small “training office” as part of the overall organizational structure should be created.

### **Monitoring Resettlement and the Need for an International Panel**

Monitoring is integral to good organizational performance. The monitoring chapter of the RAP (Ch. 11) currently includes a number of activities and surveys to be carried out during implementation. This program should be a flexible and creative one, allowing for the inclusion of ongoing evaluations that are not anticipated from the outset but will respond to issues surfacing during execution.

It is also important to include prompt monitoring studies on the initial cohorts of the population resettled, focused on identifying the issues of adaptation and reconstruction as faced by those initial cohorts. The feedback

from these studies will necessarily be most useful for adjusting the resettlement planning for subsequent cohorts.

Last but not least, the RAP doesn't specify how the sponsors and external co-financing agencies will be informed through direct monitoring about the performance in resettlement, an issue which is of high substantive importance and political sensitivity for the donors as well. Usually, the multilateral Banks do this through a two-fold approach: Direct supervision by teams sent by the donors (eg. the World Bank, ADB, etc.) at periodic intervals, and the creation of independent international panels consisting of credible resettlement specialists who also visit periodically and report both to the project owner and to the project financing stakeholders. For instance, the World Bank and ADB appoint such panels for visits at six-month. The outcomes of this two-fold approach for independent monitoring have justified them as indispensable in preventing downslides. In the Ilisu case, it does not appear feasible for foreign sponsors to send supervision missions, but the creation of an independent monitoring and advisory panel is feasible and necessary.

## **7) The Grievance Process**

The RAP devotes a special chapter (Nr. 10) to the grievance redress procedures, describing the avenues available for the PAPs to make complaints or express claims and grievances in relation to the project activities, vis-à-vis project staff or the contractors. The RAP's detailed attention to grievance mechanisms is very welcome, because this is essential to protecting the civil rights of those affected and to giving them voice and structured means when they perceived their interests being harmed or their entitlements not being respected.

We appreciate that the RAP's grievance chapter begins by stating the "objectives" of the grievance procedures and clearly states as the first objective that the system should

*“provide straightforward and accessible ways to PAPs for making complaints or resolving any disputes that may arise due to the realization of the project..... Identify and complement the appropriate and mutually acceptable actions to address complaints.” (ch. 10, page 1/11)*

While this objective is formulated correctly, this chapter of the RAP simply describes traditional/routine procedures in Turkey, without examining them critically in line with the Ilisu specific challenges. The traditional procedures under the old laws of Turkey are biased in favor of the contractors and the State, and are insufficiently protective of PAPs civil rights and economic entitlements.

This propensity in the RAP also appears from listing among the objectives of the grievance system one defined as “avoid the tendency to resort to judicial proceedings” (Ch. 11, page 1/11). This obviously is an unbalanced wording, which we propose to be replaced by a different formulation, for instance something like: *“To encourage a climate of receptivity to the legitimate concerns and complaints of the PAPs and a rapid and non-contentious resolution of grievances, while also fully allowing the affected population its entitlement to resort to judicial proceedings for ensuring their rights according to the countries’ laws.”* This or a similar wording would be considerably more balanced.

### **In built Bias and Conflict of Interests**

We also found that Ch 11 raises a basic problem of principle and practice in the way it constructs grievance procedures in the RAP. Namely, time and time again, the party against which the grievance is being expressed is also cast by the RAP itself in the role of *arbiter* of the grievance. This introduces an in-built bias and conflict of interests. By definition, the grievances are likely to be against the project staff or against the contractors. In other words, by definition, the PAPs are given the right to complain against a “culprit” as they perceive that culprit. But then it is the same culprit which is.... given the authority to make the judgment on whether or not the grievance is justified. In other words, the institutional design of the grievance system is *ab initio* structurally flawed. There is indeed a role for the project authority **to verify** whether the information contained in one or another grievance is factually correct, through a quick check. This is a legitimate function. But this function should not be extended by giving the same party the role **to**



**decide** whether a grievance should be accepted and a correction should be made. At this point, by design, an **independent entity** should be present and empowered to make a judgment, as a referee between the complainants and the party against which the complaints are lodged.

Sure enough, this entity is still part of the peaceful resolution of the grievance, before it should go to a judicial court. But even in this stage, the entity that makes a judgment should not be the entity against which the complaint is raised. It is a big stretch to assume that contractors that do act in a way harmful for the resettlers, will receive the complaints in total objectivity and will rule against themselves with objectivity. In return, the resettlers will very fast lose confidence in such a system, and discontent will be likelier to grow and boil over. In short, an element of independent judgment should be incorporated from the primary review-stages of every complaint, in order for the grievance system to be fair and effective.

Also, Ch. 11 defines in detail (page 2/11) three types of grievances: grievances in the expropriation phase, grievances in the construction phase and grievances in the resettlement phase. Basically, the first two groups are pretty adequate, although with some need for more detail listing the types of grievances in the expropriation phase.

However, the list of acceptable potential grievances in the resettlement phase is utterly incomplete. As indicated before, the resettlement phase is the most complex part of the entire operation because it includes reconstruction, in which the project plays a key role. The current listing mentions only five elements and if left as it is now, it may serve later to rule out from the outset grievances which do not fit into one of these five subcategories. Examples of things missing are grievances about the non-restoration of basic social services, sanitary services, health services, water supply, electricity, communication, etc. Another set of likely grievances is about the reconstruction of community assets, such as various community facilities -- community halls, buildings, churches or mosques,

health rooms, etc. Usually, such displacements result in transport difficulties at least in the initial years, bridges and connecting roads are overlooked or mis-constructed, and people are likely to bring such grievances about the project. Room needs to be allowed from the beginning for such possible grievances. For instance, chapter 10 provides that. Any received grievance concerning expropriation should be responded by the state hydraulic works (SHW). Further, in the construction phase, chapter 10 provides that

“the construction contractor would be the principle responsible party to resolve any disputes of grievances that have been caused by the construction activities performed during the construction phase. The received complaints should be handled by the construction contractors.”

This is the unacceptable spirit in which the entire grievance system is currently designed, by making the culprit into the judge. The RAP must request that the contractors should be responsible for *resolving the problems* brought up through grievances, but the authority to rule whether such resolution is or isn't called for should not be given to the contractor, but to an independent factor.

The duration allowed by the RAP for resolving a grievance also disfavors the claimant. Chapter 10 now makes time-bound prescriptions as to the initial examination of grievances in two stages (7 days and 30 days), but is completely silent as to the interval during which a specific grievance found in need of redress will be actually redressed on the ground. In other words, the RAP provides no indication as to the implementation duration of the corrective action. This leaves the complainant powerless for an indeterminate amount of time, during which he suffers the effects of non-corrected situation.

A further observation refers to the very late entry of the judicial system itself into the grievance process. In fact, the RAP postpones the rights of the affected people to go to court rather indefinitely. This is done by indicating that if the initial correction and redressal is not satisfactory to the complainant, he still cannot go to court. The project has the privilege to start a second round of grievance

examination, again with an indeterminate time for effective resolution. This may take endlessly and still the affected PAPs cannot go to court.

These flaws make the proposed grievance mechanism inequitable. It is necessary to correct Ch 11 radically in several ways, and allow recourse to court earlier, no later than after the first examination of each grievance. This is a civil right of each citizen, which should not be abridged arbitrarily in Ilisu.

## **8) Considerations about Costs and the Resettlement Budget**

All international documents, as well as recent project evaluation studies, put a very strong emphasis on the need to ensure, from the outset, correct costing based on correct valuations and a **total budget of resettlement commensurate with the demands of reconstruction post-displacement, and definitely not only with the cost of expropriated assets**. On this count the review considers that the existing budget needs revisions. These revisions should reflect the beefed up set of measures for post-displacement economic reconstruction, which need to be incorporated in the RAP in line with the comments and recommendations made in the previous sections of the present review.

Further, the current chapter 12 devoted to budget is silent about the proportion which the resettlement budget represents in the total cost and budget of the Ilisu Dam and HEPP Project. This can easily be remedied by including an overall table regarding total costs, broken down by main activities.

It is also not clear whether the budget calculations are consistently made based on the market value of assets (which for non-land assets would place the burden of depreciation on the population involuntarily displaced) or are based on replacement costs, plus transaction costs, as current international standards require. This issue was mentioned before and if, as it is hoped, this comment is

accepted, the budget needs to be accordingly modified. Section 12.2.7 of chapter 12 suggests that the RAP proposes to bridge the value gap in the cost of expropriated structures, which is defined by the RAP as the use of “the objective criterion” Yet the RAP’s wording is ambiguous as it refers to the “authority of the evaluation experts to increase the value of the asset, which is given by the project’s sponsor” (page 19/35).

We call attention to the fact that too much is left to the ability and goodwill of the “valuation experts” since the principle of compensating at replacement cost is not enacted in Turkey’s laws. We do not have from the RAP itself enough evidence to judge whether the total budget cost, as provided now, do already include the increment which may be granted by the valuation experts, because the RAP does not include a comparison with current market costs and replacement costs for typical assets. If the proposed budget does not include already the increment (and no proof is given that it does), then there is an inbuilt shortage of funds in the current budget.

Furthermore, should some PAPs be discontent with the valuation experts assessment (keep in mind also that the valuation experts are not independent, they are appointed by the State, which is the party interested in lowering the costs of compensation), and should PAPs try to go to court, the court will be unable to find any basis in current law to overrule the subjective assessment made by the “valuation experts”. This looks like a vicious circle. This is why it is important to place the criteria for valuation and costing on a legal basis and on objective reality (the market replacement cost, not the depreciated costs) rather than on the uncertain “authority of the valuation expert” (page 19/35) which he may or may not exercise properly. **This reasoning refers not to isolated few cases, but to an entire class of assets** to be valued, and must be cost-multiplied by the numbers of PAP families. Therefore, this is an important general problem of costing and budgeting.

Furthermore, the draft budget as proposed in the RAP is inadequate also because it fails to incorporate the investment costs necessary to supplement the compensation handed out and to finance the project activities aiming at

reconstructing , restoring and improving the livelihood and economic basis of those displaced. The need for **investment financing in the development of the resettlers, distinct and above compensation**, is emphasized in international resettlement documents and research but is not reflected in this draft budget. Many countries, including Brazil, Columbia, China, Canada, Norway, etc have long already made legal provisions for allocating a very small percentage (below 1%) of the revenue from dam-generated power to the area of displacement and resettlement, to help its redevelopment and to enable the **affected populations to share in the benefits** of the project to which they contribute their lands. No such provisions are made for Ilisu's draft RAP budget, which leaves the project below the international level of know-how and current good, sustainable practice. This set of issues deserves more elaboration and analysis than is possible in this review. We call attention to **the need to examine Ilisu's potential for resettlement with development** and for introducing such benefit-sharing in line with current advanced practice.

The costing of common properties condemned in the displacement zone, to be reconstructed in the new resettlement area is somehow puzzling. Table 12.13 (page 23/35) mentions an incomplete list of common community properties in which the usual public buildings are absent: such are community halls, offices for mayors, post offices, police stations, village sport terrains, common grazing lands etc., which are not even mentioned in the table, and not allocated a cost. The number of schools is just 10 in the table, which seems utterly insufficient for a total relocated population of over 54,000 people, in which school age children tend to represent a large part.

Regarding the cost budgeted for moving allowances, the RAP assumes that only 581 households will be resettled by the Government. It is not clear how this number was obtained and whether the families assumed to self-resettle will not need, or be entitled to, an allowance for their moving? The RAP should reasonably assume that if the support for post-displacement economic reconstruction will be increased, the number of people estimated to opt for self-

resettlement is likely to increase (The RAP may explore this issue a bit more carefully, by analyzing the causes for which in past instances some families preferred to self-resettle rather than count on Government assistance and compare the relative success of both strategies in terms of livelihood restoration).

### **Contingency Allocation**

The contingency percentage proposed for Ilisu's Resettlement Budget is 10% (see RAP, page 34/35). This is an unexpectedly **low percentage**, discrepant with international practice. For instance, the multilateral Development Banks routinely apply a 15% calculation for contingency costs. In the case of Ilisu Resettlement, however, even 15% appears to be on the low side, given the many unknown elements recognized earlier in the RAP about the extent of displacement and the likely additional claims related to vacant settlements. Given the many uncertainties in the complex planning of the resettlement's multisided operations, it may be reasonable to recognize up front the need for a 20% contingency to enable the project to address justified needs rather than to run into shortage of financing for resettlement. As it is well known, the contingency is not yet an actual expenditure. It only creates the needed "cushion" in case unanticipated, but justified, needs will surface during the project. Should those not surface, the increased contingency funds will be saved rather than spent, but their presence in the budget will preempt dysfunctional situations.

## **9) Conclusion and Recommendations**

The conclusion of the present review is that the updated resettlement action plan can be seen as an improvement over whatever was known and available previously regarding resettlement planning for Ilisu. But the document still has significant gaps and requires substantial improvement and completion, along the suggestions made in the body of this review. **In its present content, we find the RAP only partly, and insufficiently, consistent with internationally accepted policies and standards. It is not yet the expected tool for action that a RAP must by definition provide.**

However, important issues that need to be outlined and spelled out in the RAP are outside the ability of the consultant group, because these issues require negotiations between the export credit agencies and Turkey's relevant authorities. This set of issues also include the need to update Turkey's legislation governing such processes, bringing it in line with international standards and with Turkey's own intrinsic needs. Such a process may be favored by the current political context and internal country concerns, as Turkey is negotiating its access to the European Union. As it is well known, a condition for all countries seeking such access is to re-examine their laws and regulatory systems and to bring them in line with legislations and standards valid across the entire European Union. Certainly, **the kind of issues about land expropriation, protection of civil rights, adequate grievance systems and access to courts etc.**, that were signaled above, are part and parcel of the general adjustment process that takes place in many countries now involved in access preparation for the European Union. **Since these intrinsic issues are germane to the very success of Ilisu (even if access to EU were not at all on the country agenda), it is essential that they be addressed constructively for solving the tasks at hand in Ilisu itself .**

The professionalism of the Ilisu RAP must substantially be enhanced. It needs to reach state-of-the-art level in current international policies and experiences.

There is no doubt that Ilisu's huge undertaking on resettlement remains the most complex part of the entire Ilisu program, more difficult to achieve success than technical dam or power plant construction. It has major risks for all involved, primarily for those to be displaced and further impoverished beyond their current, often poor livelihood, but also high political, economic, ethical, and reputational risks for its owners and co-sponsors, national and international. These in-built risks are what must be addressed and overcome through a better planned and professionally and culturally comprehensive approach.

Last but not least, the question of evolving the vast process of resettlement and reconstruction **into a twin project on its own**, demands priority attention, because it holds the key to resolving much more effectively many of the problems signaled in the review and encountered on the ground in projects of this size and complexity. This may become one **major socio-economic and institutional innovation** in Turkey, which will facilitate the advance and the acceptance and execution of the Ilisu project, helping resolve much of the controversies that have swirled around its heavy social and environmental implications.

The above analysis put forward also a number of recommendations on key macro-issues, which at first may appear difficult to be carried out. **However, they are important and indispensable for the success of this large scale and very important project.** My decade long experience with such issues in comparable development projects, however, has convinced me that such improvements are feasible. Conceived, planned, and financially resourced adequately, resettlement can help improve rather than only just dismantle affected people's livelihoods, -that is can be made into a benefiting part, rather than a liability of, induced development.