



Mexico

Human rights at risk in La Parota Dam project

4 August 2007

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Cover image Peasant and indigenous people celebrate UN World Food Day on 15 October 2006 with a traditional Nahuatl ceremony in honour of the Papagayo River, where the La Parota hydroelectric dam is to be built.
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Back cover images Opponents to the project gather before the 6 May 2007 assembly in Cacahuatlán, Mexico.
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Mexico

Human rights at risk in La Parota Dam project

The project to build La Parota hydroelectric dam in Guerrero State, Mexico, is a massive undertaking. It has been projected that La Parota dam would provide sufficient electricity to meet eastern Mexico's peak-time electricity needs and so help reduce Mexico's expenditure on other sources of energy. However, it is estimated that the project would lead to the displacement of several thousand people, primarily poor Indigenous people and peasant farmers. Local human rights defenders have expressed serious concerns about the manner in which the government is preparing to implement the project. There have been consistent reports that the consultation process with affected communities has been marked by irregularities and a lack of accurate and accessible information.

Tensions around the project have led to violence in the affected communities. Since 2003, three people have been killed, three leaders of groups opposed to the dam have been temporarily detained, and several others have been injured in incidents reportedly related to the conflict arising from the dam project. Those campaigning against the building of the dam have also been threatened and intimidated.

Human rights at risk in La Parota Dam project highlights Amnesty International's human rights concerns about the preparation and implementation of the project. It focuses in particular on the rights of affected communities to full, accurate, accessible and impartial information; consultation and genuine participation without discrimination in decisions on development projects. It also highlights concerns about the displacement of local communities, which may amount to forced eviction. It ends with recommendations to the Mexican authorities on the steps which they should take to meet their obligation to respect, protect and fulfil the human rights of affected communities.

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Human Rights at Risk in La Parota Dam Project

1. Introduction

Amnesty International has prepared the present briefing in order to highlight human rights concerns associated with La Parota hydroelectric dam. It focuses in particular on the rights of affected communities to information, to participation in decisions on development projects which affect the exercise of their human rights, to consultation and to effective legal remedy. It also highlights concerns about the displacement of local communities, which may amount to forced eviction, and instances of violence and intimidation that have surrounded the project.

The project to build La Parota hydroelectric dam in Guerrero State, Mexico, is a massive undertaking.¹ The proposed dam would produce 1,527 gigawatt hours of electricity a year, flood an area of around 17,000 hectares of land and lead to the displacement of several thousand people.² Local human rights defenders and environmental activists have expressed serious concerns about the impact of the project and the manner in which the government is preparing for its implementation. Amnesty International has documented a series of threats to those who have campaigned against the building of the dam.³

The construction of La Parota hydroelectric dam will affect three municipalities in Guerrero State, a state with one of the highest levels of marginalization and some of the lowest indicators of human development in Mexico.⁴ The government claims that 2,981 people will be displaced. However, non-governmental organizations (NGOs) put the figure far higher at 25,000, with an indirect impact on the lives of 75,000 people. Twenty-one agrarian settlements inhabited by *campesino*⁵ and Indigenous communities may be directly affected by the construction of the dam.

A number of NGOs have reported on irregularities in the process of consultation and a lack of accessible and reliable information relating to the project.⁶ Tensions around the project have led to violence in the affected communities. Since 2003, three people have been killed, three leaders

¹ La Parota hydroelectric dam project comprises the construction of the dam wall, reservoirs (*embalses*), access roads and complementary works.

² CFE and UNAM. *Manifestación de Impacto Ambiental (MIA)*, February 2004. Available at: <http://www.semarnat.gob.mx/tramitesyservicios/Pages/consultatutramite.aspx>, p. 6-12. (Please insert reference number 12GE2004H0014)

³ See the following Urgent Actions issued by Amnesty International: UA 337/04, AMR 41/055/2004, and follows up AMR 41/048/2005 and AMR 41/008/2006; UA 103/07, AMR 41/019/2007.

⁴ According to UN Development Programme (UNDP), Guerrero is one of the principle regions of marginalization and has the lowest proportion of people living in their own house with tap water and connection to sanitation. See: UNDP, *Los Objetivos de Desarrollo del Milenio en México: informe de avance 2006*, Mexico City, p75.

⁵ The term *campesino* is used throughout this report to refer to rural small-scale farmers.

⁶ See for instance:

Tlachinollan. *Denied Justice: 'the Defence of the Right to Territory: the Case of the Hydroelectric Dam of La Parota'*. Tlapa, 2007

Espacio DESC. *Revista de la Cultura Anáhuac Ce-Acatl, Frente a la Parota: la Defensa del Lugar Donde Vivir*, No. 107, Mexico D.F.

of groups opposed to the dam have been temporarily detained, and several people have been injured in incidents reportedly related to the conflict arising from the dam project.

The project is presently on hold after the Council of Communal Land-owners and Communities Opposed to the La Parota dam (*Consejo de Ejidos y Comunidades Opositoras a la Presa la Parota*, CECOP) and human rights NGO *Centro de los Derechos Humanos de la Montaña "Tlachinollan"* successfully challenged the legal basis for the approval of the project.⁷ However, the Federal Commission of Electricity (CFE), the state company which is responsible for the project, and the authorities appear intent on overcoming legal obstacles and ensuring that the dam is constructed.

2. Context

Those living in the 21 agrarian settlements that may be affected by the construction of the La Parota Dam are *campesino* and Indigenous communities. These agrarian settlements include 17 *ejidos* (communal farms)⁸, three *bienes comunales* (communal lands)⁹ and one private property.¹⁰

Following the Mexican Revolution, the *ejidos* and the *bienes comunales*, both systems of rural communal land tenure, were restored in an effort to distribute lands among the poor and to return ancestral lands to dispossessed Indigenous and *campesino* communities. In order to ensure that these communities were not dispossessed in the future, Article 27 of the 1917 Mexican Constitution established that *ejidos* and *bienes comunales* were inalienable, inviolable and could not be seized to pay a debt. However, these protections were removed as part of constitutional reforms in 1992, since when it has been possible to divide *ejidos* and *bienes comunales* into individually owned parcels of land and trade them.¹¹

It has been projected that La Parota dam would provide sufficient electricity to meet eastern Mexico's peak-time electricity needs and so help reduce Mexico's expenditure on other sources of energy. A 162 m high dam wall is planned to redirect the water of the Papagayo River, the

⁷ *Espacio DESC*, a coalition of international and Mexican NGOs working on economic, social and cultural rights, has also supported the activism of community members opposed to the construction of the La Parota Dam.

⁸ An *Ejido* is a legally constituted entity. It is communal work land which the *Ejidatario* has the right to use and possess. The *ejidos* system was re-established in the 1917 Mexican Constitution to distribute lands among the poor. For more information see: Mexican Agrarian Law, 26 February 1992, <http://info4.juridicas.unam.mx/ijure/fed/12/default.htm?s=>; Gilbert, Joseph et al, *The Mexico Reader: 'The restoration of the Ejido, Luis Cabrera'*, Duke University Press, Durham and London, 2002, pp. 344-350.

⁹ *Bienes comunales* are traditional communal lands restored after the Mexican Revolution to the original owners, *campesino* and Indigenous communities, on the basis of customary use. A *comunero* is a person who has the right to use and possess part of a *bien comun*.

¹⁰ There are three more territories that may be affected, but these are inhabited.

¹¹ After the 1992 constitutional reform the Programme for the Certification of *Ejido* Rights PROCEDURE was created. This aims to give legal security on land ownership by issuing certificates for lands divided up and/or certificates establishing the rights of common use of lands.

main source of water, transport and livelihoods for all the surrounding communities. Investment in the project is expected to exceed US \$850 million.¹²

The report on the environmental impact of the project (*Manifiesto de Impacto Ambiental*, MIA), produced by the UNAM University Environmental Programme and approved in 2004 by the Minister for the Environment and Natural Resources, acknowledges the high level of marginalization of almost all the affected communities.¹³ Levels of educational attainment and literacy in these communities are very low, and “the housing conditions are gravely inadequate, lacking water supply, sanitation and electricity, and many dwellings having earth floors. All of these inadequacies, combined with low income levels, cause a High or Very High... degree of marginalization.”¹⁴

Affected communities recall bad experiences with previous projects undertaken by the CFE and other state institutions. Some of these communities were displaced in the early 1960s when La Venta dam was built in Guerrero. They only received compensation in 2005 and 2006, some 40 years later. In 1989 the Mexico-Acapulco motorway was built. The environmental impact assessment for La Parota dam states: “the construction of the motorway started before reaching an agreement with the Transport and Communications Ministry. When the demolitions began and stones started to come down, the people couldn't do anything about it but settle further away, which caused deep resentment against State institutions.”¹⁵

3. Human rights concerns in relation to the process of consultation

3.1 Right to information

Although the government started to assess the feasibility of building a dam in Guerrero State in 1976, the project did not start until 2003. According to some affected communities, it was only when heavy machinery entered the territories and tunnels started to be excavated that local *ejidatarios* and communal farmers realized La Parota hydroelectric dam was going to be built on their lands. Those opposed to the project began to organize themselves and founded CECOP. Since then, CECOP and other NGOs have argued that community members affected by the project have not been properly informed about its potential impact, including, for example, the resulting displacement and relocation or reparations and compensation.

In 2004, the MIA report on the environmental impact of the project acknowledged that “[t]he field research done until then highlighted the lack of accurate information about the level and the type of impact and, although some settlements have received some information, the

¹² CFE and Programa Universitario de Medio ambiente, UNAM. *Manifestación de Impacto Ambiental (MIA)*, February 2004. Available at:

<http://www.semarnat.gob.mx/tramitesyservicios/Pages/consultatutramite.aspx>

¹³ This report has been highly criticized by the opponent and the international forum ‘Latin-American Water Tribunal’ that in March 2006 analyzed La Parota hydroelectric dam case in Mexico DF. More information in: <http://www.tragua.com/tla2.htm> .

¹⁴ CFE and UNAM. *Manifestación de Impacto Ambiental (MIA)*, February 2004. Available at:

<http://www.semarnat.gob.mx/tramitesyservicios/Pages/consultatutramite.aspx>, p. 905.

¹⁵ CFE and UNAM. *Manifestación de Impacto Ambiental (MIA)*, February 2004. Available at:

<http://www.semarnat.gob.mx/tramitesyservicios/Pages/consultatutramite.aspx>, p. 918 and pp. 931-941.

information given is technical and does not answer their questions. During their visits to the communities, the most frequently asked questions were: Where are they going to be relocated? How much are they going to be paid? Where are they going to find resources such as water, wood, gravel, sand? All of these doubts have created a high level of uncertainty, which, added to the unfortunate experiences of expropriation suffered in the region, have increased the mistrust in the CFE.”¹⁶

The estimates given by CECOP and other NGOs of the impact on local populations and those provided by the CFE vary greatly. This would appear to arise from the fact that the CFE figure takes into account only those people living in the areas that will be flooded and excludes the wider impact of the project. For instance, NGOs allege that while CFE information states that settlements in the communities of Garrapatas and La Palma will not be flooded, the CFE failed to mention that after the flooding these settlements will be surrounded by water and turned into small islands. As a result, the inhabitants could be forced to leave their homes with no provision of alternative accommodation or adequate compensation. Another example is the information provided on the community of Cacahuatpec. The CFE has stated that 1,594 hectares in Cacahuatpec will be affected. However, this amount only refers to the three communities that are to be flooded (Garrapatas, Arroyo Verde and San José de Cacahuatpec) and does not consider the other 44 settlements that could be affected by increased aridity and salinity of their lands as a result of the creation of the dam.

In a communication to Amnesty International on 6 September 2004, the CFE stated that an information campaign on the dam was initiated in July 2003 and since then more than 100 meetings had been held in affected communities.¹⁷ In another communication on 19 October 2004, the CFE stated that the *Universidad Autónoma de Guerrero* will develop the Strategic Plan for Sustainable Development (*Plan Estratégico para el Desarrollo Sustentable*), which is part of the Integral Development Plan La Parota (*Plan de Desarrollo Integral del P.H. La Parota*). The plan would ostensibly aim to identify mitigation measures of the dam impact on affected communities, with the participation and consultation of affected people. However, information received by Amnesty International indicates that communities have not been consulted on this plan. The Plan is still unknown.

3.2 Right to effective legal remedy

The CFE and the Mexican authorities claim that La Parota project has been thoroughly consulted with local communities and that all the consultation processes have been satisfactorily carried out in accordance with the Agrarian Law. However, this process of consultation has been described by CECOP and local organizations as “based on: manipulation... social rupture;

¹⁶ CFE and UNAM. *Manifestación de Impacto Ambiental (MIA)*, February 2004. Available at: <http://www.semarnat.gob.mx/tramitesyservicios/Pages/consultatutramite.aspx>, p. 917.

¹⁷ In another communication to AI dated on 19 October 2004, the CFE stated that in May 2002 an informative campaign was started and that 114 meetings had been carried out in affected communities.

deceitful offers; lack of information and consultation; violations to the Agrarian Law and the rule of law; disproportionate use of force; criminalization of opponents; and death threats.”¹⁸

Opponents to the project filed complaints in a local agrarian court against the legality of the four assemblies carried out in the *bien communal* of Cacahuatepec and the three *ejidos* of La Palma, Los Huajes and Dos Arroyos. These territories make up more than 60 per cent of the total territories that will be affected by La Parota dam project. Arguments presented to the judge included the fact that:

- opponents to the project were prevented from participating in the assemblies by public security forces, and were unable to vote;
- the public notices convening the assemblies were not published in all the affected communities and in some cases were published without enough advance warning, as required by law;
- the quorum of assembly participants required by Agrarian Law for a vote to be valid was not verified, the 75 per cent of *ejidatarios* required to vote on this type of decision did not participate in the assemblies;
- the assemblies were not held in the areas to be affected but in other municipalities without justification;
- people from communities that will not be affected by the project participated in the vote; and, in some cases signatures of dead people or people who did not come to the assemblies were forged;
- some people voted by proxy rather than in person as required by law.¹⁹

The 41st District Agrarian Court (*Tribunal Unitario Agrario Distrito 41*, TUA), which rules on land disputes, accepted these allegations and evidence presented by the opponents of the dam and declared null and void the assemblies held in Cacahuatepec, Dos Arroyos and Las Palmas and “any other act, agreement or document approved or that is derived from the assembly”.²⁰ The tribunal ruling on the assembly held in Los Huajes is still pending.²¹

¹⁸ *Tlachinollan. La Parota case: Defense on the land is defense of life*, available at <http://www.tlachinollan.org/english/cases/parota.htm>.

¹⁹ *Tlachinollan. Denied Justice: the Defence of the Right to Territory: the Case of the Hydroelectric Dam of La Parota*. Tlapa, 2007, pp. 146-147.

²⁰ See the following rulings of the 41st District Agrarian Court located in Acapulco, Guerrero:

File (*expediente*) 447/2005 on the legality of the community vote carried out on 23 August 2005 in the indigenous communal lands of Cacahuatepec (*bienes comunales de Cacahuatepec*), legal ruling of 30 March 2007;

File (*expediente*) 73/2006 on the legality of the community vote carried out on 16 December 2005 in the *ejido* agrarian settlement of Dos Arroyos; legal ruling of 17 May 2007;

File (*expediente*) 74/2006 on the legality of the community vote carried out on 27 December 2005 in the *ejido* agrarian settlement of La Palma; final legal ruling 1 June 2007.

²¹ Tlachinollan. Press Release: Revés Legal al Proyecto La Parota, Tlapa, 21 March 2007.

File (*expediente*) 72/2006 on the legality of community vote carried out on 27 December 2005 in the *ejido* agrarian settlement of Los Huajes.

On 6 and 12 September 2006 the Third District Court in Acapulco granted three injunctions (*amparos*) calling on the Agrarian Court to issue precautionary measures to prevent any work by the CFE in Dos Arroyos, Los Haujes and Las Palmas.²² Regarding the *bien comunal* of Cacahuatpec, on 16 March 2007 the Sixth District Court ruled against the injunction lodged by the CFE against precautionary measures granted in favour of the communities of Cacahuatpec on 17 October 2006. According to these rulings, the CFE, or any other authority, cannot legally carry out any work related to the construction of the dam in these four agrarian settlements until irregularities have been addressed and a genuine consultation process has been carried out.

3.3 Right to genuine participation

Domestic laws remain inadequate to ensure protection from forced evictions. The Mexican Agrarian Law, which regulates *ejido* assemblies, does not provide clear standards for effective consultation with affected communities. Firstly, only those who are registered on official land rights lists (*padrones*) have the right to vote in community assemblies. This excludes a large proportion of families who have lived and worked on these lands for generations but do not have legal rights²³. Amnesty International is unaware of any efforts by the authorities to clarify or register all the men and women inhabitants of the communities and involve them in the consultation, assemblies and decisions.

Secondly, most of the women affected by La Parota dam project are excluded from the decision-making process; traditionally, women have not had agrarian rights over the land and a very low percentage of women are registered in *padrones*. The 2007 national statistics report on *ejidos* and *bienes comunales* states that of 151,922 people with acknowledged legal rights over a plot of land, in communal lands in Guerrero, only 33,857 are women.²⁴ This contravenes Mexico's obligations under the International Convention on the Elimination of All Forms of Discrimination against Women, Article 14 obliges states to "take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right to participate in the elaboration and implementation of development planning at all levels"(para. 2.a).

Some of the affected communities have decided to organize their own process of consultation according to their customs. On 6 May 2007, local authorities in Cacahuatpec tried to carry out another assembly. The authorities again failed to publicize the meeting to all members of community. They did not provide information on the nature of the project or on the implications

²² See the followings files (*expedients*) of the Third District Court (*Tribunal Tercero de Distrito*) located in Acapulco: 637/2006 on Dos Arroyos and 821/2006 on La Palma, both decided on 12 September 2006; and, 638/2006 on Los Huajes, decided on 6 September 2006.

²³ More information in: *Tlachinollan. Denied Justice: the Defence of the Right to Territory: the Case of the Hydroelectric Dam of La Parota*. Tlapa, 2007, p 150

²⁴ INEGI. Núcleos Agrarios Tabulados Básicos por Municipio: Concentrado Nacional, México D.F., 2007, p. 37

of the vote.²⁵ The official announcement set out the agenda as a vote on the acceptance of the project, on authorization for preliminary expropriation of lands and on their change of use.²⁶ The assembly was called off and opponents to the project called on members of the community to participate in an open meeting.

On 19 June 2007 the Indigenous community of Cacahuatpec issued a declaration calling for the restoration of peace within the community and for another assembly to be convened on 12 August 2007 to give and receive information on La Parota dam project. The CFE was publicly invited to participate in the assembly. However, the CFE has claimed that no formal invitation was received.²⁷ The assembly of 12 August 2007 is expected to be held in accordance with traditional usage and custom. This means that, in contrast with previous votes, every person affected in the community will be included, and not only those registered as having official land rights (registered in *padrones*).

3.4 International human rights law related to development induced displacement

As a state party to the International Covenant on Economic, Social and Cultural Rights (ICESCR) and other international and regional human rights treaties, Mexico has a duty to refrain and protect the population from forced evictions. According to the UN Committee on Economic, Social and Cultural Rights (CESCR), forced evictions are “the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.”²⁸ The UN Commission on Human Rights has found that forced evictions are a gross violation of a range of human rights, including the right to adequate housing.²⁹ Essential procedural protections to avoid forced evictions include “an opportunity for genuine consultation with those affected; ... information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected; ... provision of legal remedies; and provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.”³⁰

Other human rights treaties, notably the International Covenant on Civil and Political Rights (ICCPR) and the American Convention on Human Rights (ACHR), contain protections of

²⁵ For detailed information on this assembly see: Boletín de Prensa de la Misión Civil de Observación a la Parota, 6 May 2007, Available at:

<http://www.redtdt.org.mx/home/noticias/boletines/2006/diciembre/bol000025Anexo-I.doc>.

²⁶ Comisario de Bienes Comunales de Cacahuatpec. Primera Convocatoria, Municipio de Acapulco de Juarez, Guerrero, 4 de abril de 2007.

²⁷ *La Jornada*, “CFE: Los Comuneros No Nos Han Invitado a La Asamblea de Agosto”, 5 July 2007. Available at:

<http://www.lajornadaguerrero.com.mx/2007/07/05/index.php?section=sociedad&article=006n1soc>.

²⁸ *The right to adequate housing (Art.11.1): forced evictions*: 20/05/97, CESCR General Comment 7. (General Comments), contained in UN Doc. E/1998/22, annex IV, (from here, *General Comment no. 7*) para. 3.

²⁹ UN Commission on Human Rights, resolution 1993/77.

³⁰ CESCR, General Comment 7, para 15.

“freedom to seek, receive and impart information”³¹ and to “take part in the conduct of public affairs”.³² The latter has been interpreted broadly: “the conduct of public affairs, referred to in paragraph (a), is a broad concept ... It covers all aspects of public administration, and the formulation and implementation of policy at international, national, regional and local levels.”³³

As a State party to International Labour Organisation Indigenous and Tribal Peoples Convention (ILO Convention No. 169), Mexico is generally required to refrain from removing the peoples concerned from the lands which they occupy. As Article 16(2) of the Convention states:

“Where the relocation of these peoples is considered necessary as an exceptional measure, such relocation shall take place only with their free and informed consent. Where their consent cannot be obtained, such relocation shall take place only following appropriate procedures established by national laws and regulations, including public inquiries where appropriate, which provide the opportunity for effective representation of the peoples concerned.”

The consultation with the peoples affected should be undertaken in good faith, using culturally appropriate procedures, and “with the objective of achieving agreement or consent to the proposed measures.”³⁴ Interpreting this standard, ILO Committees have stated that “The concept of consulting the Indigenous communities that could be affected by the [development project] includes establishing a **genuine dialogue** between both parties characterized by communication and **understanding**, mutual respect, **good faith** and the sincere wish to reach a common accord.”³⁵ The Inter-American Court of Human Rights has interpreted the protection of property³⁶ in the ACHR to incorporate collective rights over land in several cases involving Indigenous peoples, and has endorsed the procedural protections outlined in ILO Convention No. 169.³⁷

In his most recent annual report published in February 2007, the UN Special Rapporteur on the right to adequate housing presented the UN Human Rights Council with the **Basic principles and guidelines on development-based evictions and displacement**. These guidelines, which are not themselves legally binding, are based on existing international human rights law and standards and present a useful guide on standards related to evictions. They include:

³¹ ICCPR, Article 19(2); and article 13(1) of the ACHR.

³² ICCPR, Article 25(a) and Article 21(1)(a) of the ACHR.

³³ Human Rights Committee: General Comment 25. The right to participate in public affairs, voting rights and the right of equal access to public service.(Article 25) (UN Doc. CCPR/C/21/Rev.1/Add.7).

³⁴ Article 6(2), ILO Convention No. 169.

³⁵ *Report of the Committee established to examine the representation alleging non-observance by Colombia of the Indigenous and Tribal Peoples Convention, 1989 (No. 169)*, ILO Doc. GB.282/14/2 (21 November 2001) and that regarding Ecuador, ILO Doc. GB.282/14/2 (14 November 2001), para 38. See also James Anaya, “Indigenous Peoples Participatory Rights”, *Arizona Journal of International & Comparative Law*, Vol. 22, No. 1.

³⁶ Article 21, ACHR.

³⁷ See for example, *Case of Mayagna (Sumo) Awas tingni Community v Nicaragua*, Inter-Am.Ct.H.R. (ser. C) No. 79 (2001), Judgement of 31 August 2001.

“Comprehensive and holistic **impact assessments** should be carried out prior to the initiation of any project that could result in development-based eviction and displacement, with a view to securing fully the human rights of all potentially affected persons, groups and communities, including their protection against forced evictions. “Eviction-impact” assessment should also include exploration of alternatives and strategies for minimizing harm.” (para. 32)

“All potentially affected groups and persons, including women, indigenous peoples and persons with disabilities, as well as others working on behalf of the affected, have **the right to relevant information, full consultation and participation** throughout the entire process, and to propose alternatives that authorities should duly consider. In the event that agreement cannot be reached on a proposed alternative among concerned parties, an independent body having constitutional authority, such as a court of law, tribunal or ombudsperson should mediate, arbitrate or adjudicate as appropriate.” (para. 38)

“During planning processes, opportunities for dialogue and consultation must be extended effectively to **the full spectrum of affected persons**, including women and vulnerable and marginalized groups, and, when necessary, through the adoption of special measures or procedures.” (para. 39)

In considering Mexico’s compliance with its obligations under the ICESCR, the Committee on Economic, Social and Cultural Rights (CESCR) has expressed concern:

“about reports that members of indigenous and local communities opposing the construction of La Parota hydroelectric dam or other projects under the Plan Puebla-Panama are not properly consulted and are sometimes forcefully prevented from participating in local assemblies concerning the implementation of these projects. It is also concerned that the construction of La Parota dam would cause the flooding of 17,000 hectares of land inhabited or cultivated by indigenous and local farming communities, that it would lead to environmental depletion and reportedly displace 25,000 people. It would also, according to the Latin American Water Tribunal, violate the communal land rights of the affected communities, as well as their economic, social and cultural rights.”³⁸

The CESCR urged Mexico:

“to ensure that the indigenous and local communities affected by La Parota hydroelectric dam project or other large-scale projects on the lands and territories which they own or traditionally occupy or use are duly consulted, and that their prior informed consent is sought, in any decision-making processes related to these projects affecting their rights and interests under the Covenant, in line with ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries. The Committee also urges the State party to recognize the rights of ownership and possession of indigenous communities to the lands traditionally occupied by them, to ensure that adequate compensation and/or alternative accommodation and land for cultivation are

³⁸ E/C.12/MEX/CO/4, paragraph 10.

provided to the indigenous communities and local farmers affected by the construction of La Parota dam.”³⁹

Special Procedures of the UN Commission on Human Rights (now the UN Human Rights Council) have also expressed concern at the human rights impact of La Parota dam, and the lack of effective procedural protections against forced evictions. In his 2007 annual report the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People stated that:

“also victims of abuse and violations in Mexico are indigenous peasant farmers in the State of Guerrero who oppose La Parota dam project in their territory, which the State insists on carrying out without the population’s free consent. A court has instructed the Government to desist from the construction of infrastructure works in this area until the conflict has been resolved through negotiation, but the authorities have ignored the injunction and are going ahead with road building as part of the dam project, to which many villagers are opposed.”⁴⁰

The Special Rapporteur recommended that Mexico “scrupulously respect the rights and guarantees of indigenous populations, as part of their international commitments, and that these people’s legitimate demands in respect of their legitimate rights should not be criminalized.”⁴¹

In his report of his mission to Mexico in 2002, the Special Rapporteur on the right to adequate housing recommended “the establishment of a task force to examine eviction issues, involving the National Commission on Housing, the National Human Rights Commission, legislators and civil society groups.”⁴² He also noted the need for Mexico to review its laws and policies to ensure consistency with the prohibition of and protection from forced evictions. In response, the Mexican government reported in 2005 that, the Sub-Commission on Economic, Social and Cultural Rights of the Commission on Government Policy with Regard to Human Rights, had established a task force to deal with forced evictions and that its first priority was to consider the scope of the prohibition of forced evictions.⁴³

4. Violence and intimidation surrounding La Parota project

La Parota dam project has created divisions in local communities, with some people accepting the construction of the dam and the expropriation of their land and others strongly opposing it. The lack of information and the way in which the authorities have promoted and implemented the project to date, have contributed to this division. In some communities this has led to violence between the authorities and the opponents to the project.

³⁹ E/C.12/MEX/CO/4, para. 28.

⁴⁰ A/HRC/4/32, para. 55.

⁴¹ A/HRC/4/32, para. 57.

⁴² Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination, Mr. Miloon Kothari, Mission to Mexico, UN Doc. E/CN.4/2003/5/Add.3, 27 March 2003.

⁴³ Mexico’s fourth periodic report under ICESCR, 25 Feb 2005, UN Doc. E/C.12/4/Add.16, paras 1155 and 1156.

Since 2003, three people have been killed reportedly as a result of the social division caused by the construction of the dam. For instance, on 29 January 2006, Eduardo Maya Manrique, an active member of CECOP, was murdered outside his home, in the town of Dos Arroyos, municipality of Acapulco. At 5 am that day, three men entered his house and dragged him out. One of them hit him on the head with a rock, knocking him to the ground. While holding him down, they threw more rocks at him, shouting insults at him about his opposition to the dam. A neighbour saw what was happening and tried to help him, but he was beaten as well. Eduardo Maya died in hospital later that day. Despite the apparent links to the social division caused by La Parota project, the authorities have claimed that Eduardo Maya was killed in a drunken argument and not in a dispute over La Parota dam. No one has been detained.

Opponents to La Parota dam project and other human rights activists have also reported death threats and intimidation to Amnesty International.

On 2 December 2004, Marco Antonio Suástegui Muñoz, a CECOP spokesperson, received a phone call from a man who said he knew where Marco Antonio Suástegui Muñoz and his sisters lived and the route they travelled to work. The man insulted him and warned him: "calm down or we will finish you off (*bájale los huevos porque te vamos a dar para abajo*)."⁴⁴ On 9 December, as he was boarding a bus after he had been to court in connection with his activities opposing the building of the dam, he noticed that he was being followed by an unmarked car with three armed men inside. When he got off the bus, the driver of the car reportedly tried to run him over. When Marco Antonio Suástegui Muñoz got home, he saw the car again, parked outside. It drove off shortly afterwards.

On 27 July 2004, Marco Antonio Suástegui Muñoz and Francisco Valeriano were arrested and accused of "illegally confining" a CFE engineer and construction workers for five hours in San Isidro Gallinero settlement, of retaining their vehicles and of forcing the engineer to sign a document in which he committed himself to remove the machinery. Both men denied the charges and alleged that what had actually happened was a five-hour meeting with the engineer and workers during which the engineer voluntarily agreed to withdraw machinery from the area and after which the vehicles had been left behind to give a clear signal that the agreement would be implemented. In August 2004 Marco Antonio Suástegui Muñoz and Francisco Valeriano were released on bail and the case against them was subsequently dropped.

On 21 April 2007, Rodolfo Chávez Galindo, a leading member of CECOP and human rights defender, was arbitrarily arrested by the police, who used a warrant that had been cancelled in 2004 to detain him. Local human rights organizations secured his release later that day, highlighting the fact that his illegal detention may have been politically motivated.⁴⁵ In a recent response to Amnesty International, the CFE stated that it did not have any role in Rodolfo Chávez's arrest as it is a police and judicial issue. However, in the same letter, the CFE was highly critical of Rodolfo Chávez's campaigning against La Parota. Amnesty International is not aware of any progress in official investigations into the case.

⁴⁴ Urgent Action 337/04 (AI Index: AMR 41/055/2004).

⁴⁵ See the following Urgent Actions issued by Amnesty International: UA 337/04, (AI Index: AMR 41/055/2004) and follow-ups (AI Index: AMR 41/048/2005) and (AI Index: AMR 41/008/2006); and Urgent Action 103/07, (AI Index: AMR 41/019/2007).

5. Conclusions and recommendations

Amnesty International is concerned that human rights are at risk in the preparation and implementation of La Parota hydroelectric dam. In particular, the lack of full, accurate, accessible and impartial information; the lack of opportunities for genuine participation in developing plans for the dam and for mitigating the social impact of the dam; the exclusion of women and other community members from the decision-making process; and the risk that impending displacements may amount to mass forced evictions. All this raises numerous concerns which Mexico should address without delay.

Human rights organizations and opponents to the project have succeeded in proving before a domestic agrarian court that previous consultation votes have been carried out in an irregular manner and, therefore, these tribunals have ordered that no work be carried out in relation to the development of La Parota dam project until these concerns are addressed. Amnesty International is extremely concerned at reports that the CFE and state authorities have flouted the decisions of competent tribunals.

Amnesty International is also concerned that the manner in which the process of consultation has been carried out has contributed to a tense and, sometimes, violent atmosphere in affected communities, in which community leaders and human rights defenders have faced violence, threats and intimidation.

These concerns should be addressed before further consultations take place and before work on the dam recommences in order to mitigate the risk of further violence and other risks to the human rights of those affected by the dam. Amnesty International recognizes the State obligation to secure public order, but also acknowledges the rights of those affected, civil society and political opponents to freedom of expression, assembly and association, and to defend their own and others' human rights, free from threats and intimidation. Legitimate dissent should not be criminalised where no recognisable criminal offence has been committed.

Halting construction of La Parota dam and surrounding infrastructure at this stage, in accordance with the orders of competent tribunals would permit the Mexican authorities to address the many human rights concerns associated with the project. These manifestly include the need to improve the processes of consultation on development projects, take steps including through legislation to ensure effective safeguard against forced evictions and adopt effective protection measures against other human rights abuses in this and similar projects.

Amnesty International **neither opposes nor supports** the construction of La Parota dam. Our concerns are that the State and other authorities respect, protect and fulfil human rights, including during the realisation of major development projects.

Recommendations

Amnesty International recommends to the Mexican government, the CFE, federal, state and local authorities:

- 1. Comply with the decisions** in the Agrarian Tribunals to halt preparatory work on La Parota dam and supporting infrastructure, until the human rights concerns of those affected have been addressed.

2. Take concrete measures to **reduce the climate of tension and violence** in affected communities, and ensure a full, prompt and impartial investigation into the killings, death threats and intimidation reportedly related to La Parota project.

3. Ensure that **human rights defenders and community activists** can carry out their legitimate activities without fear or intimidation, and that public security forces are not used to create tension and prevent peoples' participation.

4. Ensure that all of those whose human rights will be affected by La Parota dam are afforded the opportunity to **genuinely participate** in decisions regarding the dam which affect the exercise of their human rights. This should include:

- Ensuring the dissemination of **accurate and accessible information** on the impact of the dam – including the results of the MIA – in a form which is culturally appropriate and in a manner which people can understand;
- All of those whose human rights will be affected by the proposed dam (not only those whose homes or land will actually be flooded, but also those whose homes will be isolated, and those whose livelihoods depend on the downstream River Papagayo) should have the **opportunity to genuinely participate in the formulation of plans for the dam, to propose alternatives, and to have those alternatives duly considered;**
- Ensure that **the opportunity for such participation extends to all of those whose human rights will actually be affected**, not only “*padrones*” but all of those who own or occupy housing or land in the dam affected areas and those whose livelihood will be affected.
- The process of **participation should extend to women** as well as men.
- The process of participation should be **culturally appropriate** and comply with all applicable human rights laws and standards.

5. Ensure that the rights of **Indigenous peoples** over lands, territories and resources are respected and protected in the process of developing and implementing the dam project, in accordance with ILO Convention No. 169 and all other relevant human rights laws and standards.

6. **Implement the recommendations** of the UN Committee on Economic, Social and Cultural Rights, and the UN Human Rights Council's Special Rapporteurs on Indigenous People and the Right to Adequate Housing related to La Parota.

AI believes that any **investor considering investing** in the La Parota Dam project should ensure that the project has not resulted in and does not result in violations of human rights. Specifically, investors should ensure that all those whose human rights are affected by the dam have had the opportunity to genuinely participate in decisions regarding the dam and have not been subjected to coercion of any sort.