

**THE CHIXOY DAM AND THE MASSACRES AT RIO
NEGRO, AGUA FRIA AND LOS ENCUENTROS**
A Report on Multilateral Financial Institution Accountability

Submitted to the United Nations High Commissioner for Human Rights

**The Working Group on Multilateral Institution Accountability
Graduate Policy Workshop: Human Rights and Non-State Actors
Woodrow Wilson School
Princeton University**

Executive Summary

Guatemala's Pueblo Viejo-Quixal dam, more commonly referred to as the Chixoy dam, was built during the late 1970s and early 1980s, at the height of the country's violent civil war. Funded largely by the World Bank and Inter-American Development Bank (IDB), the dam is associated with many serious allegations of human rights abuses, including:

- 1) the displacement of several communities without proper warning or compensation; and
- 2) massacres suffered by the Rio Negro community, in their home community of Rio Negro, and in Xococ, Agua Fria and Los Encuentros.

The UN-sponsored Commission for Historical Clarification specifically cited the Rio Negro massacre as a case study to illustrate its conclusion that genocide was perpetrated against Guatemala's indigenous Mayan population during the civil war.

World Bank Accountability

This report reviews conflicting claims of World Bank accountability for human rights violations that occurred in relation to the Chixoy dam project. Though allegations of responsibility for such violations extend to many other actors involved with the dam (i.e. the Guatemalan government and military, as well as the Guatemalan National Institute of Electrification, INDE), it is the issue of multilateral institution accountability which remains the most neglected.

Several options exist for addressing this issue. However, we chose a UN-led solution, due to its direct organizational relationship with the World Bank as well as its broad, international mandate. Although the report focuses on the World Bank, IDB responsibility also remains an area of similar serious concern.

Although the abuses in question occurred nearly twenty years ago, the issue of World Bank accountability for project-related human rights abuses remains extremely relevant to this day. Firstly, the impact of the violations is still be felt and lived. That is to say, that the surviving victims are still alive, suffering the results of the massacres and violations.

Secondly, the role that the World Bank played in Guatemala was not an isolated case. For example, the recently approved Chad/Cameroon pipeline, similar to the Chixoy Dam, will be constructed in a country, namely Chad, that is engaged in civil conflict. In 1997, at least 80 unarmed civilians were killed in the Doba oil field where the pipeline will be built, and in 1998, another 100 were killed, both times by the Chadian government. Critics of the pipeline also worry that its construction, which will necessarily result in the displacement of members of the Baka and Bakola indigenous groups in Cameroon, will not allow for adequate compensation since the Cameroonian government does not officially recognize its indigenous populations. Adding to these risks is the fact that the government of Cameroon has been ranked the most corrupt in the world by Transparency International.¹ Despite these concerns, the World Bank still approved its \$92.9 million dollar loan in June, 2000,² arguing that the government of Chad is making sufficient improvements.

The issue of World Bank accountability is also one of great importance to the United Nations itself. When a specialized agency of the UN faces accusations of complicity with genocide and crimes against humanity, it would seem only proper for the UN to undertake a rigorous review of problems arising in connection with the agency's activities.

Structure of the Report

The report begins by summarizing the political context and relevant facts regarding the Rio Negro massacres. Key points from this section include:

- ***The Chixoy Dam and the Rio Negro Community.*** Regarding the relationship between the Chixoy dam and the Rio Negro community, two pieces of evidence stand out: (1) the timing of the massacres, and (2) the stark change in well-being after the community's displacement.

Human rights organizations argue that the Rio Negro massacres were a direct result of the community's resistance to their expected displacement. The government identified the Rio Negro community as part of the guerilla resistance, despite their denials, because of their resistance to relocation. Thus it has been argued that the dam, and the community's refusal to be relocated, provoked genocidal violence.

¹ Bank Information Center website: <http://www.bicusa.org/>

² World Bank Website: <http://www.worldbank.org/afr/ccproj/faq.htm#3>

Furthermore, the massacres at Agua Fria, Los Encuentros and Xococ occurred because of the presence of Rio Negro villagers displaced in those communities.

Today, members of the Rio Negro community live in extreme poverty in comparison to neighboring communities. However, before dam construction, the community enjoyed, relatively speaking, a high standard of living.

- **Genocide.** According to the UN-sponsored Commission for Historical Clarification, of the 24 Mayan ethnic groups in Guatemala, 5 groups, in 4 particular regions, faced genocide during the country's civil war. One of these targeted groups was the Maya-Achi living in the area surrounding Rabinal in Baja Verapaz, which includes the Rio Negro community.³
- **Lack of Accountability.** While the Guatemalan government and military continue to enjoy a significant level of immunity, the World Bank (and IDB) possesses an even greater level of freedom from accountability. Although the World Bank conducted its own internal investigation of this issue, no formal outside investigation has occurred.

Meanwhile, the Bank continues to provide funding to extremely precarious borrowers throughout the world and even in Guatemala. For example is its financial support for the National Fund for Peace (FONAPAZ), a Guatemalan government agency established in 1996 for resettlement purposes, and the Social Investment Fund (FIS) which the World Bank set up in 1993 to help alleviate poverty.

However, statements by the directors of these two groups have suggested that funding will also be used to build "Peace and Development Committees" which have ostensibly been re-forming ex-paramilitary Civil Defense Patrols which committed gross human rights abuses during the civil conflict.⁴ As well, a recent investigation found that FONAPAZ spent \$4.4 million in remodeling a recreation center, Campo de Marte.⁵

The report continues by summarizing the positions of various actors with respect to legal and general lines of reasoning regarding accountability for the human rights violations. The five main issues raised are:

³ The other three regions and the affiliated ethnic groups are: Maya-Q'anjob'al and Maya-Chuj, in Barillas, Nentón and San Mateo Ixtatán in North Huehuetenango; Maya-Ixil, in Nebaj, Cotzal and Chajul, Quiché; and Maya-K'iche' in Joyabaj, Zacualpa and Chiché, Quiché.

⁴ Schirmer, Jennifer, *The Guatemalan Military Project: A Violence Called Democracy*, University of Pennsylvania Press (Philadelphia, Pa.) 1998, p.101.

⁵ United Nations Foundation: UNWire, www.unfoundation.org/unwire/archives/UNWIRE9912-8.cfm#3.

- ***Knowledge of the abuses.*** While the World Bank argues that it had no knowledge of the massacres occurring at the time of dam construction, other evidence suggests that World Bank officials either knew or had reason to know about the violence.
- ***Complicity, negligence, and general responsibility.*** No group asserts that the World Bank and IDB intentionally aided the Guatemalan military in committing genocide. However, much evidence suggests that the Bank may have irresponsibly supervised the loan for the dam, failing to adequately oversee the project to ensure that human rights violations were not occurring. Such acts could constitute negligence. Complicity with genocide by the military forces of Guatemala can only be explored with further investigation into what the World Bank and IDB knew or had reason to know.
- ***The World Bank's "non-political" status.*** World Bank officials refer to Article IV, section 10 of their Charter to claim that they can only look at poverty alleviation issues (and not human rights concerns) when approving a loan. Other legal experts argue, however, that this clause is meant only to prevent World Bank interference in internal political affairs of beneficiary countries; it does not prevent Bank officials from incorporating human rights concerns into loan-decision criteria.
- ***The relationship between the World Bank and the United Nations.*** As a specialized agency, the World Bank may be legally bound to uphold the principles of the UN Charter, including articles that ensure the universal protection of human rights.
- ***The World Bank's legal immunity.*** Although article VII of the World Bank charter claims legal immunity for the institution and its employees, recent legal precedents suggest that international law (which prohibits human rights violations such as genocide) takes precedence over these immunities.

The report concludes with recommendations for UN involvement in assessing the legal and moral accountability of the World Bank as a multilateral financial institution, both in its general activities and with regards to the particular case of the Rio Negro community. These recommendations are threefold:

- ***A UN-mandated investigation into the accountability of the international financial institutions involved in the Chixoy dam project.*** This recommendation stems from the World Bank's failure to adhere to its own policy guidelines and standards in force at the time of dam construction. As well, given the fact that conflicting claims continue to exist regarding the Bank's level of responsibility, and given the need to investigate, as in the case of Guatemala, not only the responsibility of internal involved parties, but also, outside parties that influence or cause human rights abuses, the Chixoy dam case is a clear option for investigation.

- ***The establishment of a human rights evaluative body for World Bank projects.*** At present, World Bank review mechanisms fail to ensure that human rights concerns are incorporated into project planning and prevent the institution from learning from past mistakes. The UN should establish criteria for determining the need for a human rights investigation prior to initiating development projects in a particular country or region. Then, the UN should establish a mechanism for conducting human rights assessments for projects which do not meet the stated criteria. In establishing this mechanism, the extreme difficulty faced by the Bank's current Inspection Panel to adequately influence the policies of the Bank's Board, should be taken into account.
- ***Liberalization of World Bank policies regarding access to information.*** In the case of the Chixoy dam, large gaps of information about World Bank knowledge and action have prevented any party from successfully evaluating conflicting claims about responsibility for the violations that occurred. Thus, our third recommendation suggests that several reforms should be undertaken – along the lines of the UN's own information policy -- to increase access to information and to make the Bank's own review procedures more accessible to those affected by the Bank's activities.