# Questionnaire for civil society organizations

# The Special Rapporteur´s thematic report on the impact of mega-projects[[1]](#footnote-1) on the human rights to water and sanitation[[2]](#footnote-2)

The Special Rapporteur on the human rights to safe drinking water and sanitation, Mr. Léo Heller, will submit his thematic report on the impact of mega-projects on the human rights to water and sanitation to the seventy-third session of the United Nations General Assembly in 2019.

As part of his research, the Special Rapporteur welcomes responses to any of the following questions. The questionnaire is organized according to seven stages of the human rights to water and sanitation in the mega-project cycle (See Annex), through which impacts of mega-projects on the human rights to water and sanitation can potentially take place**.**

**Given that the work of civil society organizations may focus on specific aspects or stages of mega-projects, response can be limited to selected questions as relevant.**

Kindly submit response to srwatsan@ohchr.org **by** **15 March 2019.**

**General questions**

1. Please provide information on the role and responsibility of your organisation in monitoring mega-projects, preventing, redressing or advocating against their negative impacts or promoting their positive impacts particularly on the human rights to water and sanitation.

Yamasi People, a People indigenous to the southeast Caribbean coast of North America, are descended from the First People our Creator placed here with title to protect and respect our territory. Yamasi People inherit our obligation to protect our waters and manage human interaction with our ecosystems. As we have no peace agreement with the occupying power, USA, it is not safe to participate in their government processes. We monitor, report, and advocate in coordination with local non-profits, religious organizations, or informal community groups.

1. What are the main positive and negative impacts, assessed by your organization, that mega-projects have on the normative content of the human rights to water and sanitation (quality and safety, accessibility, availability, acceptability, affordability, dignity and privacy) and human rights principles (access to information, participation, equality and non-discrimination)?

USA contracts its megaprojects to private enterprise that limits participation and safety protections to maximize projects. These enterprises hold information as proprietary and misrepresent data as salespeople, to achieve the goal of getting USA to purchase their services and products. USA wants the nuclear material that comes from nuclear power for its military objectives. USA channels backdoor kickbacks to power companies to force nuclear power on Yamasi People and our non-indigenous neighbours when there is already surplus power. USA discriminates against those who question nuclear reactors as un-American or anti-economy when we raise nuclear impacts of cancer, thyroid, kidney, breathing problems and other health problems, including birth defects from Hatch and Vogtle Reactors, trafficking of nuclear material through our waters and lands to Savannah River Site.

1. In your experience, what challenges do human rights defenders, community leaders or affected populations face when protesting against the negative impacts of mega-projects on the human rights to water and sanitation?

 USA does not have peace agreements with many Indigenous Peoples in the southeast impacted by this far-reaching conglomeration of nuclear reactors providing nuclear material for the Savannah River Site, a nuclear weapons processing facility. So many Indigenous Peoples are afraid to speak about the nuclear impacts

1. Please provide cases where advocacy strategies or efforts of the affected populations against the negative impacts of mega-projects led to an improvement or guarantee of the protection, respect or fulfilment of the human rights to water and sanitation.

## Stage 1: Macro-planning

1. During the macro-planning phase (the stage when mega-projects are identified as part of the national development agenda of a country), what are the legal, policy and institutional gaps that may result in negative impacts on the human rights to water and sanitation? What are effective safeguards to minimize and prevent those impacts?

The corporations are assessing the needs and determining the path of development based on enticements from the US military and millions of dollars of US subsidies so Indigenous Peoples and our neighbours are left out of the decision-making process. It should be the Peoples: Indigenous Peoples negotiating with informed and uncoerced African Peoples and immigrant Peoples to achieve the energy goals and means that we have decided are needed. Yamasi People and other Indigenous Peoples should be identifying the need and how to provide for that need with respect for our neighbours human rights. This authoritarian approach serves the US military objectives without meeting civilian needs for safe drinking and agriculture water and water to fish and collect shellfish. The US destroys Yamasi ecological economy and then forces us to labor in servitude in their colonial economy to get food. And we often don’t have any electricity anyway.

1. How and in which forms should the human rights-based approach be introduced in national policies integrating mega-projects, to protect, promote and fulfil the human rights to water and sanitation?

The US should build, maintain, and accede to regional and international human rights courts so we can have objective parties consider the original title and pre-USA title of Indigenous Peoples and African Peoples to winds, lands, and waters so we have more rational and long-term Peoples making decisions about nuclear development instead of the colonials looking to make money fast and leave us with the poison for hundreds of generations to come.

1. What type of participatory processes have been or should be implemented to inform the public and the affected population and to facilitate the discussion on the option to include or not include mega-projects in national development policies?

USA should apply to Indigenous Peoples to develop our lands and we should consider the proposal in light of the needs of Indigenous Peoples and our neighbours to drink water, eat aquaculture and agriculture, and breathe. USA should cooperate with Yamasi People’s renewable energy proposals we submitted to the US Department of Energy 2009-11, along with other southeast Indigenous Peoples. The US did not even send a written reply to cooperative proposal for renewable energy from Indigenous Peoples together.

1. What challenges exist to ensure transparency and participation as well as to access to information in the macro-planning stage? How have they been addressed and guaranteed, if any?

Financing of the project is corrupt and secret. We don’t understand how the energy company is giving out million-dollar bonuses when the US and local energy consumers are subsidizing this project for millions of dollars.

## Stage 2: Planning and designing

1. What are the challenges faced during the planning and designing stageto respect, promote and fulfil the human rights to water and sanitation? How have they been addressed and overcome?

Inacurate test results from the companies that have monopolies on access to the reactors. Lack of research and studies, defunding of the USEPA, weakened water protections, climate change denial, Yamasi People’s lack of access to the benefits of our Life Sources and the megaprojects planned.

1. What legal and policy framework is in place to clarify the roles and human rights obligations and responsibilities of actors involved in the planning and designing stage? What legal and policy framework is in place to regulate actors to perform in accordance with human rights obligations and responsibilities and to conduct human rights assessments of impacts of such projects?

We don’t know as the US is in turmoil with its executive threatening to eliminate the US Environmental Protection Agency and forcing judges on the courts that don’t respect the rule of human rights law.

1. How has the framework on the human rights to water and sanitation been successfully integrated into the planning and designing phase and particularly in environmental and social impact assessments? How could impact assessments be improved to take into account the impacts on and protection of the human rights to water and sanitation?

Though the US signed the UN Charter and UDHR, it does not participate in human rights courts, is not led by civilians but rather by the military making the final decision on everything, and human rights instruments are not integrated into local, state and regional water boards or energy developers.

1. Please provide examples of ex-ante impact assessments where the human rights framework, particularly the rights to water and sanitation, has been successfully or unsuccessfully integrated into the planning and designing phase.

USA does not do this in practice. They decide what they want and start doing, then they pay scientists to say what the developers want and they work backward that way. The US military needs the nuclear material for weapons and marine and space travel so they send money to the nuclear reactor developers and they force the project us and start building and then write reports saying the projects will not hurt us and when environmental groups sue them, the nuclear development corporations say they can’t prove the reports wrong until the nuclear reactor is finished so the court lets the nuclear reactor continue even though the impacts from the reactor will kill people because that can’t be proven until the people are dead.

1. What outcomes do ex-ante impact assessments revealed in terms of the potential impact on the realization of the human rights to water and sanitation? In case negative potential impacts were identified, what corresponding preventive and mitigation measures have been included in the project?

USA process of impact assessments is too corrupt to result in actionable information that could keep humans and our water and food safe.

1. What challenges exist to combat corruption and to ensure the active, free and meaningful participation of affected populations in consultation and participatory processes during the planning and designing stage?

USA does not operate in accordance with its constitution and participatory government is limited. USA contracts to private industry projects to achieve its secretly determined military objectives. The businesses keep USA secrets to get paid and those who pay for it with money and our lives have little transparency or opportunities to make a change. USA does not respect or implement international human rights laws that protect humans’ right to life or Indigenous Peoples right to Free Prior and Informed Consent to development. USA does not participate with original nations’ treaty organizations, Paris Agreement or the 2030 Agenda or its Voluntary National Review that might enable it to learn from actual governments developing sustainably with participatory government in a sustainable manner.

## Stage 3: Licensing and approval

1. What actors are involved in granting licensing or approval for mega-projects and how do the existing procedures related to licensing and approval of construction and operation incorporate a human rights perspective?

U.S. Nuclear Regulatory Commission, Federal Energy Regulatory Commission, Environmental Protection Agency don’t incorporate a productive human rights perspective. The EPA in the past had a National Environmental Justice Advisory Council (NEJAC) that tried to isolate and create conflict among Indigenous Peoples but now that is not even functional. FERC and NRC disregard input and consider developer immune from all responsibilities for development and consider the people providing the waters (Indigenous Peoples) and the money (taxpayers, ratepayers) irrelevant.

1. What guarantees, safeguards or monitoring measures are in place to ensure that human rights framework is reflected in the licensing agreement?

None. The only checks and balances are to insure the projects with US funds guaranteeing payback of the corporations’ loans. There are no funds set aside to provide health or rehabilitation of humans hurt or to restore or remediate ecosystems, which can take millions of years to return to balance.

## Stage 4: Construction

1. What are the specific impact of mega-projects on the human rights to water and sanitation when mega-projects are in construction? What measures are in place to prevent, mitigate and monitor those impact?

There are no human rights measures to address the impacts to water and sanitation. In the prevention phase during construction of the proposed project courts say they can’t address possible impacts until they have occurred. When the projects are built the courts say the corporations aren’t responsible and you can’t sue the US government. The US does not build, maintain, or accede to international human rights courts that could bring justice to the military-led US.

1. Please specify challenges faced or good practices adopted by actors involved in mega-projects to ensure the human rights to water and sanitation of affected populations when mega-projects are in construction.

Challenges are climate change survival with the increased GHGs produced by nuclear reactor construction and maintenance along with the increased acidification of oceans with plankton dying and creating dead zones that accelerate climate change because of radioactive water. Climate change increases drought and its impacts while rivers and groundwater are poisoned by tritium, radioactivity, mercury, and other toxins. This conglomeration of nuclear reactors impacting Yamasi territory promises decreased supply of access to water and sanitation for Yamasi People, pre-USA Peoples, and newcomers living with our territories.

1. What legal and policy framework is in place to clarify the roles and human rights obligation and responsibilities of actors involved in the construction phase? What legal and policy framework is in place to regulate, oversight and monitor their performance from a human rights perspective?

The policy framework that has a climate change plan for military survival but not civilian survival of climate change reflects the reality that USA and its developers recognize no human rights obligations or responsibilities. There is no effective legal or policy framework to protect human life. The executive, legislative, and judicial branches at all levels say Yamasi People and other Indigenous Peoples have no rights to exist because the US executive, in violation of the US Supreme Court rulings, ordered our removal from our territories in the 1830s. The executive, legislative, and judicial branches at all levels say Yamasi People’s neighbours’ right to life must be subordinated to military objectives.

1. What procedures and aids to access remedy are available when negative impacts of mega-projects in construction stage amounts to violation or abuse of the human rights to water and sanitation?

Prayer is our most effective remedy when Yamasi People’s human rights to water and sanitation are violated. Reporting to OHCHR can document our extermination.

## Stage 5: Short-term operation

1. What are the specific impact of mega-projects on the human rights to water and sanitation when its construction is completed and operation has commenced? What measures are in place to prevent, mitigate and monitor those impact?

Colonial media and non-profits monitor poisoning of water as they are able. Yamasi People can record dead fish, animals, and humans. We see no effective measures to prevent or mitigate the impacts.

1. Please specify challenges faced or good practices adopted by actors involved in mega-projects to ensure the human rights to water and sanitation of affected populations when mega-projects have been operational for short-term.

There is no measure to protect the People of the area. There are loan guarantees to the developers if they go bankrupt but no funds to support communities bankrupted by nuclear megaprojects. Yamasi People have no support to restore, remediate, or provide alternate water and sanitation.

1. What legal and policy framework is in place to clarify the roles and human rights obligation and responsibilities of actors involved in the operation phase? What legal and policy framework is in place to regulate, oversight and monitor their performance from a human rights perspective?

The US mocks the notion of human rights and international rule of law. Local implementation is not possible in an atmosphere so hostile to the notion that non-corporations have rights to exist. Criminalization of resisters of development continues with impunity. Yamasi People lack legal advocacy to protect against human rights abuses.

1. What procedures and aids to access remedy are available when negative impacts of mega-projects in short-term operation stage amounts to violation or abuse of the human rights to water and sanitation?

There is no alternative but to drink the poisoned water, eat the poisoned fish, or leave our ancestral home.

## Stage 6: Long-term operation

1. What are the specific impact of mega-projects on the human rights to water and sanitation when mega-projects have been in operation for an extended period? What measures are in place to prevent, mitigate and monitor those impacts?

The answers are the same for this section.

1. Please specify challenges faced or good practices adopted by actors involved in mega-projects to ensure the human rights to safe drinking water and sanitation of affected populations after the mega-project has been in operation for an extended period.
2. What legal and policy framework is in place to clarify the roles and human rights obligation and responsibilities of actors involved in the long-term operation phase? What legal and policy framework is in place to regulate, oversight and monitor their performance from a human rights perspective?
3. What procedures and aids to access remedy are available when negative impacts of mega-projects in long-term operation stage amounts to violation or abuse of the human rights to water and sanitation?

## Stage 7: Ex-post assessment

1. How are ex-post impact assessments of mega-projects carried out in practice? Are they required by law or regulations?

The USA EPA required environmental impact statements. However the US changed their laws so they don’t allow communities, including Yamasi People, to improve project development by sharing our concerns about impacts forcasted by USEPA or non-profits.

1. What human rights elements have been incorporated in ex-post impact assessments conducted shortly after the construction, at the commencement of operation or during long-term operation?

USA has been steadily stripping away human rights elements of enforcement agencies and laws protecting humans’ right to life.

What measures could be adopted to improve the successful integration of human rights approaches in such impact assessments?

Negotiating with Indigenous Peoples for our Free Prior and Informed Consent to development would enable Yamasi People to examine concerns of potential or foreseeable impacts of nuclear development. If USA became a country and practiced the procedures of its Constitution and developed and acceded to human rights courts, Yamasi People could help USA develop protocols for implementing the Declaration on the Rights of Indigenous Peoples. This would allow USA to learn about traditional knowledge of sustainability and develop energy projects that don’t kill people.

1. What role does ex-post impact assessments have as a learning process and a feedback mechanism to provide guidelines for other similar projects?

Post-impact assessments could be incorporated by an actual government if USA became one. Lessons could be learned and used to develop parameters for corporations to answer RFPs only after the participatory process of government had determined a need and concepts of meeting the need had been developed through democratic methods. Yamasi People’s representative institution could accept proposals from corporations or neighbouring governments after we had through our traditional participatory process identified needs and decided how to meet them.

## Annex: Human rights to water and sanitation in the mega-project cycle

**1. Macro Planning**

* Integration of mega-projects in national development agenda.
* Decision of the legal and policy framework applicable to mega-projects.
* Consideration of alternative development models.
* Contingency and redress plans.

**2. Planning and designing**

* Practical and technical aspects defined.
* Designation of concrete roles and responsibilities of actors involved.
* Ex-ante assessment and participatory processes.

**3. Licensing and approval**

* Validation of megaproject by public authorities.
* Environmental and social impact assessments.
* Authorisation for actors involved to undertake next stages.
* Control of megaprojects that do not fulfil human rights standards.

**4. Construction**

* Initiation of actions by actors involved.
* Monitoring of physical or legal impact on lands and natural resources.
* Impacts due to pollution or depletion or blockades by affected populations.

**5. Short-term Operation**

* Operation of the project after construction.
* Monitoring of impacts due to construction errors.
* Assessment of possible gaps between outputs expected and real outputs.

**6. Long-term Operation**

* Operation of the project after an extended period
* Deterioration of infrastructure (increased risk of disaster).
* Monitoring of long-term negative impacts may appear.

**7. Human rights assessment and monitoring**

feeding back different stages of subsequent mega-projects

1. For the purpose of this questionnaire, the term “mega-projects” refers to projects that causes significant impacts on the human rights to water and sanitation and on other related rights and that meet at least one of the following criteria: (1) wide land use and/or large modification of water resources; (2) long-implementation period. [↑](#footnote-ref-1)
2. The scope focuses on the access to drinking water services for human consumption and access to sanitation services including toilets and shower facilities as well as personal hygiene. [↑](#footnote-ref-2)