



Dam Standards: A Rights-Based Approach

A GUIDEBOOK FOR CIVIL SOCIETY

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Written by Zachary Hurwitz

About International Rivers

International Rivers protects rivers and defends the rights of communities that depend on them. With offices on four continents, International Rivers works to stop destructive dams, improve decision-making processes in the water and energy sectors, and promote water and energy solutions for a just and sustainable world.

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2150 Allston Way, Suite 300
Berkeley, CA 94704, USA
Tel: +1 510 848 1155

www.internationalrivers.org

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Front Cover photo: Indigenous people protest against the planned Baram Dam in Sarawak, Malaysia. Photo courtesy of SAVE Rivers.

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ABBREVIATED TERMS

ADB	Asian Development Bank	FI	Financial Institution
ASEAN	Association of Southeast Asian Nations	FIRR	Financial Internal Rate of Return
BDP	Basin Development Plan	FiT	Feed-in Tariff
BBM	Building Block Methodology	FPIC	Free, Prior, and Informed Consent
CAO	Compliance Advisor Ombudsman	GDP	Gross Domestic Product
CAT	Convention Against Torture	HPP	Hydropower Project
CBD	Convention on Biological Diversity	HSAP	Hydropower Sustainability Assessment Protocol
CCA	Climate Change Assessment	IADB	Inter-American Development Bank
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women	ICCPED	International Convention for the Protection of All Persons from Enforced Disappearance
CIA	Cumulative Impacts Assessment	ICCPR	International Covenant on Civil and Political Rights
CPPCG	Convention on the Prevention and Punishment of the Crime of Genocide	ICERD	Convention on the Elimination of All Forms of Racial Discrimination
CRC	Convention on the Rights of the Child	ICESCR	International Covenant on Economic, Social, and Cultural Rights
CRPD	Convention on the Rights of Persons with Disabilities	ICP	Informed Consultation and Participation
CRSR	Convention Relating to the Status of Refugees and Protocol Relating to the Status of Refugees	ICSPCA	International Convention on the Suppression and Punishment of the Crime of Apartheid
DRIFT	Downstream Response to Imposed Flow Transformation	IFC	International Finance Corporation
EAP	Environmental Action Plan	IFIM	In-stream Flow Incremental Methodology
EFA	Environmental Flows Assessment	IHA	International Hydropower Association
EIA	Environmental Impact Assessment	ILO	International Labor Organization
EIRR	Economic Internal Rate of Return	IPCC	Intergovernmental Panel on Climate Change
ELOHA	Ecological Limits of Hydrologic Alteration	IRP	Integrated Resources Planning
ESIA	Environmental and Social Impact Assessment	ISEAL	International Social and Environmental Accreditation and Labeling Alliance

ISO	International Organization for Standardization	RPS	Renewable Energy Portfolio Standard
IWRM	Integrated Water Resources Management	RSAT	Rapid Sustainability Assessment Tool
LEAP	The Long-range Energy Alternatives Planning System	SEA	Strategic Environmental Assessment
MDB	Multilateral Development Bank	UDHR	Universal Declaration of Human Rights
MFI-WGE	Multilateral Finance Institutions' Working Group on the Environment	UN	United Nations
MIGA	Multilateral Investment Guarantee Agency	UNDRIP	Universal Declaration of the Rights of Indigenous Peoples
MRC	Mekong River Commission	UNECE	United Nations Economic Commission for Europe
MWC	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	UNEP	United Nations Environment Programme
NGO	Non-Governmental Organization	UNESCO	United Nations Educational, Scientific and Cultural Organization
OAS	Organization of American States	UNHRC	United Nations Human Rights Committee
OIC	Organization of Islamic Cooperation	VEC	Valuable Ecosystem Component
OECD	Organization of for Economic Cooperation and Development	WCD	World Commission on Dams
PHABSIM	Physical Habitat Simulation Model	WEAP	Water Evaluation and Planning
		WWF	World Wide Fund for Nature

GLOSSARY

Associated facilities: The various structures, systems, and infrastructure that are a crucial part of a hydropower project but are not necessarily the “dam” itself. These facilities include most carriage, distribution, and drainage systems, small diversion works, small pumping plants and power plants, dikes, open and closed conduits, tunnels, siphons, small regulating reservoirs, waterways, and bridges, as well as transmission lines and roads.

Benefit-sharing: Monetary benefits, including sharing part of the revenue generated by the operation of the infrastructure project with the affected communities, through preferential rates, property taxes, equity sharing or full ownership, and development funds; as well as non-monetary benefits, including integrating project benefits into local development strategies, through livelihood restoration and enhancement, community development, and catchment development.

Biodiversity offset: Measurable conservation outcomes resulting from actions designed to compensate for significant residual adverse biodiversity impacts arising from project development and persisting after appropriate avoidance, minimization and restoration measures have been taken.¹

Consultation: A process in which a proponent builds and maintains constructive relationships with local communities over the life of a project. Effective consultation is a two-way process that should: (i) begin early in the process of identification of environmental and social risks and impacts and continue on an ongoing basis as risks and impacts arise; (ii) be based on the prior disclosure and dissemination of relevant, transparent, objective, meaningful and easily accessible information available in a culturally appropriate local language(s) and format and is understandable to affected communities; (iii) focus inclusive engagement on those directly affected as well as those not directly affected; (iv) be free of external manipulation, interference, coercion, or intimidation; (v) enable meaningful participation, where applicable; and (vi) be documented.

Critical natural habitat: A specific geographic area(s) that is essential for the conservation of a threatened or endangered species and that may require special management and protection. Critical habitat may include an area that is not currently occupied by a species but that will be necessary for its recovery.

Economic displacement: Loss of assets and/or means of livelihood, regardless of whether or not physical displacement takes place.

Ecosystem services: Benefits obtained from ecosystems. According to the Millennium Ecological Assessment, these may be organized in four primary categories. Provisioning services are the products obtained from ecosystems, such as food, genetic resources, fiber, and energy. Regulating services are the benefits obtained from the regulation of ecosystem processes, such as regulation of climate, water, and some human diseases. Cultural services are the non-material benefits people obtain from ecosystems through spiritual enrichment, cognitive development, reflection, recreation, and aesthetic experience. Supporting services are ecosystem services that are necessary for the production of all other ecosystem services. Examples include biomass production, production of atmospheric oxygen, nutrient cycling, water cycling, and provisioning of habitat.

Energy efficiency (demand-side, supply-side): Energy efficiency is broadly defined as using less energy to provide the same service. Demand-side refers to steps taken to make increase the efficiency of energy consumption. Supply-side refers to steps taken to increase the efficiency of energy provision.

Environmental flows: The amount and quality of water provided within a river, wetland or coastal zone to maintain ecosystems, and their socially and culturally-defined benefits.

Environmental impact assessment: A procedure for evaluating the likely impact of a proposed activity on the environment, where “impact” means any effect caused by a proposed activity on the environment, including human health and safety, flora, fauna, soil, air, water, climate, landscape and historical monuments or other physical structures or the interaction among these factors; it also includes effects on cultural heritage or socio-economic conditions resulting from alterations to those factors; and where “trans-boundary impact” means any impact, not exclusively of a global nature, within an area under the jurisdiction of a Party caused by a proposed activity the physical origin of which is situated wholly or in part within the area under the jurisdiction of another Party.²

Free, prior, and informed consent: A collective expression of support for a proposed project by potentially affected communities reached through an independent and self-determined decision-making process undertaken with sufficient time, and in accordance with their cultural traditions, customs, and practices. Such consent does not necessarily require support from every individual. Whatever the form of consent, it must be free of coercion; obtained prior to the commencement of project activities; and informed through access to all the information necessary to make the decision, including knowledge of legal rights and the implications of the project.

Integrated resource planning: A comprehensive and holistic methodology of planning a country's electricity resources options, including both supply-side options for meeting generation, transmission, and distribution facilities needs, as well as demand-side options for meeting the needs of consumer productivity and efficiency. The methodology considers a full range of feasible supply-side and demand-side options and assesses them against a common set of planning objectives and criteria agreed to in a transparent and participatory process.

Integrated water resources management: Defined by the Global Water Partnership as a process which promotes the coordinated development and management of water, land and related resources, in order to maximize the resultant economic and social welfare in an equitable manner without compromising the sustainability of vital ecosystems.

Involuntary displacement (or, forced eviction): The permanent or temporary removal against the will of individuals, families, and/or communities from the homes and/or lands which they occupy without the provision of, and access to, appropriate forms of legal and other protection.

Mitigation hierarchy: To anticipate and avoid, or where avoidance is not possible, minimize and, where residual impacts remain, compensate for or offset risks and impacts.

Non-stationarity: The phenomenon by which, as a result of climate change, future hydrological trends do not necessarily mirror past observations.

Place-based livelihood: A livelihood that derives its capabilities, assets (including both material and social resources) and activities required for a means of living from a specific territory or place. A livelihood is sustainable when it can cope with and recover from stress and shocks and maintain or enhance its capabilities and assets both now and in the future, while not undermining the natural resource base.³

Significant conversion: Major changes in land or water use that eliminate or severely weaken the integrity of a natural habitat.

Strategic environmental assessment (regional, sectoral): An SEA is an evaluation of the likely environmental, including health, effects, which comprises the determination of the scope of an environmental report and its preparation, the carrying-out of public participation and consultations, and the taking into account of the environmental report and the results of the public participation and consultations in a plan or program, where "environmental, including health, effect" means any effect on the environment, including human health, flora, fauna, biodiversity, soil, climate, air, water, landscape, natural sites, material assets, cultural heritage and the interaction among these factors.⁴

Transparency: Information that is made available to the public domain that is: 1) relevant and accessible (presented in plain and readily comprehensible language and formats appropriate for different stakeholders. It should retain the detail and disaggregation necessary for analysis, evaluation and participation. Information should be made available in ways appropriate to different audiences) and 2) timely and accurate (made available with sufficient time to permit analysis, evaluation and engagement by relevant stakeholders). This means that information needs to be provided while planning as well as during and after the implementation of policies and programs. Information should be managed so that it is up-to-date, accurate, and complete.⁵

Valuable ecosystem component: A valuable ecosystem component is the environmental element of an ecosystem that is identified as having scientific, social, cultural, economic, historical, archaeological or aesthetic importance. The value of an ecosystem component may be determined on the basis of cultural ideals or scientific concern. Valued ecosystem components that have the potential to interact with project components should be included in an environmental impact assessment.

Executive Summary

In many countries, the most applicable means of protection for people affected by development projects are national and local laws. But in some countries, laws alone are not strong enough to protect the rights of affected communities. Standards may exist that affected communities and civil society will want to utilize to protect their rights when campaigning on development projects. Increasingly, companies, banks, and governments commit to follow internationally-recognized standards; some of these standards are voluntary, and sometimes the financing or support for a development project is conditional upon complying with them.

This guide attempts to summarize the strongest social and environmental standards related to dam building. It discusses options for civil society to use standards in order to advocate for stronger practices to be implemented by government ministries, dam financiers, and dam builders.

The guide takes the position that the most effective standards are those that safeguard the rights of dam-affected people, avoid risks, and allow the public to hold dam builders and financiers accountable. Such a rights-based approach to dam standards is based on national and international laws and covenants, and is distinguished from other approaches which may not recognize the inherent rights of dam-affected people. These approaches may include developing policies of corporate social responsibility, adhering to voluntary guidelines, or implementing project audits.

KEY ASPECTS OF RIGHTS-BASED DAM STANDARDS INCLUDE:

- Human Rights
- Women's Rights
- Indigenous Peoples' Rights
- Labor Rights

KEY ASPECTS OF STRATEGIC PLANNING STANDARDS INCLUDE:

- Integrated Resources Planning
- Basin Planning
- Strategic Environmental Assessment
- Cumulative Impact Assessment
- Climate Change Assessment

KEY IN WHICH TO PROMOTE STANDARDS:

- National legal systems
- The United Nations system
- Multilateral covenant bodies
- Financial institutions
- Corporate-level policies

As with any standard, a policy commitment is only as good as its results. Implementation, monitoring, and evaluation of standards remain weak even for the most highly regarded dam builders and financiers.

This guide will aid civil society to hold governments, institutions, and companies accountable to rights, standards, and ultimately, results. To promote more just and equitable outcomes for dam-affected communities and the environment, we must first understand why dam standards are necessary, and the increasingly complex universe of standards that has come about.

Introduction: Why Standards for the Dam Industry?

Dams are often built in areas of the world where the rule of law is weak or where affected people have little power in decision-making. This often leaves a gap in protections for dam-affected communities, and negative outcomes often result, which can impact both affected people and the dam builder themselves. Therefore, standards must be an important driver of the business model of the dam industry.

From the perspective of communities, standards reduce the likelihood of developers violating human rights, destroying sensitive ecosystems, disrupting indigenous and traditional ways of life, and negatively impacting women. As a result, the first and most important role that standards play is to protect the rights and lives of dam-affected communities and their environment.

From the perspective of companies, banks, and governments, standards help manage risks associated with dams. Without standards, dam builders and financiers would not be able to understand how investing in a dam could create risk to their institution, or jeopardize their cash flow, reputation, and competitive position in the market. Standards are often used as part of environmental and social risk analyses in order to help a business or financial institution decide whether or not to invest.

As a result, standards have dual, mutual benefits: they protect the rights of affected people, while they protect businesses against risks. Nonetheless, today, many dam builders still build dams that are considered to be below standards. Often, in a hurry to finance, governments and banks may not analyze the entire breadth of risks that dams can create. In so doing, the costs of these risks are often externalized by the dam builder during construction and operation, creating impacts that are absorbed by both affected communities and the environment. If dam builders were to

internalize these costs, they could outweigh the benefits, revealing certain dams to be poor investments. A responsibility of dam builders and financiers, then, is to make sure that the full risks and costs of a dam are incorporated into the decision of whether or not to build it.

But what exactly are dam standards, who makes them, and what should they say? The concept of a “standard” is often misunderstood. Does a standard refer to national laws and legislation? Or does a standard consist of international covenants and declarations? Perhaps standards refer to a financial institution’s own policies? What about recommendations and guidelines that have been agreed to in multilateral dialogues? Or screening tools, such as scorecards or audits?

There is no one, single answer. In reality, building a dam involves many actors – governments, financiers, developers, contractors, and consulting firms may adhere to diverse policies that define these actors’ responsibilities. The realm of standards could be thought of as a landscape – different actors around the world may create their own variant of policies that are meant to be used for different purposes. Some standards are meant to be applied at the earliest possible stage of development planning; other standards are meant to be applied when a development project is already creating project impacts or benefits. Diverse outcomes may be created, as a result.

ABOUT THIS GUIDE

This guide attempts to make sense of the landscape of “standards” and policy tools that are in play in dam building. The guide sets out, from a civil society point of view, what are considered to be the just and fair “standards” that dam planners, builders, and financiers should be expected to fulfill. The guide presents a core grouping of risks and issues throughout the dam-building process, from the point of view of protecting the rights of affected communities and the environment. The guide does not aim to critique existing standards and tools, nor to act as an exhaustive compendium of all policies and practices. To do so meaningfully is beyond its scope.

Instead, the guide provides a reference to standards that affected communities and civil society can promote at each stage of a dam project: from strategic planning, to project analysis, to implementation, operation, and dam decommissioning. The guide serves as a tool to build the capacity of affected communities and civil society to advocate for dam standards, and to hold dam builders and financiers compliant and accountable to their implementation.

The guide is a living document. Policies change constantly, international norms gain new signatories, and innovations in technology and approaches make old practices obsolete. As a result, there are certainly omissions in the guide that others will be more equipped to address. Still, the guide highlights many of the most important concepts and policies relevant to today’s context.

The guide is structured as follows. The first section, “Who Makes Dam Standards?” describes the standards landscape: the various types of policies, legal instruments, covenants, guidelines, and other documents that can be used to promote social and environmental standards. These include national laws, international covenants, declarations, financial standards, guidelines and recommendations, and auditing tools.

The following sections, compiled under “Social and Environmental Dam Standards,” walk you through the content of standards to promote at each stage of a dam project – from the origin of a project inside government plans, to its construction and operation, to its removal when it is time to decommission. At each step, the guide presents standards that should be upheld. The standards can vary according to what stage of development the project is in, what type of institution is involved in financing the dam, and what type of company is building the dam.

At the end of each section, the guide presents a short list of further resources, and presents ideas for related actions to influence decision-makers. These decision-makers might include:

- National lawmakers
- Ministries and regulatory agencies
- State and local authorities
- International rights bodies
- Multilateral institutions
- Project financiers
- Project developers and contractors

Case studies are used liberally throughout the guide. In some instances, we point out cases where high standards were successfully implemented. In others, we highlight cases where standards were absent, or outcomes were poor.

At the end of the guide, we provide a list of resources that will help you find more information about the various policies. Each resource has a hyperlinked web address for you to read more.