



**EIB: NO REFORM  
EIB: NO MONEY!**

# **The Lesotho Highlands Water Project**

## **Massive Dams for Massive Disasters**

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## I. Summary

The Lesotho Highlands Water Project (LHWP) is the largest civil engineering project in Africa and is the world's second largest water-transfer scheme in the world, after China's Three Gorges Dam. Upon completion it will divert about 40% of the Senqu/Orange River's water through five large-scale dams.

The European Investment Bank is among a group of donors which includes the World Bank, European Development Fund, and the African Development Bank. The LHWP has been plagued with corruption and bribery scandals, the massacre of civilians by police trying to project the project sites, and is the cause of distress and turmoil for many Lesothians. The project itself would flood Lesotho's most fertile land and, according to the World Bank, result in the loss of 4,635 hectares of grazing land and 1,500 hectares of arable land.

The case of the LHWP is a clear example of European Investment Bank's violation of the international cooperation goals of the European Community as outlined in article 177 of the EU Nice Treaty, particularly as concerns the strengthening of democracy, the role of law and respect for human rights. As stated in article 179 of the Nice Treaty, the EIB is bound to contribute to achieving these goals.

## II. Project Description

If carried out as originally planned, by 2027 the Lesotho Highlands Water Project (LHWP) - Africa's largest civil engineering project and the second biggest water-transfer scheme currently in construction in the world after the Three Gorges Dam in China - will divert about 40% of the Senqu/Orange River's water through five large-scale dams. The water will then be piped into 200 km of tunnels blasted through the Maluti mountains, to be delivered to the South African Guateng River.

The European Investment Bank (EIB) lent USD 20 million for project phase 1A, along

with several other donors: the World Bank (IBRD, USD 110 million), the European Development Fund (USD 57 million), the African Development Bank (USD 50 million). Also, on a bilateral scale, the UK Commonwealth Development Corporation and the German, British and French bilateral aid and export credit agencies have supported the project. Some Export Credit Agencies also guaranteed the operations of companies contracted under the project (COFACE from France, Hermes from Germany, ECGD from Great Britain and SACE from Italy).

The EIB is also financially supporting phase 1B of the LHWP (currently in progress) with two loans totalling EUR 54 million to the Lesotho Highlands Development Authority to fund the Matsoku Tunnel and Weir scheme and another EUR 45 million loan to the Trans Caledonian Tunnel Authority to finance the foreign exchange costs of the Mohale Dam. The whole loan package was approved by the EIB on June 4, 1998. A new World Bank (IBRD) USD 45 million loan for phase 1B was also agreed upon at the same time.

Under the original design of the project, the Mashai Dam, scheduled for completion in 2008, would be built under Phase 2, and the Tsoelike dam would be completed in 2017 under Phase 3. The final phase would be the Ntoahae dam that is planned for completion in 2027. Doubts have been expressed as to whether or not there will be enough water in the river to build all the dams. Reportedly, the South African government does not intend to go ahead with the new phases of the project in the near future, even though a new treaty for the implementation of next phases of the project is being negotiated by the governments of South Africa and Lesotho. This makes even more unclear whether the two governments will request the EIB and other multilateral donors to be part of the project financing in the future, because of South Africa's interest in playing a major role and having direct control of this project and other dams in Southern Africa now that a democratic government is ruling the country.

### III. History of the project

Work on the project began in 1986 with the crucial support of the World Bank. At the time when the project financing was agreed upon, South Africa was the subject of international sanctions. To avoid the difficulties of international financiers openly aiding the then-apartheid regime, LHDA's financial advisers – Chartered WestLB – set up a London-based trust fund through which payments could be laundered. Lesotho was the nominal borrower for this project despite being a country far too poor to qualify for the large amounts of international credits, and even willing to join the project after the military coup in January 1986. In fact, South Africa is responsible for servicing and repaying the foreign loans and transferring USD 40 million a year as royalties on imported water to Lesotho.

In March 1993, the Norwegian Agency for Development Cooperation (NORAD) rejected an application by Kaerner Energy for USD 9.4 million in credit support for the Muela dam. Norway's aid minister Kari Nordheim-Larsen refused the funding because the contract was for one of a series of dams whose cumulative social and environmental effects had not been studied.

### IV. Problems with the project

#### A. Public Money for Private Bribes

The LHWP corruption story first appeared in the July 29, 1999, edition of the newspaper *Business Day* in South Africa (RSA), as the date of the Lesotho government's court case against the corrupt official, Masupha Sole (head of the Lesotho Highlands Development Authority (LHDA), the implementing agency of the LHWP), was approaching.

Nine companies, three international consortiums and three officials of the largest dam building companies were charged in Lesotho with bribing Sole. Sole was accused of having accepted around USD 2 million in bribes from the companies. All of the companies worked on the 185-meter-high Katse Dam,

the first of five huge dams planned for the Lesotho Highlands Water Project (LHWP), and on the Muela Hydroelectric Plant. Both Katse and Muela are now complete, and work has begun on a second large scale dam, the 145-meter-high Mohale Dam, and other tunnelling and civil works. Most of the companies involved in phase 1A have been contracted again under the new phase 1B of the project.

The EIB participated in the project donors meeting which took place in Pretoria in November 1999. It has never started an official internal investigation into the allegations of corruption, as the World Bank has; at the moment the EIB has no anti-corruption guidelines for its operations.

Furthermore, EU Member States have adopted the *OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*, which came into force in February 1999. This Convention obliges signatories to adopt national legislation which makes it a crime to bribe foreign public officials. In the spirit of the OECD Convention the EIB should soon open an independent investigation on eventual responsibilities from its staff in managing loans for the LHWP and adopt stringent anti-corruption guidelines under which companies found guilty of corruption should be debarred from future EIB operations and included on a public blacklist.

In a judgement handed down in October 2000 in the case against the Highlands Water Venture consortium, the Court of Appeals in Lesotho ruled that the partnership *per se* could not be charged because they lacked legal personality. The prosecuting authority in Lesotho has yet to decide against which of the individuals of the consortium they will now proceed. The effect of the Court of Appeal's ruling is that a similar procedure will be adopted in the charges against the Lesotho Highlands Project Consortium, also involved in the corruption scandal, when the matter comes before the court in August 2001.

According to an article issued in the South African *Sunday Times* on December 9th, the World Bank would not be contributing to

Lesotho's legal costs, thus not respecting its previous commitments and undermining the sustainability of the trail which might collapse due to the lack of funding. Apparently the EIB and other EU Institutions are not currently providing funds for the prosecution and they have taken a similar stand to the World Bank's and have not ruled out supplying funds in the future.

## B. Water Wars

The project helped set off what one South African river ecologist called southern Africa's "first water war." In September 1998 South African troops invaded Lesotho under the mandate of the Southern Africa Development Community, ostensibly to restore order in the face of public protests against the government. In fact, the invasion was promoted in large part by a concern to protect the Lesotho Highlands project – South Africa's largest investment in the region. When the shooting was over, 17 people had been killed near the project's Katse dam and many more had died fighting in the capital, which was left in ruins. South Africa's Star newspaper stated: "*Protection of the dam and its pipeline supplying [the region] with water was a top priority of the occupation forces.*"

After the "one week civil war" ended an interim political committee, which included all of the political parties, was set up to prepare for new elections in April 2000. To this day, no agreement has been reached on the electoral rules and the new elections. Many fear that Lesotho could face new turmoil in the coming months.

## C. A Social and Environmental Disaster

Some of the social and environmental implications of the project were addressed by an Environmental Action Plan produced by the LHDA in 1990, after construction had already started. Its most important task was to ensure compliance with the 1986 treaty between the two countries which promised that the people of Lesotho's highlands "*would not be left with a standard of living inferior to that prevailing at the time of the first disturbance.*" Nevertheless the project

has caused strong social and environmental impacts on highland communities' life. Many outstanding claims by local communities who have been affected by project phase 1A have not yet been addressed by the project implementing agencies and financiers.

The EIB and other financiers should urge the implementing agencies to compensate those people who lost their houses and lands due to phase 1A operations and have received insufficient or no compensation at all for their loss.

### Environmental impacts

The 1986 feasibility study carried out by Lahmeyer and Mott McDonald concluded that there were no major "environmental obstacles" to the project. No comprehensive environmental impact assessment was ever made for Phase 1A, however, nor were erosion or sedimentation studies conducted.

Soil erosion, already a major problem in Lesotho, has been aggravated by the construction of the dams and access roads to the highlands and will be worsened still further as displaced villagers are forced to cultivate and overgraze steeper hillsides. A preliminary estimate of soil losses has predicted that the tunnels and the Muela outlet will be completely blocked in 50 years.

The downstream impacts also appear to have been overlooked. According to the final draft of the Instream Flow Requirements study conducted by Metsi Consultants at the request of the Lesotho Highlands Development Authority, rivers affected by the LHWP could deteriorate to "something akin to waste-water drains."

### Suppression of Workers

Labour conditions at the construction sites of the dams have also led to controversy. In 1996, workers of the Muela dam organised a series of strikes to protest the unequal treatment of workers from Lesotho compared to those from other countries; Lesotho workers earn less for the same jobs than South Africans. The strikers were also protesting against police harassment and the contrac-

tors' dismantling of negotiating structures set up with the local construction workers' union. On September 14, 1996, the consortium of contractors building Muela called the police to evict workers from the construction camp, shortly after sacking 2,300 Lesotho workers for "illegally striking." Five workers were shot dead and more than 30 were injured. Despite promises to investigate the matter and to inform the public of its findings, the World Bank and the Lesotho Highlands Development Authority have never released a report about the incident. No representatives of the affected local communities were included in the committee that undertook the investigation. The EIB and other funding agencies involved in the project have never commented on the massacre which took place in a project construction camp.

### Social impacts

Of the total land area of Lesotho, less than 10% is suitable for arable farming. The Mohale valley, which will be flooded when the Mohale dam is completed, contains Lesotho's most fertile land and is the only region in the country which produces a surplus. Phases 1A and 1B of the project will together result in the loss of 4,635 hectares of grazing land and 1,500 hectares of arable land, according to the World Bank. Approximately 24,000 people have been affected and 312 homes have been lost under Phase 1A. Measures taken to help the people who lost their farms, homes and access to communal grazing land as a result of Phase 1A of the LHWP have been heavily criticised as ineffective. The World Bank completion report on phase 1A has not yet been made public.

Because Lesotho has so little arable land, those evicted to make way for the reservoirs have not been given replacement farmland and are being forced to find new livelihoods. The Mohale dam is affecting another 7,400 people and about 300 households are going to be forcibly relocated.

Initially the project emphasised training for resettlers in skills that were useless in Lesotho. One of the project consultants, who had long experience with forced resettlement for dams,

was reported to have said privately that the chance of the project creating alternative livelihoods for affected people was "virtually nil." Two Lesotho NGO workers, Motsea Senyane and Thabang Kholumo, reported in September 1999 that a "social fund" set up with LHWP revenues has been used as a tool for opportunistic politicians rather than for the benefit of resettled communities. This fund was the first example in a long history of misuse of funds and corruption.

### Basic needs neglected by project authorities

Meanwhile the Butha-Buthe international school, originally built for the children of foreign workers employed on Phase 1A of the project, has been closed down due to lack of funds. The school is one of the most modern ever to be built in Lesotho. With its closure, local school children have been deprived of a major educational resource.

Recent data collections have shown a large increase of HIV in the highlands; the presence of foreign labour forces and a major change in the Basotho way of living because of the project could be among the reasons for this crisis.

### Earthquake caused by the Katse Dam

In January 1996, a series of earth tremors induced by the geological pressure from the deepening reservoir began to strike shoreline villages. A 1.5 kilometre long crack now runs through the middle of the village of Mapeleng. Many homes were damaged, and several area springs, the only source of water for local villages, dried up. Scientists from Australia and the United States concluded that the earth tremors were directly related to the filling of the dam and warned that these tremors would continue for some time.

Others who lost homes to earthquakes were forced to live in temporary storage shed-type housing for months, including over a very harsh winter. Nevertheless in June 1998 Katse Dam was voted and announced by the Concrete Society of Southern Africa as the

winner of the Fulton Award for 1998 in the civil engineering category, for the exemplary and excellent use of concrete.

### Inadequate Compensation

It has taken the LHDA years to build replacement houses for displaced people. Many of those displaced by powerline construction in 1990-91, for example, were still without housing in October 1995, according to the World Bank. Furthermore, local communities had no access to the new grid to fulfil their basic power needs because of the high costs of connection.

As regards the quality of new resettlement sites, houses in the Mohale resettlement sites already suffer from cracked walls which are scheduled to be repaired only when the whole resettlement works have been completed.

Villagers have also complained that compensation payments have been inadequate or remain unfulfilled. The compensation package provided for a lump-sum payment to people who lost less than 1000 square metres of land. Those who lost more were to receive an annual delivery of corn for 15 years. Even LHDA health officers admit that the hand-outs are insufficient to "sustain the life of an individual." In 1993, an LHDA survey revealed widespread dissatisfaction, the majority stating that the cash compensation did not correctly reflect the productive value of the land. The payments also failed to take account of the loss of wild plants, fuel wood and building materials.

Although the project authorities originally undertook to provide fodder to compensate for the loss of grazing lands, this was only done for five years. In 1997, the villagers were told that the implementation period for compensation would extend over a period of 50 years and that they would receive money instead of fodder and grain handouts. No lump sums, however, would be paid unless villagers could produce a "financial plan." A year later, no payments had been made. "Our cattle are dying," villagers wrote in a letter to the project authorities. "*Our oxen are becoming too weak to plough and sow the fields.*"

### The real benefits of the project in South Africa

Officials claim that the project is needed to meet the water needs of South Africa's poor black communities who are increasingly under challenge. The bigger obstacle to providing South Africa's poor with water is not as much a question of supply as one of equity. As Lori Pottinger of the US-based NGO International Rivers Network points out: "*Low income black people in the townships near Johannesburg are subject to often indiscriminate water cut-offs, inadequate taps (usually just one for every 50 people in a yard), inadequate pressure and badly leaking apartheid-era pipes. Only the rich can afford this project's expensive water, which has made water bills rise dramatically. The project's high costs also use public funds that could have been used to fix these leaking pipes, which waste up to half the water that runs through them, and other efficiency measures.*" Recent increases of water tariffs in the Gauteng region because of the new water supplies from Katse caused new water cut-offs in the townships around Johannesburg.

## V. NGO/Public Involvement

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More than 2000 demonstrators supported by major Lesothian NGOs converged on three major dams of the project on November 19, 2001 during a massive coordinated protest. Police responded violently at Mohale Dam, injuring three elderly women. The demonstrators, all of whom have been impacted by the project, were protesting the lack of fair compensation for property lost to the dams, and unfulfilled promises of development in affected communities. In a petition that they delivered to project authorities during the protest, the protesters state, "*We have tried by all possible means to get a fair and reasonable compensation for our property, but this was all a fiasco. We were promised development, but this has not materialized to date.*"

## VI. Conclusions

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Lesothian citizens impacted by the project have demanded that they receive a ten-percent share of royalties generated from

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the dams and a commission of inquiry into the project's impacts on local people. The EIB should act quickly in order to meet these basic requests before construction for phase 1B will be completed.

Furthermore, the EIB should not give any financial support for the future phases of the Lesotho Highlands Water Project still to be implemented and give priority to interventions in Lesotho and South Africa aimed at

addressing primary concerns in primary health care, education and decentralised small-scale water and energy resource management with the direct involvement of local communities.

Finally, the EIB should debar from any EIB-funded project for a period of at least five years any company which might eventually be found guilty of corruption in the trial currently in progress in Lesotho.

Author: Antonio Tricarico, compiled from: "Dams Incorporated: The Record of Twelve European Dam Building Companies", February 2000, The CornerHouse, UK, published by Swedish Society for Nature Conservation; "Field trip to Lesotho Highlands Water Project", February 1999, Reform the World Bank Campaign, Italy & FIVAS, Norway; "Dams on Trial, The World Bank and 'The Cancer of Corruption", September 2000, Reform the World Bank Campaign, Italy).

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