



June 13, 2018

Paulo Abrão
Executive Secretary
Inter-American Commission on Human Rights
1889 F Street, N.W.
Washington, D.C. 20006

Dear Secretary Abrão,

The International Human Rights Clinic at Santa Clara University School of Law respectfully submits this *amicus curiae* brief before this Honorable Inter-American Commission on Human Rights **in support of the petitioners' arguments on the merits regarding Petition No. 633-04 "Mayan Peoples and Members of the Cristo Rey, Bullet Tree, San Ignacio, Santa Elena, and Santa Familia Communities" concerning the State of Belize.**

We kindly ask that you acknowledge receipt of this communication and forward it to the Commissioners, the State of Belize, and the petitioners.

In solidarity,

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Inter-American Commission on Human Rights
Organization of American States

Petition No. 633-04

Mayan Peoples and Members of the Cristo Rey, Bullet Tree, San Ignacio, Santa Elena, and Santa
Familia Communities
against
Belize

Amicus Curiae

Presented by:

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at
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I. STATEMENT OF INTEREST

The International Human Rights Clinic at Santa Clara University School of Law¹ (“Clinic” or “IHRC”) respectfully submits this *amicus curiae* brief before this Honorable Inter-American Commission on Human Rights (“IACHR” or “Commission”) in support of the petitioners’ arguments on the merits regarding Petition No. 633-04 “Mayan Peoples and Members of the Cristo Rey, Bullet Tree, San Ignacio, Santa Elena, and Santa Familia Communities” concerning the State of Belize.

The Clinic has extensive experience addressing the substantive issues underlying this petition, particularly on the issue of the human right to water as an essential component of the rights to life, to health, and to a healthy environment. The Clinic has participated in two hearings before the Commission that addressed the human rights to water and sanitation and provided research support for the Commission’s Chapter IV of the 2015 Annual Report on the human right to water. Furthermore, the Clinic travelled to Belize on October 6th-10th, 2017 and conducted in-depth interviews with the petitioners in the affected communities.

For the present case, the Clinic specifically focused its research on the effects of the approval, construction, and operation of the Chalillo Dam on the Petitioners’ rights to life, to clean and accessible water, to the preservation of their health and well-being, to adequate access to information about the detrimental effects of the Dam, to effective access to the justice system to seek a remedy for violations of relevant environmental compliance plans, and to work in an industry of their choosing. It is the position of the Clinic that Belize’s actions and omissions have

¹ The Clinic offers Santa Clara Law students the opportunity to gain professional experience by working on litigation, advocacy and policy projects in the area of international human rights law, particularly in the United States and Latin America.

resulted in a violation of all of these rights, which are recognized under Articles I, IV, XI, XIV, and XVIII of the American Declaration of the Rights and Duties of Man.

II. SUMMARY

The present case addresses novel legal issues and provides the Commission with a unique opportunity to further develop its understanding of the human rights obligations of States and businesses in the area of environmental harms caused by large development projects. The recent creation of a Special Rapporteurship on Economic, Social, Cultural, and Environmental Rights suggests that the Commission has identified the violations alleged in this petition as fundamentally important in our region. Additionally, we respectfully invite the Commission to build upon the recent Advisory Opinion by the Inter-American Court of Human Rights regarding the environment and human rights, and specifically, to recognize the right to a healthy environment.² The Commission's decision on the merits in this case will therefore greatly advance the Inter-American System's cutting-edge work in addressing the interdependence and indivisibility of all human rights, particularly in the context of development projects that have a negative effect on the enjoyment of economic, social, cultural, and environmental rights of vulnerable, rural, and indigenous communities.

Specifically, in this *amicus curiae* brief, we argue that (1) Belize violated the rights to life, health, and water by contaminating Petitioners' water and food supplies and by making clean water economically inaccessible to them; (2) Belize violated Petitioners' right of access to information by failing to comply with public awareness requirements under the Dam's environmental

² I/A Court H.R. *The Environment and Human Rights (State obligations in relation to the environment in the context of the protection and guarantee of the rights to life and to personal integrity – interpretation and scope of Articles 4(1) and 5(1) of the American Convention on Human Rights)*. Advisory Opinion OC-23/17 of November 15, 2017. Series A No. 23.

compliance plan, failing to provide adequate responses to requests for information, and failing to offer an effective mechanism to guarantee the right to access information; (3) Belize violated the right to work by negatively impacting tourism, fishing and farming in the Macal River Valley, and (4) Belize violated Petitioners' right to access to justice and judicial protection by failing to provide an effective recourse to address violations of the Dam's environmental compliance plan.

Accordingly, the Clinic respectfully asks the Commission to find Belize internationally responsible for such human rights violations, as well as the other violations alleged by the Petitioners and not addressed in the present *amicus curiae* brief; to recommend effective measures to repair the ongoing damage caused by the Chalillo Dam and to prevent similar human rights violations from occurring in the future, and to develop clear language on the relevant obligations States and businesses have in the area of economic, social, cultural, and environmental rights, particularly in the context of large development projects that contaminate rivers and cause harm to rural and indigenous peoples.

III. BRIEF STATEMENT OF FACTS

On July 15, 2004, the Belize Institute of Environmental Law and Policy (hereinafter, "BELPO"), on behalf of the Petitioners, submitted a petition before the Commission alleging human rights violations caused by the approval, construction, and operation of the Chalillo Dam (hereinafter, "Dam") in the Macal River basin. According to the facts as alleged in the petition and included in the Commission's Admissibility Report, the Dam was first approved in 1999, when the government of Belize authorized plans laid out by Fontis, Inc., a Canadian multinational company which is reportedly the majority owner of the sole distributor of electricity in Belize and

is now the sole owner of the Belize Electric Company Ltd. (BECOL). The alleged stated purpose of the Dam was to provide Belizeans with cheaper and more reliable electricity.

On August 28, 2001, BECOL submitted an Environmental Impact Assessment (EIA) of the Chalillo Dam to the National Environmental Appraisal Committee (NEAC). Belize's Environmental Protection Act and the country's environmental impact assessment regulations require a full EIA before construction of any major waterworks—such as dams. On November 9, 2001, Belize's NEAC approved the EIA of the Dam, contingent on a satisfactory Environmental Compliance Plan (ECP). On April 5, 2002, BECOL and the Department of Environment (DOE) signed an ECP, and the DOE approved the EIA. Construction on the Dam began in 2002 and was completed in 2005.

In February 2002, Petitioners went to court to challenge the approval of the EIA, alleging that it was approved in violation of applicable regulations that required further studies on mitigation of impacts to wildlife, archeological ruins, and the environment – which were never done – and in violation of the EIA regulations for failure to comply with public notification requirements in a local newspaper. Petitioners also alleged that the results of required water tests were withheld from the public. Additionally, Petitioners alleged that Belize ignored an independent geological assessment alerting that the Chalillo Dam would be constructed near a major fault line and that the presence of weak graphite shale could affect the structural integrity of the dam. On December 19, 2002 the Supreme Court refused to nullify the EIA. On March 1, 2003, the Court of Appeal upheld the decision of the Supreme Court, and the Petitioners appealed to the Privy Council. On January 29, 2004, the Privy Council voted 3-2 to reject the appeal.

In a subsequent separate request for judicial review, Petitioners sought a writ of mandamus directing the Chief Environmental Officer of the Department of the Environment to carry out the

directives of the Chalillo Dam's ECP, which required due regard to environmental considerations in consonance with sustainable development. In its decision of June 30, 2008, the Supreme Court recognized the "potential of serious and dire consequences not only for the environment but the persons and things in the path of rushing waters from a dam break" and the necessity "that there be public awareness of the project and its impact on the environment." Petitioners submit that the Supreme Court found in BELPO's favor on all counts, but that orders of the Court to comply with the ECP were not fully carried out.

In light of the EIA's omission of the independent geological assessment, Petitioners also raised concerns about the State's failure to publicly disclose the terms of the so-called "Third Master Agreement" with the developers of the Dam, which specifically shielded the developers from any liability resulting from the approval, construction and operation of the Dam.

The Petitioners claim that the Dam's construction has materially altered the flow of the Macal River, on which it was built. According to the Petitioners, people living in the Macal River Basin depend on the river for drinking water, employment, bathing, fishing, and recreation. The Macal River was central to eco-tourism in the region, which is one of the most important sources of revenue, employment, and economic security for local communities. Petitioners argue that the Dam's construction has severely damaged the Macal River, adversely affecting locals' access to clean water, food, cultural history, and employment. Petitioners also allege that the Dam caused major, irreversible, negative environmental impacts, destroyed unique and critical habitats, and submerged unexplored Mayan archeological sites, which are of cultural importance to the Mayan communities in the region.

According to the Commission's Admissibility Report in this case, "Petitioners further claim that during the construction of the Chalillo Dam, BECOL violated the ECP, among other

acts and omissions, by performing inadequate archeological surveys and excavations; failing to fulfill the promised mitigation measures to prevent wildlife losses; failing to provide and/or perform required water testing; failing to perform proper tests concerning water quality; failing to develop the Emergency Preparedness Plans to mitigate the risk of dam failure and catastrophic floods; failing to perform the promised waste management and pollution controls; failing to provide information on the design of the dam; failing to comply with provisions regarding quarries and borrow pits; failing to provide a healthy working environment for employees involved in the construction of the dam; failing to provide for issues of health pertaining to mercury levels in the fish; providing for little or no public involvement in the construction process; and, failing to properly monitor and enforce the terms of the ECP.”

The Petitioners further claim that the construction and operation of the Dam has severely impacted those who cannot afford to pay for alternative drinking water resources, and that the adverse environmental impacts are affecting the health of people in the identified communities, including causing stomach problems due to the intake of contaminated water.

On October 27, 2015, the Commission declared this petition “admissible for the purpose of examining the alleged violation of the rights set forth in Articles I (right to life, liberty and personal security), III (right to religious freedom and worship), IV (right to freedom of investigation, opinion, expression and dissemination), XI (right to the preservation of health and to well-being.), XIII (right to the benefits of culture), XIV (right to work and to fair remuneration), XVIII (right to a fair trial) and XXIII (right to property) of the American Declaration of the Rights and Duties of Man.”

IV. ARGUMENT

A. **Belize Violated the Rights to Life, Health, and Water by Contaminating Petitioners' Water and Food Supplies, and by Making Clean Water Economically Inaccessible to Them**

Belize's approval, construction, and operation of the Chalillo Dam violated and continues to violate petitioners' right to life, right to health, and right to clean and economically accessible water, recognized in Articles I and XI of the American Declaration, by (1) contaminating Petitioners' water supply, and (2) making clean water economically inaccessible to them. The construction of the dam has increased the turbidity in the Macal River, which has led to the deterioration in the quality of its water. Consequently, petitioners can no longer drink water safely from the river, bathe in it, or eat uncontaminated fish from the river. The contaminated water in turn has caused community members to suffer from detrimental health effects. Clean water is also not economically accessible because Petitioners are forced to purchase bottled water to avoid getting sick from the contaminated tap water, for which they must continue to pay.

Article I of the American Declaration recognizes that “[e]very human being has the right to life [...]”. In turn, Article XI of the American Declaration guarantees that, “[e]very person has the right to the preservation of his health through sanitary and social measures [...] to the extent permitted by public and community resources.”

The Inter-American Court of Human Rights (Court) has recently recognized an independent human right to a healthy environment, and has emphasized that environmental harms may have negative effects on the enjoyment of other human rights, such as the rights to life, health,

and personal integrity.³ Specifically, the Court explained that the duty to prevent violations of the right to life requires States to regulate, supervise and monitor the activities under their jurisdiction that could cause significant damage to the environment; prepare environmental impact assessments when there is a risk of significant damage to the environment; prepare a contingency plan in order to have safety measures and procedures in place that minimize the possibility of major environmental disasters, and mitigate any significant environmental damage that has occurred.⁴

The Inter-American Human Rights System (IAHRS) has also recognized that access to safe and affordable water is a human right necessary to guarantee basic rights such as the right to life and the right to health.⁵ The Court has held that access to clean drinking water is an essential requirement for the fulfillment of the right to life.⁶ At least since 1999, the Court has established that “the fundamental right to life includes, not only the right of every human being not to be deprived of his life arbitrarily, but also the right to not be prevented from having access to the conditions that guarantee a dignified existence.”⁷ In the context of subsequent cases involving indigenous peoples, the Court provided further detail about the connection between the right to a dignified life and the corresponding state duty to guarantee the provision of water and health.⁸

³ I/A Court H.R. *The Environment and Human Rights (State obligations in relation to the environment in the context of the protection and guarantee of the rights to life and to personal integrity – interpretation and scope of Articles 4(1) and 5(1) of the American Convention on Human Rights)*. Advisory Opinion OC-23/17 of November 15, 2017. Series A No. 23.

⁴ *Id.*

⁵ IACHR Annual Report 2015, Chapter IV.A *Access to Water in the Americas, An Introduction to the Human Right to Water in the Inter-American System*, available at <http://www.oas.org/en/iachr/docs/annual/2015/doc-en/informeanual2015-cap4a-agua-en.pdf>.

⁶ See, for example, I/A Court H.R., *Case of the Yakye Axa Indigenous Community v Paraguay. Merits, Reparations and Costs*. Judgment of June 17, 2005. C Series, No. 125, paras. 167, 175, and 176.

⁷ I/A Court H.R., *Case of the “Street Children” (Villagrán Morales et al.) v. Guatemala. Merits*. Judgment of November 19, 1999. Series C No. 63, paras. 144 and 191.

⁸ I/A Court H.R., *Case of the Yakye Axa Indigenous Community v. Paraguay. Interpretation of the Judgment on the Merits, Reparations and Costs. Judgment of February 6, 2006. Series C No. 142, para. 161*; I/A Court H.R., *Case of the Sawhoyamaya Indigenous Community v. Paraguay. Merits, Reparations and Costs. Judgment of March 29, 2006. Series C No. 146*; I/A Court H.R., *Case of the Xákmok Kásek Indigenous Community v. Paraguay. Merits, Reparations and Costs. Judgment of August 24, 2010 Series C No. 214, paras. 194 to 217.*

In its 2015 Annual Report, the Inter-American Commission reviewed these developments pertaining to the recognition of a human right to water within the Inter-American Human Rights System.⁹ Citing Inter-American Court jurisprudence, the Commission connected the right to water to the right to a dignified life, declaring that,

one of the obligations that the State must unavoidably fulfill for the purpose of protecting and ensuring the right to life, is creating minimum living conditions that are compatible with the dignity of the human being and that do not produce conditions that hamper or prevent this dignity, as would be the case in a situation that makes it impossible to have access to water that is safe for human consumption.¹⁰

The Commission further recognized that “access to water is [not only] an indispensable element in ensuring the right to life and to personal integrity, [...] it is an essential aspect of the right to health.”¹¹ Likewise, in its 2009 Report on the Human Rights Situation in Venezuela, the Commission stressed that “a right closely linked to the right to health is the right to water.”¹² Furthermore, access to clean drinking water can be used as an indicator to determine whether the government has guaranteed the right to health. In its report titled “Guidelines for Preparation of Progress Indicators in the Area of Economic, Social, and Cultural Rights,” the Commission found that having access to safe drinking water was indicative of whether or not the government is satisfying its obligation of guaranteeing the right to health.¹³

The Commission has also considered the relationship that exists between the degradation of the environment and access to water. The Commission has noted that environmental degradation

⁹ IACHR Annual Report 2015, *supra* n. 5, para. 1.

¹⁰ IACHR Annual Report 2015, *supra* n. 5, para. 33, citing I/A Court H.R., *Case of the Yakye Axa Indigenous Community v. Paraguay. Merits, Reparations and Costs*. Judgment of June 17, 2005, para. 162. See also, I/A Court H.R., *Case of the Sawhoyamaxa Indigenous Community v. Paraguay. Merits, Reparations and Costs*. Judgment of March 29, 2006, para. 178, and I/A Court H. R., *Case of the Xákmok Kásek Indigenous Community v. Paraguay. Merits, Reparations, and Costs*. Judgment of August 24, 2010, paras. 194-217.

¹¹ IACHR Annual Report 2015, *supra* n. 5, para. 29.

¹² *Id.* para. 65.

¹³ *Id.*

can have a negative impact on access to water and the enjoyment of several human rights, including the right to life and the right to health.¹⁴

The Commission has further described States' positive and negative obligations to respect, protect, and guarantee the human right to water, emphasizing that,

States must adopt measures to guarantee satisfaction of an essential level of access to water under conditions of quantity and quality suitable for human consumption [...]. They must refrain from engaging in practices and activities that impede or restrict access to drinking water under conditions of equality, particularly with respect to persons, groups, and communities historically subject to discrimination. They must also prevent third parties from undermining access to water, by adopting domestic measures, for example, to keep third parties from denying access to water or contaminating water resources, wells, and other water distribution systems.¹⁵

In its 2015 Annual Report, the Commission also noted that the achievement of the goals stated in Article 34 of the OAS Charter, including adequate nutrition and conditions necessary to achieve a healthy, productive, and dignified life, “depends uncompromisingly on the access to water fit for human consumption on a real equal footing for the satisfaction of human rights as a point of departure for integral development.”¹⁶

Looking at recent international jurisprudence, the Commission has established three principal duties to provide and ensure access to safe drinking water. These obligations include the duty to (1) regulate, (2) supervise, and (3) inspect.¹⁷ These obligations are applicable to both the direct provision of services by the State and the provision of services by private entities and require the State to provide and guarantee citizens' access to safe drinking water.¹⁸

¹⁴ *Id.*

¹⁵ *Id.* para 31, citing United Nations, Committee on Economic, Social and Cultural Rights, General Comment No. 15, para. 23. (emphasis added)

¹⁶ *Id.* para 22.

¹⁷ *Id.*

¹⁸ *Id.*

Moreover, two OAS General Assembly resolutions have further recognized that access to water is a human right and that this right is inextricably linked to the enjoyment of other rights, including life and health. The 2007 OAS General Assembly resolution titled “Water, Health, and Human Rights” emphasized that water is essential to the life and health of all human beings and that access to safe drinking water and basic sanitation is indispensable to guarantee a dignified life.¹⁹ In addition, the resolution recognized respect for the ancestral use of water by urban, rural, and indigenous communities, in the framework of their habits and customs on water use.²⁰ The 2012 OAS General Assembly resolution titled “The Human Right to Safe Drinking Water and Sanitation” expressly recognizes the human right to water and reaffirms the importance for “each state to continue its efforts to ensure that individuals subject to its jurisdiction have [...] non-discriminatory access to safe drinking water and sanitation as integral components to the realization of all human rights.”²¹

The United Nations has also recognized the right to water. In 2002, the Committee on Economic, Social, and Cultural Rights’ (CESCR) adopted General Comment No. 15, which recognized the human rights to water and sanitation as components of the right to an adequate standard of living and the right to health under the International Covenant on Economic, Social, and Cultural Rights (ICESCR).²² The CESCR acknowledged that “the human right to water is

¹⁹ OAS, General Assembly, Resolution AG/RES.2349 (XXXVII-O/07) “Water, Health and Human Rights, adopted at the fourth plenary session on June 5, 2007, at the thirty-seven regular session, in Panama, documents and minutes, pp. 357-360.

²⁰ *Id.*

²¹ IACHR Annual Report 2015, *supra* n. 5, para. 25.

²² Committee on Econ., Soc., & Cultural Rights, *Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social, and Cultural Rights: General Comment No. 15 (2002): The Right to Water (Arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights)*, para. 2, 29th Sess., 2002, U.N. Doc. E/C.12/2002/11 (Jan. 20, 2003), available at [http://www.unhcr.ch/tbs/doc.nsf/0/a5458d1d1bbd713fc1256cc400389e94/\\$FILE/G0340229.pdf](http://www.unhcr.ch/tbs/doc.nsf/0/a5458d1d1bbd713fc1256cc400389e94/$FILE/G0340229.pdf). Belize ratified the ICESCR on March 9, 2015.

indispensable for leading a life in human dignity. It is a prerequisite for the realization of other human rights.”²³

In General Comment 15, the CESCR specifically recognized that enjoyment of the human right to water requires having access to clean, safe, and affordable water.²⁴ That is, States have a duty to ensure (1) the quality and (2) the affordability of water.

Regarding quality, the Committee declared that water required for personal or domestic use must be safe and therefore free from microorganisms, chemical substances, and other hazards that constitute a threat to a person’s health.²⁵ Furthermore, water should be of an acceptable color, odor, and taste for personal or domestic use.²⁶

The Committee also emphasized that water must be affordable for everyone. According to the Committee, direct and indirect water costs should not prevent a person from having access to safe drinking water and should not affect their ability to enjoy other rights, including the right to health.²⁷

In 2010, through Resolution 64/292, the United Nations General Assembly also explicitly recognized the human right to water and sanitation and acknowledged that these are essential to the realization of all human rights.²⁸

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.* para. 12 (b).

²⁶ *Id.*

²⁷ UN High Comm’r for Human Rights, Annual Report of the United Nations High Commissioner for Human Rights and Reports of the Office of the United Nations High Commissioner for Human Rights and the Secretary- General: Report of the United Nations High Commissioner for Human Rights on the Scope and Content of the Relevant Human Rights Obligations Related to Equitable Access to Safe Drinking Water and Sanitation Under International Human Rights Instruments, ¶ 28 U.N. Doc. A/HRC/6/3 (Aug. 16, 2007); *see also* Committee on Econ., Soc., & Cultural Rights, *General Comment No. 15*, *supra* n. 22, para. 12.

²⁸ United Nations, Resolution 64/292, The Human Right to Water and Sanitation, adopted by the General Assembly on July 28, 2010.

The following sections provide an analysis as to why and how Belize has violated the Petitioners' rights to life, health, and water by (1) contaminating Petitioners' water supply, which has caused detrimental health effects, and (2) making clean water economically inaccessible to them.

1. The Chalillo Dam has contaminated the Petitioners' source of water and food.

Here, the State's actions and omissions have resulted in the contamination of the Petitioners' sources of clean water, which is indicative of the State's failure to ensure their rights to life and to health. The Chalillo Dam has increased the turbidity in the Macal River, caused changes to the flow of water in the river, and increased the level of mercury in fish, thereby negatively affecting a main source of subsistence for the Petitioners.

The State has failed to ensure that available water meets the standard of quality to be acceptable for human use. As a result of the construction of the Chalillo Dam, the water of the Macal River no longer meets quality standards. According to the petition and to the Petitioners the Clinic interviewed, the water in the Macal River used to be crystal clear but has turned to a dark brown color due to the increase in sediment. Also, the water often has foamy suds floating at the top.²⁹

Dr. Guy Lanza, a highly qualified scientist from the University of Massachusetts with thirty-five years of experience and expertise on water contamination, analyzed the water quality in the Macal River and concluded in 2009 that the water released from the Chalillo Dam was unfit for human consumption and cannot be properly filtered or disinfected due to the high levels of

²⁹ IHRC Interview with Klyde, San Ignacio, Belize (Oct. 7, 2017).

turbidity.³⁰ Dr. Lanza explained that the turbidity levels considered safe for drinking water are given in Nephelometric Turbidity Units (NTU's).³¹ According to the World Health Organization (WHO), the acceptable level of NTU's in drinking water is 5.³² The levels of NTUs in the Macal River are thousands of times higher than acceptable WHO standards.³³ Turbidity contaminants protect disease-causing waterborne microbes (bacteria, viruses, and protozoa) by masking their presence and by interfering with the effectiveness of disinfecting chemicals, such as chlorine, used to purify the water for drinking purposes.³⁴ Sediment materials creating the turbidity will also clog filtration systems used to pre-treat drinking water.³⁵ Therefore, according to Dr. Lanza, "it's not possible to filter and disinfect drinking water with the excessively high levels of turbidity evident in the Macal [River]."³⁶ The quality of the Petitioners' source of drinking water has worsened since Dr. Lanza published his findings in 2009.

Consequently, the Petitioners avoid drinking water from the Macal River, both directly and from their faucets, because of the changes in the water's appearance and odor. Petitioner Yolanda Harrison, for example, regularly drank water from the river all the time as a child prior to the Dam being built.³⁷ She no longer drinks water from the river because she is concerned about the changes in the water quality and its potential harmful effects. Another petitioner, Thomas Caretella, told the Clinic that "the water quality in the river has deteriorated substantially, to such an extent that it makes [him] angry to think about."³⁸

³⁰ BELPO, WeBAD, *Macal Water "Unfit for Human Consumption" says Environmental Scientist*, August 17, 2009.

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ IHRC Interview with Yolanda Harrison, Yoli's Pizza, San Ignacio, Belize (October 9, 2017).

³⁸ IHRC Interview with Thomas Caretella, San Ignacio, Belize (Oct. 8, 2017).

Water from the tap has also deteriorated in quality, because it is pumped directly from the river.³⁹ Petitioners complain that the water coming out of the faucet is brown and smells for a while after the faucet is turned on.⁴⁰ Consequently, Petitioners also avoid washing their clothes in the dirty brown water.⁴¹

The irregular flow of water caused by the Chalillo Dam has also led to an increase in the levels of mercury in the fish found in the river, which has traditionally been one of the main sources of food for the Petitioners. Because the dam holds back water, there is a constant cycle of growth of plants along the riverbanks and constant decomposition which creates mercury in the algae, which the fish eat. In the State's March 2017 response filed before this Honorable Commission, the State admitted there has been an increase in mercury levels in the fish.⁴² Furthermore, the State highlighted recent testing that shows that 50% of fish had an increase in mercury and 25% of those fish are the ones villagers typically eat.⁴³

High levels of mercury in the body may lead to neurological problems, especially in pregnant women and children.⁴⁴ Mercury in fish is particularly dangerous because it is not detectable by smell or taste and cannot be cooked out of the fish. Consequently, Petitioners no longer eat the fish from the water without fear of getting sick from the high levels of mercury in the fish.⁴⁵

³⁹ BELPO, WeBAD, *Macal Water "Unfit for Human Consumption" says Environmental Scientist*, August 17, 2009.

⁴⁰ IHRC Interview with Thomas Caretella, San Ignacio, Belize (Oct. 8, 2017).

⁴¹ IHRC Interview with Antonio Santiago, San Ignacio, Belize (Oct. 7, 2017).

⁴² GOB Response, Additional Observations on the Merits, March 1, 2017. p. 5.

⁴³ *Id.* p. 13.

⁴⁴ BELPO, WeBAD, *Macal Water "Unfit for Human Consumption" says Environmental Scientist*, August 17, 2009.

⁴⁵ IHRC Interview with Thomas Caretella, San Ignacio, Belize (Oct. 8, 2017).

For example, petitioner Yolanda Harrison used to eat fish from the water but no longer does so to avoid getting sick from the high levels of mercury.⁴⁶ Similarly, petitioner Thomas Caretella said that he would never eat the fish from the river, which is something he often used to do.⁴⁷

Considering all of the above, the State has failed to adopt measures to guarantee Petitioners' access to water of suitable quality for human use and consumption. The State's violation of the right to water must also be analyzed by taking into consideration that many of the Petitioners self-identify as indigenous Mayans, a community that has been historically subject to discrimination and that depends on the river for its subsistence.⁴⁸

2. Contaminated water has Caused the Petitioners to Suffer from Detrimental Physical Health Effects

The contamination in the water and fish has caused detrimental health effects on the Petitioners, such as stomach issues and skin diseases. Petitioner Antonio "Tony" Santiago, for example, has lived along the Macal River his entire life and used to spend all day in the river, but no longer does so because the water has given him skin rashes and makes him itchy.⁴⁹ Petitioners also complain about getting stomach cramps and diarrhea from the contaminated water.⁵⁰

After conducting tests of the water from the Macal River, Dr. Lanza confirmed that the "release of sediments with severe turbidity contaminants from the Chalillo dam [...] poses immediate risks to human health."⁵¹ The rashes and itchiness are worse for children, who are more

⁴⁶ IHRC Interview with Yolanda Harrison, Yoli's Pizza, San Ignacio, Belize (October 9, 2017).

⁴⁷ IHRC Interview with Thomas Caretella, San Ignacio, Belize (Oct. 8, 2017).

⁴⁸ IHRC Interview with Yolanda Harrison, Yoli's Pizza, San Ignacio, Belize (October 9, 2017).

⁴⁹ IHRC Interview with Antonio Santiago, San Ignacio, Belize (Oct. 7, 2017).

⁵⁰ IACHR, Admissibility Report No. 64/15, (2015), para. 18.

⁵¹ BELPO, WeBAD, *Macal Water "Unfit for Human Consumption" says Environmental Scientist*, August 17, 2009.

sensitive to the contaminants.⁵² A Petitioner interviewed by the Clinic who chose to remain anonymous complained that he no longer lets his children play in the river, because he has noticed that his children complain of feeling itchiness from being in the water. He noted that it feels like chicken pox when you get the rashes from swimming in the river.⁵³ These rashes typically last from five to seven days. To get rid of the rash, Petitioners often use traditional ointments from special plants. Another alternative is for people to buy medicine, but that is often too expensive.

In light of the above, the State has failed to comply with its obligations to ensure that Petitioners' water supply is safe and suitable for human use and consumption.

3. Access to clean water has become economically inaccessible since the Dam was built.

In addition to no longer having access to clean water, Petitioners face an extreme financial burden because they are forced to purchase bottled water. This financial burden makes clean water economically inaccessible to the Petitioners.⁵⁴ The lack of affordability of clean water is a direct consequence of the contamination caused by the Chalillo Dam.

Petitioners complain of their need to purchase water because the quality of the tap water is so bad. Petitioner Yolanda Harrison, for example, complains that she is forced to purchase 40 gallons of bottled water per week to meet her family's basic needs.⁵⁵ Petitioner Antonio Santiago, sadly expressed, "The first time I had to buy water, I cried."⁵⁶

⁵² IHRC Interview with Antonio Santiago, San Ignacio, Belize (Oct. 7, 2017).

⁵³ IHRC Interview with Klyde San Ignacio, Belize (Oct. 7, 2017).

⁵⁴ IHRC Interview with Thomas Caretella, San Ignacio, Belize (Oct. 8, 2017).

⁵⁵ *Id.*

⁵⁶ *Id.*

Many Petitioners are economically disadvantaged and cannot afford a water filter or buy bottled water. In addition, many live far away from stores where they can purchase water or have limited to no access to transportation.⁵⁷ Those who cannot afford to buy bottled water or a filter are thus forced to drink contaminated tap water that is pumped from the river and often makes them sick.⁵⁸

The Dam was built to generate electricity. One of the government's main arguments to construct the Dam in the first place was to lower the communities' utilities. This is ironic since on the day the Dam went online, BEL announced there would be an increase in electricity rates.⁵⁹

In conclusion, the State has failed in its obligation to respect, protect, and guarantee the Petitioners' right to safe, clean, and affordable water, which has resulted in detrimental health effects and prevent Petitioners from enjoying basic conditions necessary for a dignified life. The State has therefore violated Petitioners' right to life, right to health and right to water under Articles I and XI of the American Declaration as a direct result of the contamination caused by the Chalillo dam.

B. Belize Violated Petitioners' Right of Access to Information by Failing to Comply with Public Awareness Requirements of the Environmental Compliance Plan, Provide Adequate Responses to Requests for Information, and Offer an Effective Mechanism to Guarantee the Right to Access Information

Since the Chalillo Dam was built, the State's failure to enforce the "Public Awareness/Education" requirements of the Environmental Compliance Plan (ECP) constitutes a

⁵⁷ IHRC Interview with Thomas Caretella, San Ignacio, Belize (Oct. 8, 2017).

⁵⁸ IHRC Interview with Yolanda Harrison, Yoli's Pizza, San Ignacio, Belize (October 9, 2017).

⁵⁹ IHRC Interview with Antonio Santiago, San Ignacio, Belize (Oct. 7, 2017).

violation of the Petitioners' right of access to information recognized in Article IV of the American Declaration. The State has failed to respond in a timely, complete, and accessible manner to requests for information, to offer a legal resource that satisfies the right of access to information, to proactively provide information, and to produce or gather information in order to fulfill the right of access to information for those who request such information.

Under Article IV of the American Declaration, "every person has the right to freedom of investigation, of opinion, and of the expression and dissemination of ideas, by any medium whatsoever." In order to provide guidance on the meaning and application of Article IV of the American Declaration, the Commission has looked to the equivalent article, Article 13, of the American Convention on Human Rights, which states in relevant part, "everyone has the right to freedom of thought and expression. This right includes freedom to *seek, receive, and impart information* and ideas of all kinds..." (emphasis added). The Court has held that this right includes a positive obligation for the State to allow its citizens to access information under its control, with exceptions permitted only under the strict regime of restrictions established in the Convention.⁶⁰ This right has been considered a fundamental tool for citizen control of State affairs and public administration, and for the general fulfillment of other human rights, especially for the most vulnerable groups.⁶¹ It is also fundamental for guaranteeing transparency and good public administration by the government and other State authorities.⁶²

⁶⁰ I/A Court H. R., *Case of Claude-Reyes et al. v. Chile. Merits, Reparations and Costs*. Judgment of September 19, 2006. Series C No. 151. para. 58.a)-b).

⁶¹ IACHR, Annual Report of the Office of the Special Rapporteur for Freedom of Expression 2008. OEA/Ser.L/V/II.134. Doc. 5. 25 February 2009. Chapter III. para. 147. Available at: <http://www.cidh.oas.org/annualrep/2008eng/Annual%20Report%202008-%20RELE%20-%20version%20final.pdf>

⁶² IACHR. The Inter-American Legal Framework regarding the Right to Access to Information, Office of the Special Rapporteur for Freedom of Expression. OEA/Ser.L/V/II CIDH/RELE/INF. 1/09 December 30, 2009. para. 5. Available at: <http://www.oas.org/en/iachr/expression/docs/publications/ACCESS%20TO%20INFORMATION%20FINAL%20CON%20PORTADA.pdf>

The Court has explained that all persons have the right to request and receive information.⁶³ In general, it is not necessary for the person to prove a direct interest or personal stake in order to obtain information, unless there is a legitimate restriction permitted by the Convention.⁶⁴

The Court has also described what types of entities are obligated to provide such access to information. The obligation to provide access to information lies with all levels of government, including public authorities in all branches of government, as well as private actors who carry out public functions, provide public services, or manage public funds in the name of the State.⁶⁵ These private actors are only required to provide information on the handling of public funds, the provision of services in their care, and the performance of public functions.⁶⁶

According to established standards in the Inter-American System, the right to access to information includes “all significant information, defined broadly to include everything which is held or recorded in any format or medium.”⁶⁷ The right covers information that is in the care of, possession of, or being administered by the State; the information that is under the control of those who administer public services and funds; and the information that the State collects in the performance of its functions.⁶⁸

The right of access to information is not absolute and is subject to certain limitations. Principle 4 of the IACHR Statement of Principles on Freedom of Expression states that access to information is subject to “[...] only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies.” These limitations are derived from Article 13.2 of the Convention, and include conditions of

⁶³ *Id.* Para. 16.

⁶⁴ I/A Court H. R., *Case of Claude-Reyes et al. v. Chile. Merits, Reparations and Costs*. Judgment of September 19, 2006. Series C No. 151. para. 77.

⁶⁵ IACHR. The Inter-American Legal Framework regarding the Right to Access to Information, *supra* n. 62, para. 19.

⁶⁶ *Id.*

⁶⁷ *Id.* at para. 22.

⁶⁸ *Id.* at para. 21.

exceptional nature, legal establishment, legitimate objectives, and necessity and proportionality.⁶⁹ If a State restricts access to information, the State has the burden of proof to demonstrate the legitimacy, legality, necessity and proportionality of such restriction.⁷⁰

In the Inter-American Legal Framework regarding the Right of Access to Information, the Commission has also summarized States' obligations with respect to the right of access to information.⁷¹ First, the State must provide information in a timely, complete, and accessible manner. Second, the State must offer a legal resource that satisfies the right of access to information. Third, the State must proactively provide information when such information is needed for the exercise of other rights. Fourth, the State must produce or gather information in order to fulfill the right of access to information. In this case, the State has failed to comply with these obligations, as will be analyzed below.

1. The State Has Failed to Enforce the “Public Awareness/Education” Section of the Chalillo Dam’s Environmental Compliance Plan.

Belize has failed to comply with its obligations with respect to the right of access to information as laid out in the Dam’s Environmental Compliance Plan (ECP). The ECP, which was implemented as a condition for approval of the Chalillo Dam, contains important provisions that would have safeguarded the public’s right to access information about the Dam and its impacts.⁷² However, because the Belize Electric Company Ltd. (BECOL) has not complied with its requirements under the ECP, and because the State has not enforced the ECP, the communities around the Macal River have been left in the dark about the water quality, the increased in mercury levels in fish, and dam break procedures.

⁶⁹ *Id.* at para. 45.

⁷⁰ *Id.*

⁷¹ *Id.* at para. 26.

⁷² Environmental Compliance Plan in Regard to The Operation of the Macal River Upstream Storage Facility, Attachment 19 to the Petition to IACHR submitted by BELPO against Belize, p. 10.

The first requirement under the Public Awareness/Education section of the ECP states that “BECOL shall continue its series of public information sessions to inform the general public of ongoing environmental issues as per the ECP. These public sessions shall occur quarterly.”⁷³ Such public information sessions were inadequate before the Dam was built, and they continue to be inadequate.

Those who attended the information sessions that took place before the Dam was built, described them as “propaganda for the benefit of BECOL only.”⁷⁴ These sessions provided an inadequate amount of time for public opinions and participation. Thomas Caretella, for example, expressed frustration and considered these hearings to be a “waste of time” and “not worth it to speak up because the hearings allowed the community members only three minutes to speak, while BECOL supporters had as much time as they needed.”⁷⁵

In addition, according to several members of the community in and around San Ignacio, there have not been any adequate public information sessions since construction of the Dam was completed.⁷⁶ Therefore, BECOL has failed to comply with the obligations set forth in this section of the ECP, because they have not regularly held the mandatory quarterly public information sessions, and the sessions that were held before the Dam was built were biased, ineffective, and did not fulfill their intended purposes.

The Public Awareness/Education section of the ECP further requires that “[t]hese sessions shall be advertised at least two (2) weeks consecutively in two of the most widely circulated newspapers in the country and announced publicly on the radio.”⁷⁷ BECOL has not complied with

⁷³ *Id.*

⁷⁴ IHRC Interview with Judy DuPlooy, DuPlooy’s Jungle Lodge, San Ignacio, Belize (Oct. 8, 2017).

⁷⁵ IHRC Interview with Thomas Caretella, San Ignacio, Belize (Oct. 8, 2017).

⁷⁶ *Id.*; IHRC Interview with Judy DuPlooy, DuPlooy’s Jungle Lodge, San Ignacio, Belize (Oct. 8, 2017).

⁷⁷ Environmental Compliance Plan in Regard to The Operation of the Macal River Upstream Storage Facility, Attachment 19 to the Petition to IACHR submitted by BELPO against Belize, p. 10.

this requirement. According to members of the community, people are not aware of these information sessions.⁷⁸ Judy DuPlooy, a Petitioner and prominent business owner in San Ignacio, and Candy Gonzalez, a Petitioner and lawyer that has represented the Petitioners through her work with the Belize Institute of Environmental Law and Policy (BELPO), have expressed that if the locations of the information sessions are published in the newspapers at all, they are buried in the back and in very small font.⁷⁹ They also explained that sometimes the information sessions are advertised on the radio, but only in Spanish, which many members of the public do not speak or understand.⁸⁰

Finally, the Public Awareness/Education section of the ECP requires BECOL to finance a Public Participation Committee to promote “monitoring of community concerns and issues.”⁸¹ The Public Participation Committee is supposed to include representation from various groups including the Tourism Industry and NGOs.⁸² Community members are not aware and have never heard about the creation of a Public Participation Committee where they could raise their concerns about the effects of the Dam.⁸³ Either the Public Participation Committee was never established⁸⁴ or it has not sought input from the community, both of which violate the requirements of the ECP.

⁷⁸ IHRC Interview with Thomas Caretella, San Ignacio, Belize (Oct. 8, 2017); IHRC Interview with Judy DuPlooy, DuPlooy’s Jungle Lodge, San Ignacio, Belize (Oct. 8, 2017).

⁷⁹ IHRC Interview with Judy DuPlooy, DuPlooy’s Jungle Lodge, San Ignacio, Belize (Oct. 8, 2017); IHRC Interview with Candy Gonzalez, DuPlooy’s Jungle Lodge, San Ignacio, Belize (Oct. 7, 2017).

⁸⁰*Id.*

⁸¹ Environmental Compliance Plan in Regards to The Operation of the Macal River Upstream Storage Facility (Chalillo), Mollejon, and VACA Hydroelectric Facilities, The Department of the Environment for Belize Electric Company Limited, January 2014, p.10.

⁸² *Id.*

⁸³ IHRC Interview with Yolanda Harrison, Yoli’s Pizza, San Ignacio, Belize (October 9, 2017); Interview with Jaime Benjaime, DuPlooy’s Jungle Lodge, San Ignacio, Belize (Oct. 7, 2017).

⁸⁴ The State may argue that the National Environmental Appraisal Committee (NEAC) satisfied the requirement for public participation. However, the NEAC is not the same as the Public Participation Committee required under the ECP because NEAC was formed prior to the ECP or the construction of any of the dams on the Macal River and because it is not funded by BECOL. In addition, NEAC members and their discussions are subject to confidentiality agreements and therefore cannot possibly satisfy the requirement for BECOL to keep the public informed in a transparent manner. Finally, according to Candy Gonzalez, who was a member of NEAC for seven years, there are no representatives of the tourism industry nor representatives of any Mayan communities on NEAC, which also make it an inadequate substitute for the Public Participation Committee the ECP requires. *See* Belize Department of the

Therefore, Belize's failure to enforce the "Public Awareness/Education" section of the Environmental Compliance Plan is a violation of the Petitioners' right to access to information.

2. The State Failed to Respond to Information Requests in a Timely, Complete, and Accessible Manner

The State has also failed in its duty to respond in a timely, complete, and accessible manner to requests for information concerning the Dam and its effects. The State has not provided "a substantive response to requests for information"⁸⁵ nor has it offered, "within a reasonable time period, its legitimate reasons for impeding access."⁸⁶

BELPO has attempted multiple times to get information about water quality tests, mercury testing, and dam break procedures, but the State failed to respond at all or responded with incomplete information.⁸⁷ Judy DuPlooy similarly attempted to get information about dam break procedures, to no avail.⁸⁸ Ms. DuPlooy explained that she was told to implement dam break procedures in her hotel, but she was not given any guidance or assistance from the state or BECOL when she inquired.⁸⁹ Several members of the community also said that they wanted more information but did not know who to ask or how to get it. For example, Petitioner Yolanda Harrison said that she wanted to know more about water quality but did not know where to get that information.⁹⁰ This lack of timely, complete, and accessible information constitutes a violation of the Petitioners' right to access to information.

Environment, *The EIA Process, Summary of the Procedures*, available at: <http://www.doe.gov.bz/index.php/about-us/library/19-services/75-environmental-clearance-process>. IHRC Interview with Candy Gonzalez, DuPlooy's Jungle Lodge, San Ignacio, Belize (Oct. 7, 2017).

⁸⁵ IACHR. *The Inter-American Legal Framework regarding the Right to Access to Information*, *supra* n. 62, para. 24.

⁸⁶ *Id.*

⁸⁷ IHRC Interview with Candy Gonzalez, DuPlooy's Jungle Lodge, San Ignacio, Belize (Oct. 7, 2017).

⁸⁸ IHRC Interview with Judy DuPlooy, DuPlooy's Jungle Lodge, San Ignacio, Belize (Oct. 8, 2017).

⁸⁹ *Id.*

⁹⁰ IHRC Interview with Yolanda Harrison, Yoli's Pizza, San Ignacio, Belize (October 9, 2017).

3. The State Has Failed to Provide an Effective Legal Mechanism for Citizens to Seek and Receive Information.

The State has further failed in its duty to offer a legal mechanism that adequately satisfies the right of access to information.⁹¹ This duty requires the State to provide “an effective and adequate legal recourse that can be used by all individuals to request the information they need.”⁹²

In the words of the Inter-American Juridical Committee, in its *Principles on the Right of Access to Information*,

[c]lear, fair, non-discriminatory and simple rules should be put in place regarding the processing of requests for information. These should include clear and reasonable timelines, provision for assistance to be given to those requesting information, free or low-cost access, and does not exceed the cost of copying and sending the information, and a requirement that where access is refused reasons, including specific grounds for the refusal, be provided in a timely fashion.⁹³

Here, the process of requesting information from the State is anything but simple.⁹⁴ Pursuant to Belize’s Freedom of Information Act, the State has two weeks to respond once a request has been submitted.⁹⁵ In practice, responses often take much longer.⁹⁶ If the State does not respond, the next step is to file an administrative review for lack of response and then seek review by the Ombudsman.⁹⁷ However, there is no time limit for the Ombudsman to respond, and the Ombudsman does not have enough resources to complete full and timely reviews.⁹⁸ Finally, once all administrative remedies have been exhausted, a request for information can be brought to the

⁹¹ IACHR. The Inter-American Legal Framework regarding the Right to Access to Information, *supra* n. 62, para. 26.

⁹² *Id.*

⁹³ *Id.* para. 28.

⁹⁴ IHRC Interview with Candy Gonzalez, DuPlooy’s Jungle Lodge, San Ignacio, Belize (Oct. 7, 2017); Belize: Freedom of Information Act 1994, *available at*: <http://belpo.org/foia>.

⁹⁵ *Id.*

⁹⁶ IHRC Interview with Candy Gonzalez, DuPlooy’s Jungle Lodge, San Ignacio, Belize (Oct. 7, 2017).

⁹⁷ Belize: Freedom of Information Act 1994, *available at*: <http://belpo.org/foia>. IHRC Interview with Candy Gonzalez, DuPlooy’s Jungle Lodge, San Ignacio, Belize (Oct. 7, 2017). Belize: Ombudsman Act 1994, *available at*: <http://ombudsman.gov.bz/freedom-of-information-act/> and *available at*: belpo.org/ombudsman-act.

⁹⁸ There is only one Ombudsman for the entire country, who receives complaints on several issues, including police misconduct, improper medical care from public hospitals, and property disputes. IHRC Interview with Candy Gonzalez, DuPlooy’s Jungle Lodge, San Ignacio, Belize (Oct. 7, 2017).

Supreme Court.⁹⁹ Aside from Mrs. Candy Gonzalez, who is an experienced attorney with significant experience trying to obtain information from the State, no other community members that we spoke to were able to navigate this process. The confusing procedures and lack of effective legal recourse to obtain information from the State constitute a violation of the petitioners' right of access to information.

4. The State Has Failed to Proactively Provide Information When Needed to Exercise Petitioners' Rights to Health and to Basic Government Services.

The State has failed to proactively provide information when that information was needed for the exercise of other rights, including health and basic government services.¹⁰⁰ According to the Commission's Special Rapporteur for Freedom of Expression, the proactively-provided information should also be "understandable, available in approachable language and up to date."¹⁰¹ In situations where significant segments of the population do not have access to new technologies, the state must "find efficient ways to fulfill its obligation of active transparency."¹⁰²

Here, the State has failed to proactively provide information, especially when the information is needed for the exercise of other rights including health and basic government services. Specifically, the State has failed to provide information to the public about water quality, mercury levels in fish, and dam break safety procedures. All three of these areas of information are needed for the exercise of the rights to health and life. The State has claimed that they regularly publish press releases and post warning signs. However, such warning signs are not maintained and are not replaced when damaged.

⁹⁹ *Id.*

¹⁰⁰ IACHR. The Inter-American Legal Framework regarding the Right to Access to Information, *supra* n. 62, para. 32.

¹⁰¹ *Id.*

¹⁰² *Id.*

In sum, the State has failed to find efficient ways to keep the public informed about water quality and mercury poisoning in the Macal River, which has prevented Petitioners from having the information necessary to seek pertinent health care. The State has also failed to provide meaningful information about protocols to follow when the dam breaks, which potentially could have a detrimental effect on Petitioners' rights to life and to personal integrity and security.¹⁰³

5. The State's Failure to Fulfill Its Obligations with Respect to the Right of Access to Information Is Not Justified.

While human rights law allows certain restrictions on the right to access to information in situations that are justified, the State has not alleged any such justifications to deny the Petitioners' right of access to information. In fact, the State claims that it has complied with the ECP by keeping the public informed through press releases.¹⁰⁴ However, the State has not indicated where or when such press releases were published or how the information was disseminated. Based on the interviews the Clinic conducted with the Petitioners and members of the public, the State was not successful in keeping the public informed, thereby violating the ECP and the Petitioners' right of access to information.

C. Belize Violated the Right to Work by Negatively Impacting Tourism, Fishing, and Farming in the Macal River.

Belize has violated Petitioners' right to work because the Chalillo Dam's negative effects on the Macal River have made the river undesirable to tourists, fishermen can no longer sell the contaminated fish (though some still do, even knowing the dangers), and farmers can no longer grow or sell the diverse crops they once produced.

¹⁰³ IHRC Interview with Community Members, DuPlooy's Jungle Lodge, San Ignacio, Belize (Oct. 7, 2017).

¹⁰⁴ GOB 2017 Response, p. 3.

Article XIV of the American Declaration recognizes “the right to work, under proper conditions, and to follow [one’s] vocation freely, insofar as existing conditions of employment permit.” Similarly, Article VI of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights (Protocol of San Salvador) recognizes that the right to work “includes the opportunity to secure the means for living a dignified and decent existence by performing a freely elected or accepted lawful activity.” Additionally, Article VI of the Protocol of San Salvador asserts that State Parties have an obligation “to adopt measures that will make the right to work fully effective.”

People living in the Macal River basin—especially in the communities of San Ignacio, Cristo Rey, Bullet Tree, Santa Elena, and Santa Familia—depend on the Macal River to perform their vocations, particularly in the fishing, farming, and tourism industries. The construction of the Chalillo Dam impeded these vocations by changing the quality and flow of water in the river, which damaged crops, decimated and contaminated local fish populations, and changed the region’s topography in such a way that adversely affect its desirability as a tourist destination.¹⁰⁵

1. The Chalillo Dam Adversely Affected Tourism in the Macal River Basin, Thereby Negatively Impacting Petitioners’ Right to Work.

Tourism was one of the largest and most important sources of employment for people living along the Macal River.¹⁰⁶ According to petitioner Thomas Caretella, a former tour guide in the region, Belizeans who grew up and lived their whole lives along the Macal River came to depend on it for their livelihood. Another petitioner, Antonio “Tony” Santiago agreed. Tony

¹⁰⁵ IHRC Interview with Jaime Benjaime, San Ignacio, Belize (Oct. 7, 2017). Interview with Candy Gonzalez, DuPlooy’s Jungle Lodge, San Ignacio, Belize (Oct. 7, 2017).

¹⁰⁶ IHRC Interview with Thomas Caretella, San Ignacio, Belize (Oct. 8, 2017); IHRC interview with Yolanda Harrison, Yoli’s Pizza, San Ignacio, Belize (October 9, 2017).

Santiago gives canoe tours up the Macal River, through his company Tony's Adventure Tours.¹⁰⁷ In an interview with the Clinic, he described first-hand the ways in which the Chalillo Dam's construction impeded his business and materially altered tourism on the river.¹⁰⁸

Before the Dam was built, Tony says the river was robust, healthy, and clean—allowing it to support a diverse ecosystem of plant and animal life that attracted many tourists.¹⁰⁹ After the Dam was built, the water became more stagnant, turned brown, and chemical runoff contaminated the river and surrounding soil.¹¹⁰ Consequently, once-sandy riverbanks turned to mud, wildlife and several indigenous plants died off *en masse*, and tourism along the Macal River dissipated.¹¹¹

Tony Santiago began giving canoe tours up the Macal River in 1995, ten years before the Chalillo Dam was completed.¹¹² At one point, four separate companies rented canoes or gave guided tours of the river.¹¹³ During this time, Tony's Adventure Tours would often take ten canoes out per trip, each filled with three tourists and a guide.¹¹⁴ Now, Tony says, there is only one company left—his own.¹¹⁵ The other three companies were forced out of business due to a lack of tourist interest. Now, instead of a full schedule of tours, Tony usually only sends two canoes per day, one of which is staffed with a freelancer.¹¹⁶ Tony no longer has the ability to employ full-time guides due to the inability to secure consistent work based on the conditions of the river.¹¹⁷

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² IHRC Interview with Tony Santiago, Tony's Adventure Tours, Santa Elena, Belize (Oct. 7, 2017)

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *Id.*

Moreover, Tony has to work in construction and landscaping on the side to make enough money to support himself and his family.¹¹⁸ He said that if he did not take up a second job, he would not be able to stay in the region.¹¹⁹ Indeed, many of his former employees have had to leave the Macal River Basin. Thomas Caretella, a former employee of Tony's, said the same.¹²⁰ According to Thomas, the vocations available to Tony's former employees—and to other tour guides on the Macal River, as well—are severely limited.¹²¹ Some, like Tony, were able to work in construction and in landscaping, but many had to leave the region entirely.¹²² Both Thomas Caretella and Tony Santiago spoke of those who remained in their homes, unable to find work, many of whom turned to alcohol to cope with their loss of employment.¹²³

Lack of formal educational opportunities in rural Belize exacerbated the Chalillo Dam's negative impact on the tourism industry. Many Belizeans living in rural areas do not have access to a formal education beyond the seventh or eighth grade; as such, they have to find work in vocations that do not necessarily require substantive schooling.¹²⁴ For people living along the Macal River, this meant working in the tourism industry. Tour guides could bring vacationers up and down the river in canoes, using their personal knowledge of the region to describe, explain, and contextualize various sites along the route.¹²⁵ Petitioner Thomas Caretella, himself a former tour guide, said that people who grew up and lived their whole lives along the Macal River gave

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ IHRC Interview with Tony Santiago, Tony's Adventure Tours, Santa Elena, Belize (Oct. 7, 2017); IHRC Interview with Thomas Caretella, San Ignacio, Belize (Oct. 8, 2017).

¹²¹ IHRC Interview with Thomas Caretella, San Ignacio, Belize (Oct. 8, 2017).

¹²² IHRC Interview with Thomas Caretella, San Ignacio, Belize (Oct. 8, 2017); IHRC Interview with Tony Santiago, Tony's Adventure Tours, Santa Elena, Belize (Oct. 7, 2017).

¹²³ *Id.*

¹²⁴ IHRC Interview with Thomas Caretella, San Ignacio, Belize (Oct. 8, 2017).

¹²⁵ *Id.*

tours, because they did not have the training to do anything else.¹²⁶ Petitioner Tony Santiago similarly believes lack of educational opportunities aggravated the Dam's negative impact.¹²⁷

According to Petitioner Thomas Caretella, the government did not offer any retraining programs, or any assistance in finding new employment for those who have since lost their jobs due to the contaminated river.¹²⁸ Thomas believes that the lack of formal education and formal job training among tour guides, compounded by the State's failure to provide such assistance, exacerbated the Dam's detrimental effect on jobs in the tourism industry along the Macal River.¹²⁹ Both Thomas and Tony believe that it is largely the government's responsibility to address the issues of unemployment among former tour guides.¹³⁰

The testimony of Tony Santiago and Thomas Caretella was corroborated by a third petitioner, Yolanda Harrison.¹³¹ Yolanda Harrison, the owner of Yoli's Pizza in San Ignacio, Belize, confirmed Thomas Caretella's opinion that former tour guides were especially harmed because of their lack of access to education or job training.¹³² She agreed with Thomas and Tony that the Belizean government has the responsibility to assist the people whose livelihoods were destroyed by the Dam's construction.¹³³

2. The Chalillo Dam Negatively Impacted Fishing in the Macal River Basin.

Petitioner Yolanda Harrison highlighted the effects of the Dam on the local fishing industry.¹³⁴ According to her, local cuisine in the Macal River Basin was dependent on what she

¹²⁶ *Id.*

¹²⁷ IHRC Interview with Tony Santiago, Tony's Adventure Tours, Santa Elena, Belize (Oct. 7, 2017).

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ IHRC Interview with Thomas Caretella, San Ignacio, Belize (Oct. 8, 2017); IHRC Interview with Tony Santiago, Tony's Adventure Tours, Santa Elena, Belize (Oct. 7, 2017).

¹³¹ IHRC interview with Yolanda Harrison, Yoli's Pizza, San Ignacio, Belize (October 9, 2017).

¹³² *Id.*

¹³³ *Id.*

¹³⁴ *Id.*

calls “river fish.” It is now unsafe to eat these river fish due to the high level of mercury in the fish from the changes in turbidity of the river caused by the Chalillo Dam.¹³⁵ The fish are contaminated with mercury and no longer safe for human consumption on a daily basis.¹³⁶

Before the Chalillo Dam’s construction, locals in the region would fish in the Macal River and often sell their catches for profit.¹³⁷ These fish would be sold at the market or door-to-door.¹³⁸ Now, fish sold at the market comes from the sea and is more expensive, because it is brought inland from the Caribbean coast of Belize.¹³⁹ In sum, the contamination caused by the Chalillo Dam has brought the local fishing industry to a halt.¹⁴⁰

3. The Chalillo Dam Negatively Impacted Farming in the Macal River Basin, Especially in Predominantly Mayan Communities.

Local farming was also negatively impacted by the effects of the Chalillo Dam.¹⁴¹ Much of this damage can be seen in the predominantly Mayan town of Cristo Rey, one of the five enumerated communities in the original petition. In Cristo Rey, local residents owned and managed farms along the banks of the river, according to Jaime Benjaime, himself a resident and native of the town.¹⁴² He says these farms grew diverse, nutritious crops, such as tomatoes and bell peppers.¹⁴³ Some of these crops were kept as sustenance, but much of the yield would be sold at market for profit.¹⁴⁴ However, because of contamination caused by the Dam and the change in the

¹³⁵ *Id.*

¹³⁶ IHRC interview with Yolanda Harrison, Yoli’s Pizza, San Ignacio, Belize (October 9, 2017); IHRC Interview with Candy Gonzalez, DuPlooy’s Jungle Lodge, San Ignacio, Belize (Oct. 7, 2017).

¹³⁷ *Id.*

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ IHRC Interview with Jaime Benjaime, San Ignacio, Belize (Oct. 7, 2017).

¹⁴² *Id.*

¹⁴³ *Id.*

¹⁴⁴ *Id.*

nutrient load caused by the change in the river flow, the composition of the soil along the banks of the river changed, largely turning to mud.¹⁴⁵ Now, the banks of the Macal River cannot support farming or most plant life.¹⁴⁶

According to Jaime, most people in the region have closed down and sold their farms.¹⁴⁷ Tony Santiago, whose family operated a farm along the river before the Chalillo Dam was constructed, validated that assertion.¹⁴⁸ In the years since the Dam was built, Tony's family farm stopped producing crops as a result of the change in soil composition, and he and his family were forced to sell the land.¹⁴⁹

The people who remain and continue to farm in the region have had to move their farms up the sides of the mountains and embankments surrounding the river, further away from the water's edge.¹⁵⁰ They needed to move their crops away from the contaminated water because it was not able to foster plant growth.¹⁵¹ Furthermore, according to Jaime, farmers can no longer grow the diverse crops they once produced.¹⁵² Now, they mainly grow plants such as corn and other crops that can grow in unfavorable conditions.¹⁵³ This means, according to Jaime, that farmers no longer sell their crops at the market.¹⁵⁴ He explained that it is not economically viable

¹⁴⁵ IHRC Interview with Jaime Benjaime, San Ignacio, Belize (Oct. 7, 2017); IHRC Interview with Tony Santiago, Tony's Adventure Tours, Santa Elena, Belize (Oct. 7, 2017).

¹⁴⁶ *Id.*

¹⁴⁷ IHRC Interview with Jaime Benjaime, San Ignacio, Belize (Oct. 7, 2017).

¹⁴⁸ IHRC Interview with Tony Santiago, Tony's Adventure Tours, Santa Elena, Belize (Oct. 7, 2017).

¹⁴⁹ *Id.*

¹⁵⁰ IHRC Interview with Jaime Benjaime, San Ignacio, Belize (Oct. 7, 2017).

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ *Id.*

¹⁵⁴ *Id.*

to do so, because there is less diversity in the types of crop available to sell.¹⁵⁵ As such, even among the farms that remain, many have been drastically downsized.¹⁵⁶

In conclusion, the construction of the Chalillo Dam adversely affected Petitioners' right to work to the fullest extent provided by existing conditions, as recognized under Article XIV of the American Declaration, particularly in the river tourism, fishing, and farming industries.

D. Belize Violated Petitioners' Right to Judicial Protection by Failing to Provide an Effective Recourse to Address Violations of the Environmental Compliance Plan.

Belize has violated the right of access to justice and judicial protection recognized in Article XVIII of the American Declaration because (1) the State has failed to abide by the orders of the Belize Supreme Court relating to the enforcement of the Environmental Compliance Plan (ECP), and because (2) no adequate and effective legal framework exists to protect petitioners against human rights violations resulting therefrom.

Article XVIII of the American Declaration provides that “[e]very person may resort to the courts to ensure respect for his legal rights. There should likewise be available to him a simple, brief procedure whereby the courts will protect him from acts of authority that, to his prejudice, violate any fundamental constitutional rights.” This article of the American Declaration recognizes the right to have access to effective judicial remedies to redress human rights violations.

The Inter-American Court has identified two obligations that stem from the right to judicial protection. The first obligation requires States to develop a normative legal framework that ensures the effectiveness of judicial remedies aimed at protecting against human rights violations or

¹⁵⁵ *Id.*

¹⁵⁶ *Id.*

determining the rights and obligations of persons under the State's jurisdiction.¹⁵⁷ The second obligation requires States to execute their own judicial decisions effectively.¹⁵⁸

The Court has emphasized that the formal existence of judicial remedies is not enough, if they are not effective; the judicial remedies must provide an effective response and a reparation to the violation of the rights embodied in the Convention, in the Constitution, or in the laws.¹⁵⁹ Furthermore, according to the Court, States have an obligation "to ensure that the competent authorities shall enforce such remedies when granted."¹⁶⁰ Illusory remedies are not considered effective. Remedies are illusory when their ineffectiveness has been shown in practice, when the means to execute decisions are lacking, or in any other situation that establishes a denial of justice.¹⁶¹ In other words, the judicial process should lead to the protection of the right recognized in the ruling.¹⁶² Failure to comply and enforce the judgment of domestic courts would therefore violate the right to judicial protection.¹⁶³

Furthermore, the Court has declared that "the execution of judgments should be governed by those specific standards that allow for the application of the principles of, *inter alia*, judicial protection, due process, legal certainty, judicial independence and the rule of law."¹⁶⁴ Finally, the

¹⁵⁷ I/A Court H.R., *Case of Suárez Rosero V. Ecuador. Merits*, Judgment of November 12, 1997, Series N° 35, para. 65.

¹⁵⁸ I/A Court H.R., *Case of Baena Ricardo et al. V. Panama. Competence*. Judgment of November 28, 2003. Series C No. 104, para. 82.

¹⁵⁹ I/A Court H.R., *Case of the Constitutional Court V. Perú. Merits, Reparations and Costs*. Judgment of January 31, 2001. Series C No. 71, para. 90. See also, I/A Court H.R., *Judicial Guarantees in States of Emergency (Arts. 27(2), 25 and 8 American Convention on Human Rights)*. Advisory Opinion OC-9/87 of October 6, 1987. Series A No. 9, para. 23.

¹⁶⁰ I/A Court H.R., *Case of the "Juvenile Reeducation Institute" V. Paraguay. Preliminary Objections, Merits, Reparations and costs*. Judgment of September 2, 2004. Series C No. 112, para. 248.

¹⁶¹ I/A Court H.R., *Case of Ivcher Bronstein V. Perú. Merits, Reparations and Costs*. Judgment of February 6, 2001. Series C No. 74, para. 137.

¹⁶² I/A Court H.R., *Case of Baena Ricardo et al. V. Panama. Competence*. Judgment of November 28, 2003. Series C No. 104, para. 73.

¹⁶³ I/A Court H.R., *Case of the "Five Pensioners" V. Perú*. Judgment of February 28, 2003. Series C N° 98, para. 138 and 141, and *Case of Acevedo Buendía et al. ("Discharged and Retired Employees of the Office of the Comptroller") v. Peru. Preliminary Objection, Merits, Reparations and Costs*. Judgment of July 1, 2009. Series C No. 198, para. 73.

¹⁶⁴ I/A Court H.R., *Case of Furlan et al. v. Argentina. Preliminary Objections, Merits, Reparations and Costs*, Judgment of August 31, 2012. Series C No. 246, para. 211

Court has affirmed that “in a system based on the principle of rule of law, all public authorities, within the framework of their jurisdiction, must take heed of judicial decisions and promote their execution without hindering the purpose and scope of the decision or unduly delaying its implementation.”¹⁶⁵

Here, Belize has violated the right of access to justice and judicial protection because the State has not fully enforced its own Supreme Court’s orders regarding compliance with the ECP and because Petitioners have no adequate and effective legal recourse to challenge Belize’s failure to do so.

The ECP specifically provides for the implementation of a “mercury risk management” mechanism, water testing, the effective implementation of sirens in case of a dam break, an Emergency Preparedness Plan, and the creation of a local community committee to discuss the issues and needs of the people living along the Macal River.¹⁶⁶ As mentioned *supra*, the State has failed to comply with these obligations laid out in the ECP. The water of the Macal River is contaminated with mercury; Petitioners have been mostly unable to obtain official water testing results; the siren system in case of a dam break is inadequate to alert the population effectively; there is a failure to properly inform the public as to what to do in case of a dam break other than “to run uphill”, and no local committee has been created to address the issues and needs of the people living along the Macal River.

Petitioners do not have adequate and effective legal procedures to challenge Belize’s failure to implement these and other requirements under the ECP. On July 9, 2007, BELPO sought

¹⁶⁵ I/A Court H.R., *Case of Mejía Idrovo v. Ecuador. Preliminary Objections, Merits, Reparations and Costs*, Judgment of July 5, 2011. Series C No. 228, para. 106.

¹⁶⁶ Addendum to Petition submitted by BELPO on behalf of All Belizeans-particularly Mayan people of Belize; members of the Cristo Rey, Bullet Tree, San Ignacio, Santa Elena, and Santa Familia communities; members of the Tour Guide Association; tour operators, resort owners, and other business people, and other affected Belizeans against BELIZE (November 8, 2005)

a writ of mandamus directing the Chief Environmental Officer of the Department of the Environment to carry out the directives of the ECP's directives. On June 30, 2008, the Supreme Court ordered the government to enforce the requirements set forth in the ECP. Concerning the emergency preparations in case of a dam break, the Supreme Court said "there should [...] be no doubt about the seriousness of a dam break. It holds the potential of serious and dire consequences not only for the Environment but the persons and things in the path of rushing waters from a dam break." Specifically, the Supreme Court ordered DOE to:

- Ensure the Emergency Preparedness Plan is "readily accessible and available, particularly to the communities in its vicinity likely to be impacted first by any possible emergency flowing from its operation."
- Ensure routine testing of the Dam Break Early Warning system and communications system, particularly between June and November each year.
- Require BECOL to carry out a public information program explaining the health risks associated with high levels of mercury in Macal River fish.
- Require BECOL to conduct key tests of water quality on the Macal River.
- Require BECOL to develop programs to inform the public about the environmental impacts of the dam and measures that BECOL is required to take in order to mitigate those impacts.

To date, the State has failed to fully and adequately comply with the Supreme Court's 2008 decision. For example, the State has not carried out an effective public participation program that adequately informs the public about practice drills and mercury levels in the fish, nor has it provided business owners with a proper evacuation plan in the event of a dam break.¹⁶⁷ The DOE

¹⁶⁷ Environmental Compliance Plan in Regard to The Operation of the Macal River Upstream Storage Facility, Attachment 19 to the Petition to IACHR submitted by BELPO against Belize.

and BECOL also merely complied partially with the ECP's publication requirements regarding a dam break plan, by only publishing their emergency safety procedures on the internet. On this point, the Chief Justice of the Supreme Court said, "You can't depend on cyberspace in the middle of a dam break."

Two months following the Supreme Court's order, on August 26, 2008, there was a Senate meeting in which Senator Hector Silva raised the issue of BECOL not complying with the Supreme Court order to put in place health and safety measures. The Senator also stressed that if there was loss of life or property due to a failure of the dam, BECOL would have no liability pursuant to the Third Master Agreement between the government and BECOL.

On November 27, 2008, BECOL held one of the few public meetings in San Ignacio on the effects of the Chalillo Dam. At that meeting, the Public Health Department's representative warned that the Macal River contained high levels of certain metals, yet they did not advise anyone about the safety concerns associated with drinking the contaminated water. The BECOL representative further stated that sedimentation in the river would not be a problem and that the survey of micro invertebrates that the Supreme Court ordered had not been done because it was too expensive. The DOE subsequently decided that BECOL need not fully comply with those aspects of the Supreme Court's order that were too costly.

In response to the State's failure to comply with the 2008 Supreme Court order, BELPO attempted to pursue a simple and prompt judicial recourse to protect Petitioners against the ensuing human rights violations. Nevertheless, no such simple and prompt recourse exists under Belizean law. Accordingly, on October 19, 2009, BELPO creatively returned to the Supreme Court and sought a court order using procedural norms applicable in the creditor/debtor context because there is no rule of civil procedure that directly allows Petitioners to address the State's failure to comply

with the 2008 order. The “debt” under the debtor/creditor context was construed to be the State’s debt or duty to the communities along the Macal River to comply with the ECP and with the 2008 order.¹⁶⁸

During a 2009 hearing, the Supreme Court reprimanded the DOE for altering the court’s order, stating that any concerns about the implementation of the court’s order should be argued before the court and not decided unilaterally by the government. The Chief Justice of the Supreme Court said:

I would have expected more cooperation between the Department of the Environment and the applicants on one side as against the Developer on the other side but what comes out, what I see happening, the Department of the Environment cooperates, yes it should, with the developer, much more than the applicant, so the applicant naturally feels like look, it is all stitched up, they are just stitching up to foam us off, they don’t intend to really carry out their duties. Don’t look at the applicant or any other group in their position with suspicion. They are there to make sure your task is easier, the developer’s feet can be held to the fire and do their work as they should do. (p.87 of transcript, December 2, 2009)

On December 16, 2009, the Supreme Court once again ordered water quality testing; monitoring of mercury levels in fish; informing the public of the associated health risks; the creation of a dam break early warning system and plan with routine testing or simulation; quarterly reporting to the Court on the state of the warning system, and the reconstitution of the Public Participation Committee to ensure better communication on dam-related concerns. The court set deadlines for its orders to be carried out.

The State nevertheless failed to comply once again with the Supreme Court’s orders. The DOE was supposed to report to the Supreme Court on a quarterly basis but have thus far only submitted one compliance report. The DOE also failed to provide Petitioners with adequate water

¹⁶⁸ IHRC Phone Interview with Candy Gonzalez, (November 17, 2017).

testing results and reports on the level of mercury in the fish.¹⁶⁹ The water quality data does not include analysis of iron, chloride and sulfate levels, although these are mandated by section 3.01 of the ECP. Additionally, the water quality data does not include required analysis of heavy metals (e.g. mercury, lead, arsenic, cadmium).¹⁷⁰ The State also did not put together a committee to discuss the needs of community members. The only information that has been given to communities affected by the Dam has been by a local NGO, which provides some guidance on safer food and water consumption and on the environmental effects of the Chalillo Dam.

In this context of continuous non-compliance by the State, on September 19, 2010, BELPO sought an enforcement order requiring full compliance with the two previous Supreme Court orders and with the 2002 ECP. This time, the Supreme Court had a different composition and denied BELPO's request. The court stated it was not the Supreme Court's job to assess the adequacy of compliance with the ECP, provided that some compliance was demonstrated.

To date, neither the State nor BECOL has adequately or effectively complied with the ECP. Since the dismissal of the court case by the Supreme Court, Petitioners have not received copies of the quarterly reports that must be submitted to the Supreme Court per the December 2009 decision and the June 18, 2010 court order. Requests for information on compliance with the ECP remain largely unfulfilled or delayed without explanation.

In conclusion, the State has violated petitioners' right to access to justice and judicial protection under Article XVIII of the American Declaration because the government continuously

¹⁶⁹ Addendum to Petition submitted by BELPO on behalf of All Belizeans-particularly Mayan people of Belize; members of the Cristo Rey, Bullet Tree, San Ignacio, Santa Elena, and Santa Familia communities; members of the Tour Guide Association; tour operators, resort owners, and other business people, and other affected Belizeans against BELIZE. (June 13, 2016)

¹⁷⁰ *Id.*

fails to abide by the orders of the Belize Supreme Court related to the enforcement of the ECP and because the State has failed to provide an effective recourse to challenge these violations.

V. CONCLUSION

This case presents the Inter-American Commission on Human Rights with a unique and important opportunity to further develop its jurisprudence on the right to a healthy environment. Specifically, it allows the Commission to explore the relationship between the rights to life, health and water, in the context of environmental damage resulting from the actions and omissions by both State and corporate actors, especially as such actions and omissions affect rural and indigenous populations. The case also provides an excellent opportunity for the Commission to highlight the importance of the right to access to information in such environmental harm cases, particularly as it relates to information about water contamination and health concerns. The Commission also has an opportunity to address the violations to the right to work of people in tourism, fishing, and farming industries whose livelihoods are harmed by environmental damages to rivers. Finally, this case highlights the need to have strong and effective judicial mechanisms to address complaints about a State's failure to comply with environmental regulations.

Based on our research, we fully support the Petitioners' allegations in the present case. The approval, construction, and operation of the Chalillo Dam has caused multiple human rights violations. The present *amicus curiae* brief addresses only some of these violations, particularly on the rights to life, health and water, right to information, right to work, and right to judicial protection, recognized in Articles I, IV, XI, XIV, and XVIII of the American Declaration. We also support all the other allegations made by the Petitioners. Accordingly, we ask this Honorable Commission to decide this case in favor of the Petitioners, develop clear and strong international law standards on the right to a healthy environment and related human rights violations, and

recommend the adoption of reparation measures to redress the harms already caused to Petitioners and to prevent similar violations from occurring in the future.

In solidarity,



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Director, Santa Clara University – International Human Rights Clinic

_____/s/_____
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