



Destruction of the Russian-Controlled Kakhovka Dam has Caused Significant Harm to South Ukraine, Calling for Humanitarian Assistance and Accountability

Human Rights Now (HRN) condemns the attack on the Russian-controlled Kakhovka dam on June 6 that left thousands of civilians displaced, destroyed thousands of homes, workplaces, agricultural areas, and infrastructure, killed dozens of people and an estimated tens of thousands of animals, created a 150 ton oil spill on the river, destroyed a vital source of clean water for tens of thousands of people, and put the Zaporizhzhia Nuclear Power Plant at heightened risk of overheating and causing a nuclear accident. We express deep concern for the humanitarian crisis and environmental damage the explosion of the dam left behind. We call for Russia to end its unlawful occupation of Ukraine and for the international community to immediately send aid to the affected population and to support reconstruction efforts, including the swift re-construction of the dam to restore the water levels of the Kakhovka reservoir.

1. Regarding Responsibility for the Kakhovka Dam Breach

Both Russian and Ukrainian governments officially blame the other government for the explosion causing the Kakhovka dam breach. At the same time, both Western and Ukrainian sources, including structural engineers and the dam's former manager, and Russian-state-controlled commentators, as well as alleged but credible leaked Russian internal military communications intercepted by Ukrainian authorities, have all cited or reinforced the same evidence supporting the conclusion that Russian forces caused the dam breach, including that it was, and could only have been, caused by internally-placed explosive devices for structural reasons, while the dam was under Russian control with a heavy presence.¹ This is in a context in which Russian authorities have routinely released documented misinformation as their official stance while having state-controlled media express accurate information contradicting the official narrative, ostensibly to provide pro-Russian spin in light of the emerging evidence, a pattern appearing repeated in this case.²

2. Harm to Life and Health Caused by the Kakhovka Dam Breach

By June 18 it was reported that at least 45 people have died from the flooding caused by the dam breach, although one local doctor has reported at least 90 dead from the flooding in one village alone (out of at

¹ "Why the evidence suggests Russia Blew Up the Kakhovka Dam", NYTimes, 16 June 2023, <https://www.nytimes.com/interactive/2023/06/16/world/europe/ukraine-kakhovka-dam-collapse.html>; Glanz, Santora, Perez-Peña, "Internal Blast Probably Breached Ukraine Dam", New York Times, 6 June 2023, <https://www.nytimes.com/2023/06/06/world/europe/ukraine-kakhovka-dam-russia.html>; Conya, above, note 3; "SSU's interception confirms: Kakhovka HPP was blown up by occupiers' sabotage group," Security Service of Ukraine, 9 June 2023, <https://ssu.gov.ua/en/novyny/ssus-interception-confirms-kakhovka-hpp-was-blown-up-by-occupiers-sabotage-group-audio>; <https://www.youtube.com/watch?v=mm98czlX-uw>; <https://www.reuters.com/world/europe/ukraine-security-service-says-it-intercepted-call-proving-russia-destroyed-2023-06-09/>; <https://www.youtube.com/watch?v=ZleGyZKTV9k>; Samantha Schimdt, Sherhii Korolchuck, "Putin Wanted Kherson. Now, residents say Russia is trying to destroy it," Washington Post, 11 June 2023, <https://www.washingtonpost.com/world/2023/06/11/kherson-ukraine-flood-war-russia/>; cf. "Countering disinformation with facts: Russian invasion of Ukraine,"

² Government of Canada, https://www.international.gc.ca/world-monde/issues_development-enjeux_developpement/response_conflict-reponse_conflits/crisis-crisis/ukraine-fact-fait.aspx?lang=eng#dataset-filter.

least 36 villages in the flooded area),³ and at least 2,400 have been displaced.⁴ Estimates of the number of people put at risk from the flooding have ranged from 16,000 people on the west side of the Dnipro River to 42,000 people and 500,000 hectares throughout the region.⁵ Local news reports also reported that Russian occupying forces did not evacuate those affected and prevented civilians from rescuing each other.⁶

3. Social, Economic, Cultural, and Environmental Harms by the Kakhovka Dam Breach

a. Electricity, Water, and Food Security

Aid workers on the ground reported that water levels rose significantly following the dam breach, reaching up to six meters in some areas, flooding multiple villages (36 in the area the workers were working), and cutting other villages off from essential services such as electricity, water, and food.⁷ Local authorities in Dnipropetrovska Oblast reported that over 160,000 people face water shortages.⁸ There was also an evident impact particularly on children due to losing their homes and the difficulty in accessing clean water, compounding the difficulties already caused by the war itself.

Food security has also been greatly threatened, not only in the affected area but throughout and even beyond the country, compounded by Russia's withdrawal on July 17 from its deal with Ukraine to allow the export of grain. As a major grain producer, the wellbeing of Ukraine's agricultural fields has an impact on the global food market. Due to Russian blockades, prices of Ukrainian exports are higher than when the war first began.⁹ Additionally, the disruption of normal operations led farmers to sow 22% less in the spring of 2022 than the year before, rising prices worldwide. The latest attack of the dam and the resulting flooding, in combination with the end of the grain deal, will have a devastating effect in the agricultural production of the region. While some of the farmland will be lost to the flooding, the dam also provided a water supply to 31 irrigation systems, which produce about 4% of the country's agricultural output.¹⁰ While it is yet unclear how much of the crops will be lost, the impact to the global food supply is inevitable, leading to widespread food insecurity.

³ Knight, Kostenko, Kennedy, "Flooding turns Odesa's coastline into 'garbage dump and animal cemetery' after dam collapse", CNN, 18 June 2023, <https://www.cnn.com/2023/06/17/europe/ukraine-nova-kakhovka-dam-deaths/index.html>; Volodymyr Shlonskyi, 9 June 2023, <https://twitter.com/Yulia02012022/status/1667243186547204108> (in Russian).

⁴ "Explosion was the cause of Kakhovka HPP breakthrough," Euronews, 9 June 2023, <https://ru.euronews.com/2023/06/09/ukraine-friday-update> (in Russian).

⁵ <https://www.nytimes.com/live/2023/06/06/world/russia-ukraine-news>; "Satellite images show Kakhovka dam before and after destruction," AlJazeera, 7 June 2023, <https://www.aljazeera.com/news/longform/2023/6/7/before-and-after-satellite-images-show-kakhovka-dam-destruction>

⁶ Yuriy Sobolevski, "The Humanitarian Situation in the left-bank Kherson Region after the terrorist attack," Telegram, 7 June 2023, <https://t.me/SobolevskiyYurii/1497>; Halya Conyash, "Not Kakhovka Dam alone: Russia destroys dams in occupied Zaporizhzhia oblast," Kharkiv Human Rights Protection, <https://khpg.org/en/1608812358>

⁷ Shapkina & Kuchuryan, "From war to flooding, displaced Ukrainians shocked and saddened with Kakhovka dam disaster; World Vision partner responds", WVI, 13 June 2023, <https://www.wvi.org/stories/ukraine/war-flooding-displaced-ukrainians-shocked-and-saddened-kakhovka-dam-disaster-world>

⁸ Id.

⁹ "How the Russian Invasion of Ukraine has further aggravated the global food crisis," Council of the European Union, 15 May 2023, <https://www.consilium.europa.eu/en/infographics/how-the-russian-invasion-of-ukraine-has-further-aggravated-the-global-food-crisis/>

¹⁰ Pavel Polityuk, "Ukraine warns over impact of Kakhovka dam collapse on farmland," Reuters, 8 June 2023, <https://www.reuters.com/world/europe/ukraine-warns-over-impact-kakhovka-dam-collapse-farmland-2023-06-07/>

b. Destruction of the Natural and Cultural Environment

Some commentators have also pointed to the destruction in the natural and culture environment caused by the flood: “The people, the dogs and cats, the deer, the thousands of bird nests in the wetlands, the houses, the farms.... The graveyards. The art. The structures of life and memory. All flooded in the latest atrocity of Russia's war.”¹¹ It has been estimated that tens of thousands of animals will be killed by the flooding, and authorities described the Odesa’s coastline as “a garbage dump and animal cemetery” with coastal residents threatened by floating mines, chemicals, and infectious bacteria brought on to the land by the water.¹² While some commentators have described the destruction as a form of “ecocide”, a proposed new international crime that is still developing in practice, the intentional destruction of cultural areas and the natural environment as a weapon is in any event prohibited by both international humanitarian and human rights law under existing obligations as described in the next section.¹³

The flooding caused by the dam breach has also led to a "significant reduction in the level of the reservoir used to supply cooling water" for the Zaporizhzhia Nuclear Power Plant.¹⁴ A long absence of cooling water will lead to fuel melting and inoperability of backup generators, possibly leading to the release radioactive materials. Although current reports show “there is no immediate nuclear safety risk,” and that the plant has enough water stored to keep the nuclear reactors cooled for a few months,¹⁵ it is imperative that the reservoir be replenished by alternative sources of water before that storage runs out. Since the damage to the dam is far beyond repair, arrangements must be made quickly to restore the reservoir’s water levels and avoid nuclear disaster.

4. Russian Violations of International Humanitarian and Human Rights Law

Russia has been in flagrant violation of numerous international humanitarian and human rights obligations over the course of its war of aggression against Ukraine, with the breach of the Kakhovka dam adding to the already long list if Russia is found responsible. A Commission of Inquiry of the UN’s Human Rights Council found evidence of war crimes by Russia including “attacks on civilians and energy-related infrastructure, wilful killings, unlawful confinement, torture, rape and other sexual violence, as well as unlawful transfers and deportations of children.”¹⁶

As for war crimes that may be linked to the intentional destruction of a dam, these may include, under Geneva Convention (IV) (GC-IV) and its Protocol I, to which both Ukraine and Russia are members, the

¹¹ Timothy Snyder, Tweet, 8 June 2023, <https://twitter.com/TimothyDSnyder/status/1666831013899632641>.

¹² Knight, et al, supra note; Isabel van Brugen, "Putin Killed Tens of Thousands of Animals in Kakhovka Dam 'Ecocide'—Rescuer", Newsweek, 8 June 2023, <https://www.newsweek.com/putin-animals-flooding-kakhovka-dam-ecocide-kherson-evacuation-war-1805310>.

¹³ ICRC, IHL Database: Rule 45, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule45>; OHCHR, "The destruction of cultural heritage is a violation of human rights – UN Special Rapporteur", 4 Mar. 2016, <https://www.ohchr.org/en/press-releases/2016/03/destruction-cultural-heritage-violation-human-rights-un-special-rapporteur>.

¹⁴ WNN, "IAEA: 'No immediate risk' to Zaporizhzhia from dam damage", 6 June 2023, <https://world-nuclear-news.org/Articles/IAEA-No-immediate-risk-to-Zaporizhzhia-from-dam-da>.

¹⁵ “All to know about Ukraine’s Nova Kakhovka dam explosion,” AlJazeera, 6 June 2023, <https://www.aljazeera.com/news/2023/6/6/the-nova-kakhovka-dam-what-you-need-to-know>

¹⁶ OHCHR, "War crimes, indiscriminate attacks on infrastructure, systematic and widespread torture show disregard for civilians, says UN Commission of Inquiry on Ukraine", 16 Mar. 2023, <https://www.ohchr.org/en/press-releases/2023/03/war-crimes-indiscriminate-attacks-infrastructure-systematic-and-widespread>

prohibition of intentional destruction of objects indispensable to survival, long-term and severe damage to the natural environment, and the destruction of dams, as well as failure to maintain public health and hygiene in territory it controls.¹⁷ Russia is also in violation of its obligations to allow and facilitate humanitarian aid under GC-IV Article 59(1), to distinguish between military and civilian targets in its attacks, and to prevent the unnecessary destruction of property as required under both the Hague and Geneva Conventions.¹⁸ These war crimes are also established under the Rome Statute of the International Criminal Court (ICC).¹⁹ Although Russia is not a party, these war crimes are being committed in the territory of Ukraine, which while also not a party to the Rome Statute, has accepted the Court's jurisdiction over alleged crimes occurring in the present war.²⁰ The ICC has already issued warrants to Russian officials based on Russia's conduct in the war.²¹

5. A Call for Assistance and Accountability

Russia's continuing disregard for international humanitarian and human rights law has only extended the humanitarian crisis and suffering in Ukraine. The destruction of the Kakhovka dam was designed specifically to increase human suffering and destabilize the region, and it is only the latest example in a long series of cruel and unjustified attacks on civilian targets in Ukraine by Russia that includes the intentional bombings of schools, health care facilities, civilian apartment buildings, shopping malls, and other civilian targets.

In light of this catastrophic event, HRN calls on the government of Russia to:

- Immediately withdraw from Ukraine and end its unlawful occupation of Ukrainian territory,
- Permit and assist in providing humanitarian aid and evacuation services to those affected by the flooding caused by the Kakhovka dam breach,
- Compensate Ukraine for all damage it has caused against civilian targets, sufficient to pay for a new dam and reconstruction that will address the humanitarian crisis and environmental harm.

We further call on the international community to:

- Send immediate aid to Ukraine for humanitarian assistance and reconstruction for all people affected by the dam breach and by the war.
- Implement effective measures including sanctions, weapons embargos, and other measures; support a binding resolution for such measures; and ensure that loopholes in existing sanctions and embargos are closed.

¹⁷ Geneva Convention IV Arts. 35 (natural environment) and 55-56 (public health and hygiene), and Protocol I Additional to the Geneva Conventions Arts. 54 (objects indispensable to survival), 55 (natural environment), 85(3)(c) (dams). Cf. ICC Rome Statute Arts. 8(2)(b)(xxv) (indispensible objects) and 8(2)(b)(iv) (natural environment), Rule 45, International Committee of the Red Cross (natural environment).

¹⁸ Art. 23(g) of the 1907 Hague Convention; Art. 50 of the Geneva Convention (I).

¹⁹ ICC Rome Statute Art. 8 (2)(b)(iv)

²⁰ ICC, "Ukraine: Situation in Ukraine", ICC-01/22, 2 Mar. 2022, <https://www.icc-cpi.int/situations/ukraine>

²¹ ICC, "Situation in Ukraine: ICC judges issue arrest warrants against Vladimir Vladimirovich Putin and Maria Alekseyevna Lvova-Belova", 17 Mar. 2023, <https://www.icc-cpi.int/news/situation-ukraine-icc-judges-issue-arrest-warrants-against-vladimir-vladimirovich-putin-and>