**Call for inputs for a report: “Too Dirty, Too Little, Too Much: The Global Water Crisis and Human Rights”**

Date: 10 November 2020

Input provided by:

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Earlier this year (May 2020) we have sumbitted a contribution to the call by the Special Rapporteur in the field of cultural rights: ‘Report on climate change, culture and cultural rights’. Our contribution highlights some example from the water sector in this context and may also be relevant for this call. Link to contribution:

<https://www.ohchr.org/Documents/Issues/CulturalRights/Call_ClimateChange/KGrecksch.pdf>

**Questionnaire**

The Special Rapporteur invites and welcomes your answers to the following questions:

1. Please provide examples of ways in which water pollution, water scarcity and floods are having adverse impacts on human rights. Adversely affected rights could include, among others, the rights to life, health, water and sanitation, food, culture, livelihoods, non-discrimination, a safe, clean, healthy and sustainable environment, and indigenous peoples’ rights.

We would like to present two examples:

Example1:

The pollution of rivers and the sea with untreated sewage water is unfortunately a common problem in England and Wales.[[3]](#footnote-3) This creates harm to the environment and to the people living in the affected areas and excacerbates existing water scarcity problems in England and Wales. For example, most recently, staff of a water company in the south of England have been convicted for obstructing a sewage probe.[[4]](#footnote-4)

Example 2:

The decision of the constitutional court of Colombia recognising legal personality to the Atrato river is a highly important starting point for the protection of rivers and indigenous rights associated to them. As Macpherson, Torres and Clavijo note, this is an example that can inspire and is already inspiring other cases. However, and taking into account the study of other cases recognising rights to rivers, they advise that high attention has to be placed in how the management of the of the river (or other water ecosystems) is going to be developed.[[5]](#footnote-5) Giving rights to nature does not always imply *per se* automaticallyan effective management of the place in favour of the populations who give natural and social value to it. The authors maintain that ‘governments should devise legal tools and mechanisms that allow indigenous peoples and local communities to defend their territory from powerful development interests, and grant them the autonomy to manage their resources in their own cultural ways.’[[6]](#footnote-6) They sustain that the notion of biocultural rights is particularly relevant.[[7]](#footnote-7)

In Europe the issue of cultural communities and rights to water as well as the issue of legal personality of water ecosystems starts to be relevant as well. Concerning the first issue, categories others than indigenous peoples and afrodescendents need to be taken into consideration. The UN Declaration on Peasant Rights is of particular relevance.[[8]](#footnote-8) As **Sandra Moreno Cadena, from the European Coordination of Vía Campesina stated: ‘**Our European governments have yet to understand that in Europe we also have people who are devoted to the conservation of … water [and] sustainable fishing …’[[9]](#footnote-9) The role of the World Forum of Fisher Peoples (WFFP) includes European associations[[10]](#footnote-10), which are involved in the implementation of the Declaration showing that the issue of participation of communities in the management of water resources is something relevant and challenging for developed countries as well.

**The case of ‘Mar Menor’ in Murcia (Spain) is in this sense particular relevant, and it is linked with the second question, that of legal personhood of water ecosystems.** At the end of September 2020, the Spanish *Mesa del Congreso* accepted as admissible for consideration (*a trámite)* thePopular Legislative Initiative to recognise Mar Menor as a subject of rights. The initiative was presented on July in the Register of the Lower House by a group of activists led by the professor of the University of Murcia, Teresa Vicente and the environmental lawyer Eduardo Salazar. Mar Menor is suffering from many years of excessive urbanism, mining and nitrate pollution from intensive agriculture.[[11]](#footnote-11)

1. How has climate change exacerbated water-related problems?

Water will be the medium through which climate change impacts are being felt and will be experienced. Climate change is projected to reduce renewable surface water and groundwater resources significantly; droughts will be more frequent and there will be impacts on streamflow and water quality. All this will intensify the competition for water among agriculture, ecosystems, settlements, industry and energy production, affecting regional water, energy and food security.[[12]](#footnote-12) Gosling & Arnell estimate that by 2050 the effects of population increases alone mean that 3.1 to 4.3 billion people will be living in watersheds exposed to water scarcity. [[13]](#footnote-13)

1. Please provide specific examples of good practices in preventing, reducing, or eliminating water pollution, water scarcity and floods. These examples may occur at the international, national, sub-national, or local level. Examples may involve water quality and quantity monitoring; guaranteeing procedural rights (e.g. public access to water quality information, public participation in decision-making about proposed uses of water, access to remedies); water use and water quality legislation, regulations, standards, and policies; and initiatives to reduce water consumption and/or water pollution from specific sectors (e.g. agriculture, electricity generation, industry, transportation, domestic use). Where possible, please provide evidence related to the implementation, enforcement, and effectiveness of the good practices.

In the UK and more specifically in England and Wales, public water supply is privatised.[[14]](#footnote-14) This has turned households into consumers and by their nature private water companies are supposed to make profit. This of course stands somehow in contrast to communicating efficient and sustainable water use. Welsh Water, which supplies water to approx. 80% of Wales is the only company in England and Wales who transfers some of its profits into a fund fior people who cannot afford their water bills. Water supply is highly professionalised in England and Wales and only two dozen companies deliver water to customers and businesses, some of theses companies supply more than one water supply area, however, acting under a different name. There are customer competency groups, which every water company must have but it’s the water companies who steer the whole process and access to theses groups. One area that gains more attention is the use of local (expert) knowledge.[[15]](#footnote-15) For example through Environmental Competency Groups.[[16]](#footnote-16) Including local knowlede empowers people and helps to (re)kindle the rleationship people have to nature. The average per capita per day water use in the UK is almost 150l, while the European average is around 120 l per day per capita. Hence there is a lot to do in this regard.

1. There is substantial evidence that the actions of high-income States (from high levels of material consumption to high levels of greenhouse gas emissions) are linked to adverse effects on water availability and water quality in low and middle-income States. What are ways in which high-income States should assist low-income States in responding to and preventing water pollution, water scarcity and floods?

High-income States should aim to reduce their virtual water footprint, i.e. the water in products produced not in the high-income States themselves but low and middle-income States. This could start with water education or water-literacy. Often consumers are not aware of the immense water footprint of the products they buy. Second, free technology transfer from North to South and South to South with regard to water efficiency, water (re)use technology. All states, no matter if high, middle or low-income, should aim to find local solutions to theses issues also taking into account traditional knowledge. This could also save finanical resources as opposed to coslty technology-led solutions.

1. For businesses, what policies or practices are in place to ensure that activities, products, and services across the entire supply chain (extraction/sourcing, manufacturing, distribution, sale, and end-of life management) minimize water use and water pollution and meet human rights standards, especially those articulated in the Guiding Principles on Business and Human Rights?

Businesses have a decisive role in minimising water use, water pollution and water-reuse across the whole supply chain. The Water-Energy-Food nexus (WEF-nexus) cannot be stressed enough. Whiteman et al.[[17]](#footnote-17) conclude that businesses have not addressed water scarcity despite its importance. Ya He & Cranston demonstrate that businesses choose collaborative solutions if they recognise that poor water security is a threat to their businesses. [[18]](#footnote-18) In the UK, large business and industrial water abstractors, especially from the food and drinks industry, have regular meetings with the regualtory bodies, for example the Environment Agency for England to discuss water related issues. The Scotish Environment Protection Agency (SEPA) has a One Planet Prosperity regulatory approach uses a sectoral approach. ‘Sector plans will focus on practical ways of delivering environmental, social and economic outcomes. They will specify existing levels of compliance, the market context for that sector and the key issues faced by the sector and SEPA’.[[19]](#footnote-19) The best practice example and blueprint for other business sectors in Scotland for this strategy is the Scotch Whisky industry.[[20]](#footnote-20) For public secotr organisations and large provate organisations I have developed a primer on how to implement water efficiency in these organsiation using social norms.[[21]](#footnote-21)

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3. Financial Times. 6 November 2020. Water companies polluted beaches in England and Wales 3,000 times in a year. <https://www.ft.com/content/b4bb2386-ac62-4c43-b568-f103db7e01f7>; Financial Times. 2 October 2020. [England’s water companies receive worst pollution ratings for 8 years](https://www.ft.com/content/e1de2f77-0cea-42a7-8344-038bcc6a532e) [↑](#footnote-ref-3)
4. Financial Times. 27 August 2020. Southern Staff convicted obstructing sewage probe. <https://www.ft.com/content/804c8afc-c00a-11e9-89e2-41e555e96722> [↑](#footnote-ref-4)
5. Macpherson, E., Torres Ventura, J., & Clavijo Ospina, F. (2020). Constitutional Law, Ecosystems, and Indigenous Peoples in Colombia: Biocultural Rights and Legal Subjects. *Transnational Environmental Law,* 1-20, p. 4 [↑](#footnote-ref-5)
6. Ibid. p. 19 [↑](#footnote-ref-6)
7. Ibid. p. 20 [↑](#footnote-ref-7)
8. #  See the public conference *Public Conference on 30/9: Peasants’ Rights in Europe* about the implementation of this declaration (19/09/2019) <https://www.eesc.europa.eu/nl/node/73140>

See as well the joint statement by UN human rights experts at the 1st anniversary of the adoption of the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas,
*The need to take steps to implement the UN Declaration on the rights of peasants and other people working in rural areas*, 17 December 2019.

The UN human rights experts emphasise that “States shall fulfil the rights of peasants and other people working in rural areas… guaranteeing water for agriculture and fisheries (Art.21) and the human rights to safe and clean drinking water and sanitation of peasants and other people working in rural areas (Art. 21.1)”

https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25439&LangID=E [↑](#footnote-ref-8)
9. See <https://www.eurovia.org/over-15-years-struggle-for-the-recognition-of-peasants-in-the-international-human-rights-system/> [↑](#footnote-ref-9)
10. <https://worldfishers.org/about-us/members-and-partners/> [↑](#footnote-ref-10)
11. #  See Álvarez, C., *El Congreso da vía libre a la proposición de ley que busca otorgar personalidad jurídica al Mar Menor*, [24 sep 2020](https://elpais.com/hemeroteca/2020-09-24/)

 <https://elpais.com/sociedad/2020-09-24/el-congreso-da-via-libre-a-la-proposicion-de-ley-que-busca-otorgar-personalidad-juridica-al-mar-menor.html>

Sánchez, P., *Objetivo: dotar de personalidad jurídica al Mar* [27/07/2020](https://cadenaser.com/tag/fecha/20200727/) <https://cadenaser.com/emisora/2020/07/27/radio_murcia/1595843740_074437.html> [↑](#footnote-ref-11)
12. Bates, B.C., Z.W. Kundzewicz, S. Wu, and J.P. Palutikof. ‘Climate Change and Water. Technical Paper of the Intergovernmental Panel on Climate Change.’ Geneva: IPCC, 2008. Jiménez Cisneros, B. E., T. Oki, N. W. Arnell, G. Benito, J. G. Cogley, P. Döll, T. Jiang, and S. S. Mwakalila. ‘Freshwater Resources’. In *Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part A: Global and Sectoral Aspects. Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel of Climate Change*, edited by C. B. Field, V. R. Barros, D. J. Dokken, K. J. Mach, M. D. Mastrandrea, T. E. Bilir, M. Chatterjee, et al., 229–69. Cambridge, United Kingdom and New York, NY, USA: Cambridge University Press, 2014. [↑](#footnote-ref-12)
13. Gosling, Simon N., and Nigel W. Arnell. ‘A Global Assessment of the Impact of Climate Change on Water Scarcity’. *Climatic Change* 134, no. 3 (1 February 2016): 371–85. [↑](#footnote-ref-13)
14. Public water supply remains in public hands in Scotland and Northern Ireland. [↑](#footnote-ref-14)
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16. Grecksch, Kevin, and Catharina Landström. ‘Drought and Water Scarcity Management Policy in England & Wales – Current Failings and the Potential of Civic Innovation’, forthcoming.; Landström, Catharina, Sarah J. Whatmore, Stuart N. Lane, Nicholas A. Odoni, Neil Ward, and Susan Bradley. ‘Coproducing Flood Risk Knowledge: Redistributing Expertise in Critical “Participatory Modelling”:’ *Environment and Planning A*, 1 July 2011. [↑](#footnote-ref-16)
17. Whiteman Gail, Walker Brian, and Perego Paolo. ‘Planetary Boundaries: Ecological Foundations for Corporate Sustainability’. *Journal of Management Studies* 50, no. 2 (6 July 2012): 307–36. [↑](#footnote-ref-17)
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