



General Assembly

Distr.: General
27 February 2024

English only

Human Rights Council

Fifty-fifth session

26 February–5 April 2024

Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by Global Institute for Water, Environment and Health, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 January 2024]

* Issued as received, in the language of submission only.



Okhchuchay River: Water Pollution Is Turning from a Regional to a Global Problem

The pollution of the Okhchuchay River with mining waste is gradually turning from a regional to a global problem. The level of pollution is on the brink of a humanitarian catastrophe. A large amount of heavy metals in the water, the mass death of fish, the impossibility of using water for domestic and agricultural needs attract the attention of regional countries, given that the pollution of the Okhchuchay River directly affects the quality of the Araz River, the second largest in the South Caucasus.

The continued mining operations in Armenia's border region with Azerbaijan have raised significant concerns due to their adverse impact on the ecosystem. The ongoing activities have led to ecosystem degradation, posing a severe threat not only to Armenia's environment but also to neighboring countries that can jeopardize the health and well-being of communities in the region and beyond. The repercussions extend beyond national borders, highlighting the urgency of addressing the environmental challenges arising from these mining operations.

Furthermore, the potential contamination of drinking water supplies in the region poses serious risks to human health and water security. The spread of infectious diseases becomes a pressing concern, especially in transboundary areas where communities rely on shared water resources. This situation has the potential to escalate into a public health crisis, affecting both Azerbaijan and Armenia.

The actions undertaken by Armenia in this context appear to be in violation of several international agreements and conventions. Notably, Armenia's actions contravene the Convention on the Protection and Use of Transboundary Watercourses and International Lakes, the Protocol on Water and Health, and the UN Convention on the Control of Transboundary Transportation and Disposal of Hazardous Waste of the European Economic Commission.

Regional Transnational Environmental Challenge

The Azerbaijani Ministry of Ecology has reported that the pollution in the water has “reached a dangerous level and this leads to an ecological crisis.”

According to various reports, the source of pollution is the Zangezur Copper Molybdenum Combine operating out of Armenia, which releases wastewater into the source of the Okhchechay River without any sort of treatment. The result of this pollution renders the water unusable for Azerbaijani irrigation and agriculture, much less drinking water. The drinking water could cause cardiovascular diseases, diseases of the nervous system and other similar diseases. Aside from that, this pollution caused the mass killing of endangered fish, who used to live in this river.

The interconnectedness of rivers and water systems in the region means that any environmental degradation, such as that caused by the mining activities along the Okhchuchay River, can have far-reaching consequences downstream. As these polluted waters make their way through the Araz and Kura rivers, they carry with them contaminants that pose a threat to the health and sustainability of the Caspian Sea. The Caspian ecosystem, with its unique biodiversity and delicate balance, is susceptible to the transboundary effects of pollution, affecting marine life, ecosystems, and the overall ecological equilibrium of the Caspian Sea.

Okchakaywater pollution is not a conflict between Armenia and Azerbaijan, but also attests to a conflict with Germany, who mined in cooperation with Armenia: “There might also be subconscious tribal nationalistic biases involved both on the Armenian and German end. Armenia is ethnically Aryan, the same ethnicity as Germany. Azerbaijanis are ethnically Turkish. This means that Armenians and Germans share the same ethnicity, yet Azerbaijanis are from another ethnic group.

This means that the German corporation could be favoring the lives of Aryan Armenians over the lives of Turkish Azerbaijanis in their judgements, decision making, practices and defensive response. This could be considered as discrimination where the German Green Party's silence could also have been unconsciously co-opted by the Aryan tribal bias.

It is important and time for humanity to promote transboundary water cooperation between states and nationalities of shared river basins; and integrated water management in the steps of good governance at all levels, in the sense of avoiding a flare-up of the situation and limiting to the maximum a worsening where the violins do not agree anymore.

The situation demands a collaborative and coordinated effort among Caspian countries to address the shared environmental challenges. The Helsinki Convention, which focuses on the protection and sustainable use of the marine environment in the Baltic Sea area, emphasizes the need for joint efforts to combat pollution and safeguard ecological integrity. Given the international nature of the problem originating from the Okhchuchay River, there is a compelling case for extending the principles of the Helsinki Convention to address the environmental concerns in the Caspian region.

Legal Aspects

Armenia signed the Protocol on Water and Health, part of the 1992 UNECE Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention), on June 17, 1999. Since signing the protocol in 1999, Armenia has twice initiated the process of ratifying the protocol.

However, the Ministry of Foreign Affairs has some reservations about the ratification process, taking into consideration the "polluter pays" principle and the reference to the convention in Article 13.2 of the protocol.

The ministry has suggested revising the aforementioned reference information on the ratification of the protocol and clearly states that: a) the principle of "polluter pays" in the protocol is applied only within the country, and cannot serve as a basis for the claiming of compensation by downstream countries in case of transboundary impacts; and b) the reference to the convention mentioned in Article 13 is applied only to those countries that are at the same time parties to the UNECE water convention.

Another important aspect of the statement is that nations have the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environments of other states or of areas beyond the limits of national jurisdiction. This implies consultations between neighboring countries, instead of compensation payments by upstream countries to downstream countries for the damage caused. Therefore, Armenia has consciously avoided signing the convention, thus failing to take responsibility for, but on the contrary benefitting from, the issue of pollution of the environment and water resources.

The UN Framework Principles on Human Rights and the Environment

The framework principles on human rights and the environment clarify three categories of State obligations: procedural obligations, substantive obligations, and special obligations towards those in vulnerable situations. In terms of procedural obligations regarding pollution and toxic substances, States must:

- a) Establish monitoring programs, assess major sources of exposure and provide the public with accurate, accessible information about risks to health;
- b) Ensure meaningful, informed and equitable public participation in decision making;
- c) Use the best available scientific evidence to develop laws, regulations, standards and policies;
- d) Enable affordable and timely access to justice and effective remedies for all;

- e) Assess the potential environmental, social, health, cultural and human rights impacts of all plans, policies, projects and proposals that could foreseeably result in exposure to pollution or toxic substances;
- f) Integrate gender equality into all plans and actions and empower women to play leadership roles at all levels;
- g) Provide strong protection for environmental human rights defenders, vigilantly protect defenders from intimidation, criminalization and violence, diligently investigate, prosecute and punish the perpetrators of these crimes, and address the root causes of social environmental conflict.

Conclusion

Azerbaijan expects a response from the international community since the protection of the environment and natural ecosystems is one of the most important priorities in the community of nations.

International cooperation, facilitated through forums like the Helsinki Convention, can play a crucial role in fostering dialogue, sharing scientific knowledge, and implementing effective measures to address the environmental challenges arising from the Okhchuchay River and its connection to the Caspian Sea. It is essential for the concerned countries to work together to enforce responsible environmental practices, promote sustainable development, and mitigate the transboundary impact of the ongoing mining activities in the region. By doing so, the Caspian countries can collectively strive to preserve the integrity of the Caspian Sea and uphold their commitment to international environmental conventions.

This illegal discharge of industrial wastes from the German company present, the heart of this case and the damage that action did to Azerbaijani environment – particularly the spectacular land and waterways (mainly Okchakaywater) – is a critical necessity. These companies destroyed the nature and the ecological profile of the region. They have either to pay a compensation or they have to go to international court as an environment criminal.

Global Institute for Water, Environment and Health (GIWEH) urged to help stop Okhchuchay River pollution and asked for the preparations of a legal claim in this regard.

In light of these serious environmental and human rights concerns, it is imperative for the international community to engage in collaborative efforts to address the situation. The responsible authorities in Armenia need to be held accountable for their actions, and measures should be taken to mitigate the environmental impact and protect the health and livelihoods of the affected populations.
