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**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.

[15 August 2021]

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\* Issued as received, in the language(s) of submission only.



## **Transboundary water pollution: Constraints and challenges for Development**

Access to safe water is a fundamental need and a human right, vital for dignity and health of all people. Furthermore sustainable nature resource development is crucial for creating jobs, attracting investments and generating funds for social development and for ensuring the availability of resources for generations to come (UNECE Regional Ministerial Meeting for WSSD). The unsustainable use and inefficient protection of the quality of water have economic, social and public health impacts that constitute potential sources of conflict.

Pollution of surface and groundwater is a serious problem in the Caucasian region where countries of the region consider water management and its interrelation with agriculture, industry and public health among their highest priorities and stability. The quality of surface waters and groundwaters is affected by waste-water discharges from industries (mainly mining and chemical industries), leading to a high concentration of heavy metals and other toxic chemicals.

### **The case of Okhchuchay River contamination- threatening the ecology of Karabakh**

The Okhchuchay River, heading from Armenia to flow through the territories of Azerbaijan, got polluted with industrial wastes that it has become unsuitable for irrigation purposes; moreover, all fish in the river have gone extinct.

Okhchuchay river is the left tributary of the Araz River (83 km long, catchment area is 1,175 km<sup>2</sup>), originating from Gapijig mountain (3285 m) of Zangazur range, the bigger part is located within the Syunik region of Armenia (being the historical region of Azerbaijan called Zangezur). The lower course of the river flows through Zangilan – (the recently liberated territories) enters to Araz river.

Its flow is formed by snow (46%), rain (10%) and groundwater (44%). The average annual water flow is 10.0 m<sup>3</sup>/sec, the average annual volume is 315 million m<sup>3</sup>. 40% of the annual flow is formed in spring period, 43% in summer, 10% in autumn, 7% at winter season.

### **Transboundary water pollution**

In Azerbaijan about 70% of the surface water resources are heavily dependent on the external inflow of waters from neighboring countries. Okhchuhcay river is a transboundary water resources widely used for irrigation purposes, its being affected by severe pollution by industrial discharges at the Armenian territory, acting as a collector for industrial facilities along the river and making the water resources unusable in the territory of Azerbaijan.

Pollution of Okhchuchay has direct impact the quality of water resources of Araz river as well, considering that it flows into the Araz River - the second largest river in the South Caucasus. The Araz River is a shared transboundary river with Armenia which is the largest right tributary of the Kura River. It is playing a crucial role in irrigation of the farming lands of Azerbaijan. The water quality in the river, which is used for domestic and agricultural needs can lead to extremely negative impacts.

Indication of pollutants and role of Private sector:

The Global Institute for Water, Environment and Health (GIWEH) has reviewed and analyzed water test samples from the Okhchuchay River for the period from January to March 2021. The water samples were taken from different locations at the upper reaches and lower upstream of the Okhchuchay in Zangilan region. It showed a high content of heavy metals, specifically, a copper, a molybdenum, a manganese, an iron, a zinc and a chromium. The excessive concentration of hazardous substances in sediment sampling shows that contamination level is critical at the river basin.

According to the report by the Ministry of Ecology of Azerbaijan, the content of copper-molybdenum compound - 2 times, iron - 4 times and nickel - even 7 times was higher than

the norm. Periodically a color of the Okhchuchay River was changing either to a white or to an acid-yellow one. A mass trout mortality in the river was recorded in March 2021.

During visual monitoring on 07 March 2021 in the part of Shayifli and Jahangirbeyli villages of Zangilan region of Oxchuchay river, 227 Small Trout (Salmon species) and 330 Perch massive die-off was observed, the species that were included in the “Red Book of the Republic of Azerbaijan”. The reason for the death of fish was the excess of iron, copper, nickel, molybdenum and other heavy metals in the river water.

Mining and processing enterprises are the main sources of heavy metals in the environment. One of the largest mining enterprises in Armenia, located in the Syunik province at the head of the Okhchuchay River (called the Voghji River in Armenia), is dumping their production wastes directly into the river, without any preliminary treatment, does not comply with the environmental standards.

Another company called CRONIMET (German Company), an active player in the Armenian mining sector, could have a negative environmental impact caused by their activities, despite their numerous public statements of compliance with the environmental standards.

The high content of heavy metals in the waters impacts not only the fluvial fauna, but is also extremely dangerous for the human health. Usage of the contaminated water can bring to detrimental consequences - from the disorders of gastrointestinal tracts, destructive processes in kidneys and bone tissue up to the disorders of cardiovascular, nervous and hematopoietic systems of the body.

## **Water conventions and the role of international organizations**

Despite the fact that Armenia has not yet joined the Convention on the Protection and Use of Transboundary Watercourses and International Lakes, the participation of stakeholders should assist in elaborating solutions that are sustainable and equitable, and may help to make national laws compatible with traditional norms and customs found at the local level.

Related principles of the UN Water Convention:

- Principle of Equitable and Reasonable Utilization

Article V of the Helsinki Rules on the Uses of the Waters of International Rivers, 1966 and Article 6 of the UN Convention on the Law of the Non-Navigational Uses of International Watercourses, 1997 should all be taken into account. It entails a balance of interests that accommodates the needs and uses of each riparian state. This is an established principle of international water law and has substantial support in state practice, judicial decisions and international codifications (Birnie & Boyle, 2002, p. 302).<sup>1</sup>

- An Obligation Not to Cause Significant Harm

According to this principle, no states in an international drainage basin are allowed to use the watercourses in their territory in such a way that would cause significant harm to other basin states or to their environment, including harm to human health or safety, to the use of the waters for beneficial purposes or to the living organisms of the watercourse systems. This principle is incorporated in all modern international environmental and water treaties, conventions, agreements and declarations. It is now considered as part of the customary international law (Eckstein, 2002, pp. 82–83).<sup>2</sup>

- Principles of Notification, Consultation and Negotiation

<sup>1</sup> Birnie, P. & Boyle, A. (2002) *International Law and the Environment* (New York: Oxford University Press).

<sup>2</sup> Eckstein, G. (2002) Development of international water law and the UN Watercourse Convention, in: A. Turton & R. Henwood (Eds) *Hydropolitics in the Developing World: A Southern African Perspective*.

Every riparian state in an international watercourse is entitled to prior notice, consultation and negotiation in cases where the proposed use by another riparian of a shared watercourse may cause serious harm to its rights or interest.

- Principles of Cooperation and Information Exchange

It is the responsibility of each riparian state of an international watercourse to cooperate and exchange data and information regarding the state of the watercourse as well as current and future planned uses along the watercourse (Birnie & Boyle, 2002, p. 322). These principles are recommended by the 1966 Helsinki Rules (Articles XXIX, XXXI).

### **Conclusion:**

GIWEH would like to draw the attention of the Human Rights Council and the international community, about the environmental hazards and critical situation of Okhchuchay river, raising public awareness on expected environmental risks of the river and its ecosystem.

GIWEH convey the basic tenet that riparian have rights and duties in the uses of water resources, in line with the second principle of the Rio Declaration on Environment and Development:

“States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and development policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.” (UNCED, 1992: 9)

The inclusion of these internationally accepted transboundary water resources management principles in the riparian countries, offers plenty of common ground and a window of opportunity to foster coordinated and sustainable water resources development and management throughout the region. These principles could serve as guiding principles for water based collaborative development endeavours in the region.

Water pollution and waste management become a very critical and problem in many parts of the world. International community should develop a pollution prevention and control mechanism; integration of environmental considerations into sectoral policies; and establishment of transboundary cooperation in this specific region.

“ Since wars begin in the minds of men, it is in the minds of men that the defences of peace must be constructed” ( UNESCO Constitution, November 1945)

