

Intersectorality and Conflict

This summary report has been prepared by the Geneva Water Hub as an input paper for the Global High-Level Panel on Water and Peace.

The report provides a summary of a one-day senior experts roundtable co-convened by the Geneva Water Hub, the Luc Hoffmann Institute, the IUCN and the World Economic Forum (Forum) on 1 November 2016 in Geneva.

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This document is a summary paper for the Global High-Level Panel for Water and Peace - it is not intended for wider circulation.

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1. Introduction

Water resources and their governance are closely intertwined with other resources governance systems, including those around energy, land or food and often face trade-offs. Policies for one sector entail consequences – externalities – for the other two sectors, be they on a local, national, regional or global scale. These interconnections add to current pressures on water and land as well as on resources that fuel energy systems, and will thus exacerbate existing scarcity problems, as the demand for food, water and energy is expected to increase.

The growing multitude of water use modalities, water quality threats and variance in water flows creates great challenges for water governance systems to undertake long term planning that anticipates crises and conflicts. Concepts such as water security (Zeitoun et al. 2016), the water-energy-food nexus (WEF 2011, Hoff 2011), integrated water resources management (GWP 2000, Biswas 2004) or adaptive water governance (Pahl-Wostl 2007) are attempts to address these challenges.

The roundtable on “Intersectorality and conflict”, co-organized by the Geneva Water Hub, the Luc Hoffmann Institute, the IUCN and the World Economic Forum – Global Water Initiative, therefore discussed intersectoral conflicts around water resources and how ‘fit for purpose’ water governance systems are to anticipate, react and define solutions regarding water resources allocation.

The report follows the same structure as the event itself and begins with a local case study of intersectoral conflict between mining and agriculture in Peru. This is followed by a section that provides an industries’ perspective on water problems in India. The third section is devoted to the case study of the Mekong River Basin and intersectoral conflicts between energy and food production at different local, national and regional scales in Cambodia. The last part of the report presents main recommendations for consideration by the Global High-Level Panel for Water and Peace.

2. Water and Mining: Local Issues

The first session of the roundtable event was introduced by a presentation, which outlined conflict resolution strategies between government and private mining actors in the Peruvian Andes. In these parts of Peru mining has a long history and currently mining from transnational companies has spurred several social and environmental conflicts. The presented case study described a conflict between small-scale farmers and the mining sector in the Cajamarca region in the Andean valley.

The rural town of Combayo has been the center of several socio-environmental conflicts, involving farming communities and the Yanacocha goldmining company. The mining concession of Yanacocha comprises an area of 25,000 ha where the company operates a complex of open-pit mines. These mining activities affect local communities who mainly engage in livestock and dairy production as well as small-scale farming.

In 2005/06, farmers and authorities from Combayo started opposing the expansion of one of the major mining operations of Yanacocha. Local communities were concerned that the mine’s uses and alterations of water flows would negatively impact the quality and quantity of water available for livestock and farming purposes. The conflict escalated to a degree that the company was unable to operate anymore and threatened to leave the region. In response, the central Peruvian government, in form of the Prime Minister himself, intervened. The intervention resulted in public dialogue meetings during 2006 which culminated in the signing of the so-called “Acta de Combayo” between the Peruvian government, the company and local authorities. The agreement comprised several additional requirements that the mining company had to fulfil and to address water and connected socio-economic problems in the area. For example, the company promised the creation of jobs and infrastructure investments. Local farmers, however, were not satisfied with the outcomes of the agreement and the underlying conflict causes had, from their perspective, not been addressed.

This case illustrates to what extent that dialogue tables, such as employed in the specific case study, are very problematic in Peru as they are organized on the basis of unequal power relations. Therefore, local stakeholders did not believe that this kind of platform would be able to address their demands. Additionally, in their eyes the dialogue tables were externally imposed and therefore lacked any legitimacy.

Moreover, the form and process of the dialogue meetings and the dispute-resolution strategies employed by the mining company can explain the weak position of local actors and the failure of effective long-term resolution of the conflict.

First, the mining company pursued a legal strategy through safeguarding that all activities and interventions followed legal requirements. Following this strategy, Yanacocha obtained all mandatory permissions and followed all legal requirements. Second, the company pursued a technical strategy as it ensured that its operations were scientifically sound, by conducting scientific impact assessments and proposing technical strategies to mitigate expected impacts on the environment. Yanacocha, for example, proposed to compensate for depleted water sources by providing water from its treatment plants.

These strategies were successful in temporarily reducing tensions in the regions, however, were unable to provide for a long-term conflict resolution. Today, the region is faced with renewed conflicts around the expansion of mining projects.

Mining interventions and the resulting social and environmental impacts cannot only be treated as technical and legal problems, but require the acknowledgement of their political component. It is precisely this inherent political nature of the conflict that has so far not been adequately addressed. Overall, conflict resolution strategies around mining interventions in the region should, therefore, address the question of how to democratically organize political decision making and participatory processes to ensure more long-term conflict resolution.

Number of issues arose from the discussion. First, the lack of adequate governance structures, including legal frameworks and lack of enforcement were argued to be of key relevance in preventing and solving mining-related disputes. Amongst others, social and cultural impact assessments are not adequately addressed in the current governance structures. Furthermore, requirements for site restoration and reclamation are very often not enforced, leaving state actors with the responsibility to rehabilitate former mining sites with public funds. In South Africa, for example, many closed mines today create huge problems in form of acid-mine drainage. Treating this water is very costly and paid for by government authorities. As a practical solution, it was suggested to ensure that mining companies are to set up compensation and reclamation funds at the beginning of mining interventions.

Attention was also drawn to the issue that large extractive companies are obvious targets for people that are unsatisfied with social, environmental and economic conditions and water in particular crystallise broader dissatisfaction. However, large (stock-exchange listed) companies are often more responsive to environmental and social impacts of their actions (because of public pressure) than smaller companies. The fact that many multi-national companies are voluntarily abstaining from operating in World Heritage sites exemplifies this. If these companies are unable to operate under difficult circumstances, such as in the example of Peru, they are likely to be replaced by other companies that operate under lower standards and are less responsive to social and environmental concerns. Even more problematic are activities of illegal mining operations which are, among others, very wide-spread in Peru.

Governments set the framework for mining operations and the regulations that apply. In contexts where legal frameworks are well developed and rules and regulations are precisely defined, it is also much easier to resolve issues of dispute between conflicting parties. The big future challenge is for governments and legal systems to move from a current static nature to a more adaptive system that is responsive to environmental variabilities and long-term changes.

The problem of safeguards not being applied properly and attempts to circumvent legal requirements were furthermore discussed. For instance, in the presented case study, the required EIA and other scoping studies underperformed and neglected a number of crucial environmental components.

With regard to the interests and benefits of local communities, participants discussed that it is often unclear who the actual problem-holder is because communities have different perspectives and requirements. Also, asymmetries within communities and different power dimension come into play. Sometimes (parts of) communities profit from mining intervention, sometimes they are not. This depends on a whole range of issues, including their professions or the time of year. It is, therefore, also difficult to answer who provides the solution (the mine, the regulator, local or national government) and renders it very difficult for a company to address disputes. Companies often do not know which actors to talk to, which information communities need and how to engage with these various actors.

In response to the dialogue tables introduced in the presentation, the role of “multistakeholders dialogue platforms” has been considered as third-party neutral entities that can facilitate communication and eventually restore trust. Such panels can play a mediating role in conflict resolutions processes. Usually parties involved in such a mediation process agree at the beginning of a process to implement the outcome of negotiations. In this regard, the 2030

Water Resources Group that is active in water resources management in general as well as in mining, could potentially fulfil such a role though its legitimacy would need to be discussed and agreed.

Referencing the example of Mongolia where IFC (supported by 2030 WRG), has convened the largest mining companies and facilitated the adoption of a voluntary code of practice (VCP) for better mine water management, helping to build trust and partnerships across communities, civil society, and government. In response, the example of the UN Global Compact – a global initiative to encourage businesses to adopt sustainable and socially responsible policies – was mentioned. Even if such mechanism is defined at the global level and remains general, voluntary and without real monitoring of companies' commitment, the national entities of the UN Global Compact could play a major role as being closer to companies' activities. The CEO water mandate has been also mentioned as a global mechanism that could play a role in addressing such issue.

It has been highlighted that often the companies are not prepared to respond and to consider the strong cultural value of water as a resource; water is often not a "fungible" resource for the local population. In addition, national economic interests are not necessarily aligned with economic interests of local populations.

The final part of this session focused on the human right to water (and its six main principles: sufficient quantity, safety, affordability, non-discrimination and acceptability of suggested options) that is a globally recognized right that frames and prioritizes the access to water and sanitation. Such a right is not represented in the legal framework of Peru and was generally argued to be difficult to implement. It is nonetheless important to have such a right as a global reference point to raise awareness and create commitment by various actors.

3. Industry perspectives at the regional level

The second session was introduced by a presentation on water and intersectoral conflicts in India from the perspective of private businesses.

India is an economically growing country with an ambitious growth policy which, on the downside, has caused a range of environmental problems, with water scarcity and decreasing quality being a key issue. At the same time, businesses are themselves affected by environmental changes. For example, in 2015 the state of Maharashtra was at the brink of having to close down three hydropower stations because of a drought and lack of water resources for energy production. A frequent number of such emergencies are beginning to hit India and its economy in a fundamental way. This raises the question about the role and agenda of industries and private businesses in addressing water problems.

Key industries that are affected by water-related conflicts in India are agriculture, manufacturing, energy and extractive industries. Water use by any of these sectors often affects other sectors or local and urban communities and increasingly creates conflicts between them. For instance, in 2014/15 Coca Cola had been forced to abandon two bottling plants after local communities mobilized against it with physical and legal means. Local communities accused Coca Cola of overusing groundwater and hence being responsible for drops in groundwater levels. The case illustrates that the perception of loss and a lack of trust had mobilized people to oppose Coca Cola's activities although in overall numbers water use by the company was minimal – particularly in comparison to agriculture which in India as well as globally accounts for a much bigger share of water use.

Although beverage companies are very much focused on efficiency targets and hence interested in reducing water use, they are often much less successful in engaging with local communities and politics. The problem with water conflict is, however, that conflicts are often political in nature and therefore require political engagement. There are few good examples that illustrate more successful water management approaches by companies. The agribusiness in India, for example, has a successful watershed-level management approach which is more successful in circumventing disputes from the beginning.

At the same time, investors increasingly require companies around the world to disclose their water use in order to assess the related investment risks. Over the last couple of years, several water reporting standards, such as the UN Global Compact's CEO Water Mandate, have been developed. The question arises how the gap between environmental and water degradation and increasing economic development with high foreign-investment rates can be bridged and how information disclosure and reporting standards could be used as a lever by the Panel.

Furthermore, as the water crisis in India is very severe and companies are increasingly exposed to water-related risks, the question arises what businesses could do to use water more sustainably and contribute to the resolution of conflicts. In answer to this question, five ideas are proposed:

1. Manage water in a more systemic way, at the basin and ecosystem level.
2. Use the potential of “business diplomacy”, meaning that companies should engage with governments to support hydro-diplomacy (e.g. by providing relevant data and information).
3. Employ existing (cross-) industry platforms to pressure governments to improve water governance and to make a more coherent input into water governance frameworks.
4. Develop water disclosure requests to increase companies’ awareness of water conflict issues and potential ways to avoid disputes.
5. Explore the role of insurances and the possibility to include elements of water conflict into the pricing structure.

Within the following conversation, the example of Coca Cola was taken up and discussed in more detail. Participants agreed that in comparison to other sectors (such as agriculture) at the national as well as global scale, water used by beverage companies is minimal. The case of Coca Cola and the dispute around its water abstraction, therefore, are only a symptom of underlying social disputes. However, it was also stated that water withdrawals from industries have steadily increased. Today, the top 5 beverage manufactures withdraw an equivalent amount of water as all the public utilities in the world. Although this is still small in comparison to overall numbers of water consumption, it still raises the question of who governs the right to access and who is losing out in these negotiations.

It was furthermore mentioned (compare also session 1) that large companies are an easy target but, that they are often aware of water issues, which involve high risks for them and therefore rank high on their agenda. Within the companies’ risks matrixes, water is measured in various dimension and water issues around the world are very well observed.

One entry-point that is currently being promoted (such as in several Latin American countries – Peru, Colombia between others-) to solve water-related disputes around mining activities is the water funds that companies contribute to provide for investments for basin protection and sustainable uses that will augment water production or payment for ecosystem services. Although only few of these funds are so far capitalized, it might be an interesting tool that could be explored in more detail.

Moreover, the problem of deficiencies in water supply management in many developing countries was touched upon. For example, water loss in urban water supply infrastructures is a severe problem in many countries. There could be a role for private businesses to invest in reducing water losses in urban infrastructures in form of public-private partnerships. Examples of collaborations (such as between SAB Miller and South African municipalities) and cases of water footprint reduction by multinational companies already exist.

More attentions should also be paid to data exchange and access, particularly for groundwater, which is an even more important and more vulnerable resource than surface water. Technological development, for instance in form of remote sensing, has increased potentials for better understanding and more easy to access information even in contexts where riparians are not willing to cooperate. Although potentials for groundwater information gathering are also progressing, it is still more difficult to acquire data for this type of resource. Therefore, one recommendation to the Panel could be to support open-up and facilitate data and information exchange to build cooperation and understanding.

Furthermore, the data gathered by private companies could play a major role in better understanding and managing surface as well as groundwater resources. Several years ago, Coca Cola, for instance, had developed a comprehensive global data package on water scarcity trends in places where the company operates or is planning to expand its operations. In 2011 the company donated this data to the World Resources Institute (WRI) and its Aqeduct project.

Overall, it was agreed that states still carry the main responsibility (sovereignty principle) for water issues and should therefore be the main player to be addressed. Nonetheless, water community should use the fact that the private sector is increasingly feeling various pressures and risks around water resources. The private sector commands a large body of knowledge (e.g. in form of data) and business platforms that could be employed to promote water issues and strengthen water governance structures. In many countries, private businesses (such as hydropower companies) have more and better hydrological data than state entities. Sharing this data with other entities could help to improve water management. Business platforms, which exist for various sectors at different scales, could be

leveraged to increase awareness about water and water-related disputes. The Panel could explore how to connect with these business platforms and which activities could be pursued to ensure that water is on their agenda and part of their activities.

4. Intersectoral conflicts through different scales?

The session was introduced by a presentation on the Mekong River Basin and intersectoral conflicts at various scales with a focus on Cambodia.

The Mekong River Basin is an important river basin in global perspective, providing the largest inland fish resources in the world and 60 Mio. people depending on the river and its resources for their immediate livelihoods' security. Because of the huge demand for energy and food in the region, water resources are gradually becoming a source of dispute.

Hydropower development is high on the political agenda of many of the Mekong riparians. Currently 11 plants are planned to be built along the mainstream and more than 80 along its tributaries. The main line of conflict, therefore, runs between the energy and the fisheries sectors. Because hydropower is currently prioritized, there is the perception that energy development for industries and urban centres comes at the expense of rural and poorer communities that depend on the river for food production.

The governance structure of the Mekong River Basin is complex. At the regional level, multilateral organizations such as the Mekong River Commission (MRC), the Asian Development Bank (ADB), the Association of Southeast Asian Nations (ASEAN) and the regional energy market are relevant actors. At the national level, six riparian countries and their respective energy policies shape the governance structure. Finally, at the sub-national level various provincial governments and lower levels of formal as well as informal institutions exist.

The project and case study presented, focuses on the national and sub-national levels and how energy policies influence the outcomes at various scales in the specific case of the Mekong Flooded Forest in Cambodia. The Mekong Flooded Forest is the site of two large dam developments and is, additionally, affected by upstream hydropower developments in neighbouring Laos. The energy policies and hydropower plants developed in both countries influence agricultural and fisheries production at this particular sub-national scale. The project engaged with various national and sub-national public and private stakeholders with the aim to 1) build capacity for risk and opportunity mapping to find options for sustainable management and 2) identify critical indicators which encapsulate key developments in the basin.

The project was conducted in form of dialogue meetings with various actors from the national and local level. These resulted in the development of a systems map that visualizes the various interconnections between water, energy, food and various other societal and economic factors in the region that are likely to be influenced by the hydropower dam being built in Laos (the two dams in Cambodia were not part of the discussions or modelling). Based on these dialogue sessions and systems maps, headline indicators were identified and subsequently quantified with the help of existing datasets. The project found that many of these indicators correspond with SDGs.

In this regard, the role of the SDGs and in particular SDG 17 ("Revitalize the global partnership for sustainable development") is of key importance when talking about intersectoral conflicts. There is a need to find ways for bringing people from various sectors and scales together in partnerships to fully understand water-related problems and to find sustainable solutions.

Following the presentation, participants discussed the lack of coordination in the management of the various dams along the Mekong mainstream has been discussed. Although the regional RBO (MRC) should play this role, there are no indications of any real coordination of dam operations in the region so far. Furthermore, the absence of China from the MRC (the country is only a dialogue partner) pose a further problem for coordination and joint management. Various dams along the Mekong are currently under construction in China that could potentially influence the flow regime and flooding patterns of the Mekong. Such changes in flow regime can in turn affect sensitive ecosystems like the once of the Tonle Sap which are vital for fish production and hence the livelihoods of several million people. In this perspective, other case studies demonstrate the crucial role that RBO could play in the prevention and/ or management of intersectoral conflicts. The OMVS experience is an inspiring example providing for procedures that facilitate agreement. A consultative permanent commission was established to deal with trans-sectoral issues. When a sector aims to develop a project, a consultation of the commission is mandatory. By doing so, the impact of

this project on the environment and on other sectors is assessed. The project is then authorized or amendments are requested. Once in place, the project is then monitored.

The discussion then moved to the role of engineering and technical solutions, which are often called for to find answers for problems caused by hydropower dams and other large-scale infrastructures. However, technical solutions are limited and cannot fully avoid trade-offs between different sectors. It was agreed upon that engineering cannot substitute societal and ethical decisions. One way to move forward is to use option and scenario analyses to outline possible developments that can be expected from dam interventions in a transparent manner. Such option analyses can be used to feed into societal discussions and create awareness about impacts and various trade-offs to be expected.

Lack of knowledge about environmental issues in some technical and engineering disciplines has also been discussed. To strengthen more integrated understanding and approaches, more cross-disciplinary knowledge and training is required.

Finally, participants talked about the role of political actors. Technical cooperation alone does not prevent disputes and outright conflicts between actors and usually has no broader societal impact in itself. In order to address conflicts in a meaningful way it is, therefore, important to bring in other actors. In the case of transboundary disputes, for instance, hydro-diplomacy is indispensable to resolve water-related disagreements.

5. Recommendations

Following the presentation of three case studies at different scales and roundtable discussions, six recommendations are identified to be considered by the High-Level Panel for Water and Peace in order to strengthen the global architecture and to prevent and resolve intersectoral-conflicts:

1) Enhance transparency through information-sharing

It is important to recognize that context shapes the debate as well as conflict (as particularly outlined by the example of the local conflict in Peru). **It is, therefore, indispensable to ensure relevant information and data sharing for all key stakeholders from the very early stages of a planned project and prior to the intervention itself.** It is furthermore significant for key stakeholders (such as mining companies) to know which information, which data is exactly required by whom and at what stage of the planning process. This should be much clearer when developing large-scale interventions (In this regard, the “Free, Prior and Inform Consent” (FPIC) represents an interesting principle). Complex technical information has to be presented in a way that is understandable for all stakeholders, clearly and at the beginning of a project. The development of future scenarios, which explain the consequences of certain actions by mining companies, could be a helpful tool to explain potential developments to communities that might otherwise not understand what change might occur.

2) Improve multistakeholders dialogue platforms

There needs to be a clearer construct of the role and operating rules of multistakeholders dialogue platforms which are established to mitigate between disputing parties in socio- and environmental conflict setting. Furthermore, local panels and leadership of local actors within other panels should pay more attention to the process and power dimensions to ensure that the voice of local stakeholders drives conversations rather than an exclusive guiding role of experts. It is only under conditions of equal power relations that such panels can act as third-party neutral entities that facilitate communication and trust.

3) Explore the development of a general code of conduct dedicated to the private sector or codes of conducts by industrial branches

The Panel should explore the development of code of conducts dedicated to the private sector around particular areas of conflict in certain locations. In this context, the independent monitoring and verifications of how those codes of conducts can be played out or adhered to by the private sector should be investigated. Relevant existing initiative or organisations could be involved in the development of such code, for example the CEO Water Mandate /UN Global Compact, the World Economic Forum or the World Business Council for Sustainable Development .

4) Develop a comprehensive set of global standards

To mitigate against intersectoral conflicts and avoid negative impacts on water resources, a comprehensive set of global standards for the development of large-scale interventions (such as mining or hydropower development) could be developed (see for example the sustainability guidelines and an associated compliance protocol developed by the International Hydropower Association). This could serve as a planning tool for public and private actors at the national level that are responsible for the design and development of infrastructure projects. Such global standards could come inform of guidelines which outline minimum legal and regulatory requirements on key issue, including environmental and social impact assessments, cost-benefit analysis, corruption and public participation requirements (and

consultation methodology). **The Panel could elaborate as to who could be a legitimate source of producing and promoting such a summary of global minimum standards.**

5) Promote the development of a global or regional water special facilitator on intersectoral conflicts (function)

The Panel could explore the possibility to promote the establishment of a global water special facilitator – in form of a recognize panel or group of people which brings together a broad-range of expertise – which could be called upon by private and public actors as well as local communities to mitigate and resolve water-related and inter-sectoral disputes.

6) Invest in international education

Capacities to implement “good water governance” largely depends on a country’s capacities. Although the international community has invested and engaged in capacity building for decades, most developing countries still lack sufficient capacities to manage water resources in a sustainable manner. **Considering that education is one key aspect of capacity building, it is suggested that the Panel engages in promoting more investments in international education in the water sector. Particular focus should be put on interdisciplinary training.**

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