Expert Opinion
To be considered at the United Nations 2023 Water Conference Interactive Dialogues

September 2022

We, the experts representing the convening and contributing organizations of the side-event '*Value of Water in Times of Armed Conflicts*' at the Stockholm World Water Week 2022 and partners, propose the following key messages to be considered in the preparation of the United Nations 2023 Water Conference Interactive Dialogues on Water for Cooperation.

Water and sanitation should never be used as a means of warfare. In spite of this humanitarian, legal and political consensus, water resources and infrastructure are often strategic targets, and their control is being deployed, directly or indirectly, as tactics of warfare by parties to conflicts (offence and defense). Vulnerable groups such as women, children, youth, and persons with disabilities, are usually the most affected by destruction of infrastructure, disruption of water, sanitation and hygiene services, and deterioration of the water-dependent ecosystems and environment.

The Expert Opinion emphasizes the importance of water during and after conflict and in conflict prevention, underlining weaknesses and gaps in international frameworks and practices and state and non-state actors' compliance with them; and highlights available measures to safeguard the human rights to water and sanitation, water resources and infrastructure, and a healthy environment for all.

Key messages

Conflict prevention

- Increasingly, global security analyses cite water as a strategic resource that, when not managed properly, can be a source or driver of conflict and in extreme cases threaten national and regional security.[1]
- Water related conflicts may range from competition over resources to political tensions, to the delegitimization of governments and increasing fragility, to low-level violence or to armed conflict, from the local to the international level.
- According to recent data, number of conflictive events over water has grown in the past years. [2] Most of water related conflicts take place at intra-state level, and most of the effects on water infrastructure and the environment occur in armed conflicts within countries or between state and non-state actors.
- Water has never been the only reason in international armed conflict and is not likely be so. Between states, water can act as a connector rather than a divider.

Transboundary cooperation

- Transboundary water cooperation can act as a driver and sustainer of peace with agreements, joint bodies and cooperation arrangements, shared information and monitoring and assessment.[3]
- International water law codified in the UN Water Conventions set out principles for that cooperation.
- We commend the efforts of several countries from different regions to accede to the UN Water Conventions.

[1] See Water, Peace and Security Partnership.
[2] See Transboundary Freshwater Dispute Database.
[3] See UNECE Water Convention Publications.

- International water treaties in river basins provide comprehensive bases for addressing potential disagreements over water use in a peaceful manner. River basin organizations have a key role in the prevention and settlement of water conflicts.
- International judicial bodies such as the International Court of Justice (ICJ), the main UN judicial body, as well as arbitral tribunals may also support cooperation between riparian countries in context of water-related disputes.[4]
- **Recommendation**: The Meeting of the Parties of the UNECE Water Convention and the UNECE Secretariat, international organizations, non-governmental organizations and multilateral development banks should support riparian countries to develop agreements consistent with international water law and based on the equitable sharing of transboundary water resources.
- **Recommendation:** Cooperative arrangements for all major transboundary water courses should be in place by 2030 and those in place must be implemented and adequately capacitated and resourced by their members and the international community, in particular through institutionalized cooperation mechanisms.

Importance of understanding local socio-political contexts and dynamics

- Water is of key importance for local lives and livelihoods, and in the event that access to sufficient water of sufficient quality changes, humans will respond. In certain contexts, this has led to increased competition, tensions as well as violence, and fed into larger violent conflicts, or the changed situation has been exploited by armed groups and elites.[5]
- Climate change, actions to mitigate or adapt to climate change and other interventions in the water system can all lead to changes in local water availability and quality. However, local governance and socio-political settings and dynamics generally determine who has access to available resources.
- **Recommendation:** All efforts to increase WASH services and develop water resources need to consider how different groups in society make use of water and related ecosystem-services, the social-political dynamics involved, and how different societal groups will respond to changes in water systems.
- **Recommendation:** Different societal groups need to be involved through meaningful participation in the development of understanding climate-water-society linkages and the identification of effective actions.
- **Recommendation:** The international community should develop and share approaches to assessing socio-political dynamics and how meaningful participation can be carried out to create peaceful, effective water management strategies with local ownership that can prevent conflict and contribute to sustainable peace.

Involvement of women and youth

- A persistent gender gap exists in the water sector and transboundary water cooperation in particular.
- Gender mainstreaming in water governance contributes to stability and security, bolsters the resilience of local communities, and contributes to more effective policy-making at all levels, including in transboundary cooperation, peacebuilding and mediation.[6]

[4] See for example ICJ Pulp Mills on the Uruguay River case (Argentina/Uruguay), 2010; Kishenganga case (India/Pakistan), Arbitral Tribunal, Permanent Court of Arbitration), 2013).
[5] See: Pathways of climate insecurity: guidance for policy makers. Stockholm International Peace Research Institute, 2020.
[6] See: Gender Mainstreaming in Water Governance | OSCE e-learning platform; Stockholm International Water Institute, 2022. A Path Forward for Women, Water, Peace and Security: Women in Water Diplomacy Network Nile and Beyond Global Strategy 2022-2027. Stockholm, Sweden.

- Networks and platforms for dialogue as well as participatory and consultative approaches in water processes help to ensure women's voices are amplified in international water processes.[7]
- **Recommendation:** Special attention and funding support should be directed towards capacity building and skills development of women water professionals, as well as youth interested in water sector careers in times of peace, ensuring integration of all genders in management of water resources at all levels including transboundary cooperation.

During conflict

- Water is a victim in armed conflicts, with direct impacts including destruction of water, sanitation and hygiene (WASH) infrastructure, deterioration of resources and ecosystems, leading to sickness and death; and indirect impacts including increased social vulnerability, economic problems, militarization, collapse of water management and governance, deteriorating supply and state of the environment.

Respecting international law

- **Recommendation:** States must respect and ensure respect of international humanitarian law (IHL).[8]
    - Parties to a conflict must not attack, destroy, remove or render useless the objects indispensable for the survival of the civilian population, these include drinking water installations and supplies and irrigation works (Arts. 54.2 of the 1977 First Additional Protocol to the 1949 Geneva Conventions and 14 of the 1977 Second Additional Protocol to the 1949 Geneva Conventions, Rules 53 and 54 of Customary International Humanitarian Law[9]).
    - Installations containing dangerous forces such as dams and dykes are also protected under IHL (Arts. 56 of the 1977 First Additional Protocol to the 1949 Geneva Conventions and 15 of the 1977 Second Additional Protocol to the 1949 Geneva Conventions, Rule 42 of Customary International Humanitarian Law).
    - Attacks which are intended or may be expected to cause widespread, long-term and severe damage to the natural environment are prohibited under IHL. (Arts. 35.3 and 55 of the 1977 First Additional Protocol to the 1949 Geneva Conventions, Rules 43-45 of Customary International Humanitarian Law).).[10]
- **Recommendation:** Parties to a conflict, including an Occupying Power, must respect protect and fulfill the human right to water in line with the 1966 International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child and the Convention on the Discrimination Against Women which continue to apply during armed conflicts, and which is indirectly acknowledged by other human rights instruments as well.[11]
- **Recommendation:** Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival is a war crime (Statute of the International Criminal Court (ICC), Article 8.2 (b) (xxv) and 8.2 (e)(xix)). Military manuals enshrining a sound protection of water infrastructure and water resources may prevent these crimes.

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[7] See: See "Women, Water Management and Conflict Prevention" | OSCE.
[8] See: Geneva Water Hub, Geneva List of Principles on the protection of water infrastructure.
[9] See: Customary IHL Database.
[10] See the following publications: ICRC Guidelines for Military Manuals and Instructions on the Protection of the Environment in Times of Armed Conflict; ICRC, World Bank and Unicef: Joining forces to secure water and sanitation in protracted crises; Reducing Civilian Harm in Urban Warfare: A Commander's Handbook; Geneva List of Principles on the Protection of Water Infrastructure.
[11] See General Comments No. 15 on the Right to Water; the Conventions above mentioned; the 2004 ICJ Advisory Opinion on the Construction of a Wall in the Occupied Palestinian Territory.

- **Recommendation:** Attacks against WASH facilities must be monitored and reported and treated like grave violations. Such attacks are barriers to the realization of Sustainable Development Goal 6 and other SDGs.
- **Recommendation:** The role of international environmental law should be considered to fill in the gaps of IHL in the protection of the environment during armed conflicts.[12]
- **Recommendation:** Intentionally launching an attack in the knowledge that such attack will cause widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated is also war crime and must be punished (Art. 8.2 b (iv) ICC Statute).

Post-conflict

From water aid to ending needs

- Transitioning from delivering aid to ending needs in conflict and post-conflict settings is of paramount importance should the world advance in equality. Often times, humanitarian contexts are well resourced, and these should be used rationally to bring about durable changes to people's lives.
- **Recommendation**: Access to safe drinking water must be ensured to internally displaced peoples (IDPs) and refugees, taking into account the existing water use agreements and local context to avoid potential conflicts between incoming and recipient populations.
- **Recommendation:** WASH sector resilience is key to minimizing adverse sectorial impacts, human suffering and humanitarian needs. All WASH undertakings need to at least be conflict sensitive to do no harm and should where possible contribute to peacebuilding in order to do more good.
- **Recommendation:** Implementation of water infrastructure reconstruction programmes must be prioritized, along with restoration measures for river ecosystems in post-conflict countries.

Building long lasting peace

- Water can be a powerful tool to build bridges between displaced communities and the host population.
- Regional and transboundary water dialogues, as well as exchange and peer-to-peer learning among experts within the region, can develop trust and relationships that are essential for post-conflict regional cooperation and should be encouraged.
- Transboundary freshwater agreements often help to consolidate peace between parties involved in an armed conflict, especially when they establish a river basin organization.
- **Recommendation:** International organizations and other actors should support the creation of networks of local and transboundary peace mediators using water as a driver for reconciliation and building long-term peace.
- **Recommendation:** Peace agreements should include water sharing provisions developed in consultation with local communities affected by the conflict.

The Key Messages expressed in this paper represent the views of the experts themselves. The group consists of professionals at different stages of career and from different geographical locations. As such the views expressed in this Expert Opinion may not represent the views and policies of their organizations.

[12] See International Law Commission Draft Principles on the protection of the environment in relation to armed conflict.

On behalf of the experts representing the convenors, contributors of the side-event and supporting partners,

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Geneva Academy of International Humanitarian Law and Human Rights

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