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**Submission in response to call for inputs:**

**“Water and food nexus: a human rights approach to water management in food systems” / Thematic Repot to the 79th session of the UN General Assembly**

Designation: public

This input is prepared and co-written by Henry Thomas Simarmata[[1]](#footnote-0) and Muhammad Reza Sahib, the general coordinator of KRuHA (People’s Coalition for the Right to Water)[[2]](#footnote-1), and submitted as a contribution of the Associated Program for International Law (Apintlaw) / https://apintlaw.info

**Objective of this contribution**

1. This contribution would serve as an input to the call “water and food nexus: a human rights approach to water management in food system” in terms of progress and challenge.. The input would relate mostly to the example of Indonesia, and to wider a similar trend.
2. The input would recognise several key international human rights norm and constitutional reform which increase the protection of right to water and its relation with the food system. Those brings the visibility of the obligation of the state and put the establishment of the holder in the right to water. This input would especially respond to the guiding question no.6 and 7 (to rights holders, civil society, or non-state actor). In any way it would be relevant, this input would also address the rest of the questions.

**The lesson from world food crisis 2007-2008**

1. The statement of the UN Special Rapporteur on Right to Food then, Olivier de Schutter in the UN Human Rights Council’s special session 22 May 2008[[3]](#footnote-2), and his report, “Building Resilience: a human rights framework for world food and nutrition security”[[4]](#footnote-3) are very fundamental in reinforcing the non-discrimination principle of right to food in governing food system. This report restated the obligation of the state to develop a human rights framework in line with the international norm –so to speak: not to outsource their purview and action to the commercial actors. The obligation of the state put right to food in managing economic affairs. The obligation ask a state actor to pay attention to the long-term vulnerability and the vulnerable in a food system, water included.
2. This input would take the report of the UN Special Rapporteur as important in looking into water in a food system. The report drew a finding on how “almost inevitable’ commodity-ation (“commodification”) of food, water included, overrode any explanation and effort to pay attention towards input and holders of the food system. The commodity-based economy unnecessarily increase cost of and access toward food since it pursue output at the expense of condition of input and of holder.
3. The resilience in human rights term must take into account the interrelation between “input” and “holders”. The human rights norm on “adequate food”, “sustainability”, “accountability”, “national strategy”, “assessment on loss and damage” are pointing into an establishment of human right norm and framework which goes beyond a mere production of food, beyond a mare availability of safe drinking water. It would mean also an internalisation of the holder as fundamental input in the food system, water included.

**Positive development, the case of Indonesia**

1. Within the context of domestic law, the establishment of “constitutionally condition” by the Indonesian Constitutional Court set norm and policy standard on how water should be accounted. This is put as a priority, i.e.(1) clean, safe drinking water for all citizen in individual and communal situation. This put the holder (“citizen”), provision of government, decision making, and accountability framework is highest priority, at all times including in time of natural disaster. (2) water for household, (3) water for agriculture, (4) water as conservation, (5) water for social-economy activity, (6) water for social purpose in village life, (7) water for commercial use. As a norm, this ruling asked government and democratic participation to solve a problem when there is a conflict between numbers. The “clean, safe drinking water for all, at all times” become key consideration. This was adjudicated by the court in 2004, then, in 2015. The ruling also reinforce the concept of water as public domain and as constitutional rights.
2. The development of water balance was applied by Indonesian government in the ministry level. This setting demand regular reporting on the ecological system of water (the capture area), on pollution, on access to water. This is a typical administrative oversight into water management.
3. The Indonesia-based KRuHA (People’s Coalition of Right to Water) developed a standard for water balance, including in the context of water-food nexus. The KRuHA work on advocacy in different decentralised area to work on indexing right to water (during 2018-2021). KRuHA work on a collaboration with communities in advocacy to keep water bodies as *res commune.* This collaboration often involved a contest against corporate farming and extractive industries, including water-beverage industry. The contest is a showcase where the sustainable use of water and *res commune* standing are forced into a competition into food production. KRuHA work on both legal contest and field work in responding to this situation.

**Challenges**

1. The case of Indonesia often has similar footing in countries in Southeast Asia. Typical normative basis of protection of water, both as public domain or as community holding for sustainable use. The challenges often in forms of: (1) competition on the access and use of water in a food system, (2) quality of water for safe and clean consumption, (3) the fight on normative standing of water in a food system.
2. (1) A competition on the access and use of water in a food system. Food estate and packaged-drinking water are visible example. Both showed that pursuit of availing water in short-term often causing damage to water bodies and often causing expulsion of communities and precious natural resources. The damage and expulsion often happened in a very slow process which is not visible in one look.
3. (2) Quality of water for safe and clean consumption. The use and over-used of water for industries, for big city, for food estate caused the damage of clean and safe water bodies. The public provision on safe and clean water did not catch up the necessity to correct the damage.
4. (3) A fight for normative standing of water in food system. Though the standard of right to water in human rights norm and standard are very clear, and not to mention the UNDRIP and UNDROP where they reinforce right to water, water often fell into commodities and subservient for other purpose such as housing, large scale project, industries. The norm of water as public domain and communities’ holding for sustainable use is pushed aside.

**Necessary development: what next**

1. The competition of sustainable use of water and the standing of *res commune* with/against large food commodities, wholesaler, large scale food processing industry put state under an extreme strain. The need to balance both are important; but, the urgency to pay attention to long term situation, i.e. on sustainable use of water and protection of the right to water need a meaningful footing and result.
2. Climate change posed a big challenge, adding to the strain. Climatic situation alter water use and farming. The norm of right to water put primacy on assessment on a type of food agriculture and farming. This also ask a better effort to address food system.

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2. https://kruha.org/ [↑](#footnote-ref-1)
3. https://www.ohchr.org/en/statements/2009/10/statement-special-rapporteur-right-food-mr-olivier-de-schutter?LangID=E&NewsID=8477 [↑](#footnote-ref-2)
4. https://www.ohchr.org/sites/default/files/english/issues/food/docs/A.HRC.9.23.pdf [↑](#footnote-ref-3)