CAFOD Submission to UN Call for Input - Democratic water governance under a human rights-based approach

CAFOD[1] is the official development agency for the Catholic Church in England and Wales; a member both of the global catholic confederation Caritas Internationalis,[2] and of CIDSE,[3] a Catholic social justice network. CAFOD has supported the work of the UN Business & Human Rights Forum, the voluntary UNGPs,[4] and since 2014, the UN Working Group on Transnational Corporations and Human Rights.[5] CAFOD's Latin American Programme has engaged with various Special Procedures, including the UN Special Rapporteur on the situation of Human Rights Defenders (HRDs).[6]

In Latin America CAFOD works with partners in Bolivia, Peru, Colombia, Brazil, Honduras, Guatemala and El Salvador. Our partners support communities (including indigenous ones) affected by mining, agribusinesses or large renewable energy projects. Water governance issues are often a core component of this work, seeking both legal and political solutions to the challenges caused by inappropriate or careless economic development.

We welcome the opportunity to contribute to this call, and have drawn on a wealth of material provided by our diverse partners across the region in this submission.[7] Letters and numbers in headings correspond to those in the original call.

As CAFOD we defend the right to water as a fundamental and basic human right, recognised by national, regional and international human rights law, organisations and governments. Water is vital for life, health, dignity and is linked to other fundamental human rights: if access to water and its fair use is denied, other rights are jeopardised.

> *"Water is the life of humanity. It is the life of living beings and of nature. Water is the life of everyone around the world. Without water there will be neither a human being nor nature".*
> *Indigenous leader, Peru*[8]

Context

Latin America has the world's largest freshwater reserves, which have underpinned both the region's energy supply (45% via hydropower) and its plentiful agricultural production. Yet access to this vital resource is grossly unequal, 40% of the continent faces water scarcity,[9] 166 million

[1] See About us for more information about CAFOD.
[2] Who We Are - Caritas.
[3] Who We Are – CIDSE.
[4] Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework | OHCHR.
[5] Tenth session of the open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights | OHCHR.
[6] Audiencia con Personas Defensoras de Derechos Humanos en América Latina - UN SR Human Rights Defenders.
[7] This submission draws heavily on case studies and reports provided by our Latin American partners, including the report of a five day *'Andean Water Exchange' Workshop*, held in Bolivia from 18th – 22nd Sept 2023, involving ten CAFOD partners from Colombia, Peru and Bolivia, together with representatives of affected communities, external advisers and CAFOD staff.
[8] Indigenous leader and Participant at 'Andean Water Exchange' Workshop, *ibid*.
[9] Natalie Alem Zabalaga, from the UN's Global Environment Facility, presentation at 'Andean Water Exchange' Workshop, *ibid*.

people do not have access to a safely managed water supply, and 24 million lack even a basic supply.[10] Existing water supplies are often contaminated by industries including mining, and by poorly managed sanitation systems. This situation is worsened by climate change-induced and more frequent droughts, floods and storms, which in turn accentuate intra and inter-community conflicts, as well as between countries.

B. Management of freshwater ecosystems

- **Community Monitoring Processes**

CAFOD partners in Latin America have supported communities to establish water monitoring groups. In Bolivia, our partner CENDA[11] started working in the Poopó river basin in 2012. They discovered that 41% of the population had only 5 litres water a day for their basic needs, as the river had dried up because the water was being extracted for mining, exacerbated by the low rainfall.[12]

CENDA has supported local community members to act as river monitors and to use water quality measuring kits. In 2016 the relevant Ministry[13] started work in the area, agreeing that there was contamination in the Poopo river basin but maintaining that mining was not the cause. In response, the community took legal action against the mining company, and the case is ongoing. In 2024 CENDA collected blood samples for analysis, confirming the presence of heavy metals in peoples' blood, including arsenic and cadmium, and they are planning to take this case to the Inter-American Commission on Human Rights.[14]

- **Community Recuperation/Purification Responses**

In Bolivia, our partner IADI [15] works alongside the Tiquipa community in the Katari river basin, and with researchers from Newcastle university in the UK, to support water infrastructure and to test various technologies to improve water quality, including biochar, bio barriers and microalgae.[16]

These are community-led responses to plastic pollution and contamination of rivers from household and industrial waste from the cities, and chemicals used in mining. They include building a barrage of plastic bottles to remove plastic pollution; harvesting invasive vegetation (*khento*) and burning it to make biochar; creating a simple water purification system, using the biochar with layers of gravel and sand, which removes contaminants to produce water safe for livestock and irrigation. The community is also planting certain species of water plants which absorb chemicals via their root systems (eg. *sehuenca*), and this improves water quality and can safeguard livestock that eat the vegetation from the same plant.

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[10] World Bank. 2022. *Water Matters: Resilient, Inclusive and Green Growth through Water Security in Latin America*. © Washington, DC. http://hdl.handle.net/10986/37214 License: CC BY 3.0 IGO.
[11] CENDA is the Centro de Estudios y Desarrollo Andino, see website: CENDA | Centro de Comunicación y Desarrollo Andino.
[12] CENDA presentation at 'Andean Water Exchange' Workshop, 2023, op. cit.
[13] The Ministry of Water Resources and Irrigation.
[14] For more information about this work, see SISTEMATIZACIÓN DE LA EXPERIENCIA EN LAS CUENCAS DE LOS RÍOS POOPÓ Y ANTEQUERA "Monitoreo comunitario del agua como herramienta de control y vigilancia en entornos mineros."
[15] IIADI is the Instituto de Investigación y Acción para el Desarrollo Integral, see their website for more information: Quiénes Somos – IIADI.
[16] See IIADI's 2023 report for more information: Memoria-Soluciones-innovadoras-IIADI-2023-V-final.pdf.

B. #4 Rights of Nature

Civil society organisations in Latin America (eg Colombia and El Salvador[17]) demand that their governments recognise that 'natural goods are subjects of rights'. This constitutes another legal tool to allow local communities to claim their rights to water and promote the conservation of biodiversity, especially for rural communities and indigenous peoples.

For example, CAFOD's partner SIEMBRA[18] has been accompanying communities in Choco, Colombia, for many years. In 2015, three AfroColombian community councils,[19] with support from other NGOs and the Catholic church, filed a legal action against 30 State institutions for their failure to prevent illegal mining activities that were damaging the Atrato river. After a lengthy legal battle, the Colombian Constitutional court eventually ruled in favour of the community (sentence T622 of 2016), and went further to recognise the river itself as a rightsholder.[20]

D. Water and sanitation services

In several countries, our partners are supporting partners to work on these issues:

- **SIEMBRA's on-going work in Choco, Colombia:[21]**

Despite the 2016 Constitutional Court ruling guaranteeing the right to water to this community, by 2023 almost 75% of the population still lacked piped water or sanitation.[22] In places with piped water supply, frequent sewage leaks contaminate the water, with serious health consequences. For example, the number of malaria cases in one municipality almost tripled in 2023.[23]

SIEMBRA continues to investigate why this situation persists despite the court ruling and additional funding paid from central government to regional authorities. They argue that the funding was insufficient and highlight additional challenges: the regional taxation system and the diversion of infrastructure funds to service provision. In addition, records suggest that some funds were simply not spent and suggest corruption linked to the ongoing conflict. There are also substantial gaps in the regional statistical record – thus for example, although Colombia introduced a Drinking Water Quality Risk Index in 2007, no data was collected in Choco until 2013, and since then, only data for urban areas.[24]

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[17] Vicepresidente de El Salvador, Dr. Félix Ulloa, recibe Anteproyecto de Ley, presentado por la Red Trinacional por el Rescate del Río Lempa, entidades de la sociedad civil de los tres países, para la protección, conservación y restauración del Río Lempa.

[18] SIEMBRA is the Socio-legal Centre for Territorial Defence, see their website for more information.

[19] Cocomopoca, Cocomacia and Ascoba.

[20] For more information see https://www.centrosiembra.org/en/atrato-river/.

[21] SIEMBRA's recent unpublished research report responds to these questions in more detail. See Rogelis, Rodrigo (2024), *'Right to water, basic sanitation and the budget system in the Atrato River,'* unpublished paper, Bogota: SIEMBRA.

[22] Access to safe drinking water: 7 Colombian departments in critical situation (radionacional.co), quoted in Rogelis, ibid.

[23] Mejor Salud EPS data obtained by right of petition, see Rogelis, Rodrigo (2024) 'Poverty as a lack of clean water in Colombia: human rights affected by the absence of drinking water and basic sanitation in Chocó.', *Letter to Olivier De Schutter, Special Rapporteur on extreme poverty*, United Nations Human Rights Council, Bogota: SIEMBRA, p 4.

[24] See the National Institute of Health's Drinking Water Quality Risk Index-IRCA, 2007-2019, Available here: https:.

- **CIAUR's work in Lima, Peru:**

In Lima, a desert city which could run out of water in less than 20 years, more than 1.2 million people lack access to running water or basic sanitation. calling for urgent action. The situation is deteriorating due to population growth, competing demands from a growing population, as well as industry and agriculture, all of which also contribute to pollution. Rising temperatures due to climate change are causing Andean glaciers to retreat, further exacerbating water scarcity; and in turn, damaging land use issues (logging, overgrazing, burning vegetation and collecting moss and peat from the marshes), further accentuate climate change. As a result, the poorest families in informal settlements face rationing and a limited water supply; consuming a third as much as those with piped water, and often paying almost five times as much for water of dubious quality from water trucks.[25]

CAFOD partners, with the local community and the church, have formed an advocacy coalition CIAUR.[26] CIAUR is campaigning for actions and public policies that guarantee access to water for all, as well as measures to mitigate socioenvironmental risks and climate change.

- **ASUVI's work in Guatemala:**

In Guatemala, CAFOD's partner ASUVI[27] advocates for the water rights of indigenous communities, as only 68.6% of households in Quiche have a piped water supply. In many rural areas, water supply systems are managed and maintained by rural communities themselves, sometimes with funding from external donors. According to ASUVI, water access is highlighted by communities as a critical issue for resilience of rural livelihoods and households. Deforestation contributes to soil erosion and water availability, and communities report changes in weather patterns and increasing water scarcity as traditional sources (rivers, aquifers, streams) have dried up.

E. Institutional frameworks, policies and legislation

CAFOD's partners recognise the interconnectedness of water resources and ecosystems across Latin America, and the importance of appropriate policies and legislation, for effective and holistic water source management.[28]

In **Central America**, the region's water resources are interconnected by 23 international watercourses and 18 transboundary aquifers. A regional body[29] establishes clear guidelines and policies that translate into provisions at the country level.

The Lempa river runs through Guatemala, Honduras and El Salvador, where it is the most important source of freshwater (providing 56.9% of surface and groundwater in the country). In line with this transboundary approach, CAFOD partners have supported two regional civil society networks[30] to advocate with governments for a binding regional agreement to protect the river and

[25] See this research produced by CIAUR member DESCO (Centro de Estudios y Promoción del Desarrollo) Climate justice and the right to water.
[26] CIAUR stands for the Collective for Urban Advocacy and Action.
[27] ASUVI is Asociacion Unidos por la Vida.
[28] Thus for example, Integrated water resources management | UNEP - UN Environment Programme, and in Central America, the work of the Interagency Water Group of the Central American Integration System (SICA).
[29] The Interagency Water Group of the Central American Integration System (SICA).
[30] The networks are: the Mesoamerican Ecological Ecclesial Network (REMAM) and the Central American Network for the Defence of Transboundary Waters (RedCAT).

prevent large quantities of cyanide linked to mining, from reaching it. In addition, El Salvador has requested that both Guatemala and Honduras protect, conserve, and restore the upper watershed, but without offering compensation for these actions.

If this situation is not resolved, the water-scarcity crisis in the region is likely to escalate. It is therefore good news that the Cerro Blanco Gold Transboundary Mining Project has been suspended by the new Guatemalan government, since if this mine were operational, 8 tonnes of cyanide would end up in the Lempa river each day.

CAFOD's partners also conduct national advocacy, calling for stronger legislation and policies regarding water protection, management and use. In El Salvador, where people can be authorised to provide assistance to water boards and to monitor and denounce violations of the right to water,[31] our partner Cáritas has accompanied 25 community water boards applying for certification as 'Water Guardians'. In 2024, they secured protection for water sources, rivers and springs zone of Cerro Negro in Chalatenango, based on an agreement between the water authority and the civil society network Caritas-REMAM.[32] This safeguards an important water supply for 12 local communities, directly affecting 5000 people, and prohibits changes in land use, soil degradation and timber harvesting, the latter point being particularly important as the zone has been affected by indiscriminate deforestation by a private company seeking to sell the wood to local residents.

F. Good practices under a human rights-based approach

CAFOD partners are supporting many communities[33] across the continent claiming their rights to water, often where extractive industries are further damaging water reserves that are already under strain.

- **Women Water Defenders in Acacías, Colombia**

CAFOD partner CODACOP,[34] is accompanying women in the department of Meta, challenging the state oil company Ecopetrol, whose activities have contaminated the community's ground water and water courses. The company has also reneged on their original commitment to instal a new aqueduct to replace the water supply. As a result, the women's only safe water supply comes via the local fire brigade, providing three minutes' supply per household in theory every three days, but recently less regularly.

Although legal actions have been taken, thus far the courts have ruled that as access to water is a collective right, it must be protected through popular actions, which take many years to resolve, rather than the much quicker individual – and timely - *tutela* actions.[35] This small community of

[31] See https://www.transparencia.gob.sv/institutions/asa/documents/588440/download. This legal provision creates a special regime to regulate economic activities that could impact on the water supply, to guarantee the sustainability of the ecosystems and the satisfaction of the population's needs.
[32] CAFOD partners are actively involved in both these networks, the Mesoamerican Ecological Ecclesial Network (Remam) and the Central American Network for the Defence of Transboundary Waters (RedCAT).
[33] Including for example AfroColombian and Indigenous communities affected by the Cerrejón coal mine in La Guajira, Colombia, see https://cafod.org.uk/about-us/policy-and-research/private-sector/cerrejon-coal-mine-colombia.
[34] CODACOP is the Corporación de Apoyo a Comunidades Populares. See their website for more information.
[35] Tutela actions are constitutional writs, specific to the Colombian legal system. The deliveries from the fire brigade were the result of a tutela by one family supported by CODACOP, where the court recognized the right to water and ordered water delivery. This has since been appealed.

500 families is dying of thirst while over 100,000 barrels of oil are extracted from their land every day, worth over 8 million dollars a day.[36]

- **Illegal gold mining in Yanomami Indigenous Territory, Brazil**

CAFOD's partner HAY[37], and indigenous organisation, advocate for the protection of indigenous rights and the removal of illegal miners from Yanomami Indigenous Territory in the Amazon.

In April 2024, research into heavy metal contamination revealed that every sample examined was contaminated with mercury used by illegal miners to extract gold. [38] Indigenous people with higher mercury levels showed cognitive defects and nerve damage in their limbs, and samples from fish and from river water and sediment, confirmed that the mercury contamination came from the river that the Yanomami depend on for drinking water and fishing. The research also demonstrated that fish containing mercury had spread far beyond the original mining site, thereby increasing the risks faced by other indigenous communities.

In January 2023, the Brazilian Ministry of Indigenous Peoples reported that 99 Yanomami children under five died in 2022, as a result of illegal mining in their territory, with the main causes being malnutrition, pneumonia and diarrhoea.

In 2023, HAY's advocacy convinced the incoming government to launch a national operation to remove the miners and respond to the health emergency.[39] Although this has had a significant impact on the illegal gold mining, deforestation and mercury contamination, the health impacts of this crisis are long lasting, with high rates of child malnutrition and a continuing malaria epidemic.

- **Defenders of the Guapinol River, Honduras:**

CAFOD's partner ERIC[40] accompanies human rights and environmental defenders protecting the Guapinol river in Tocoa, Honduras, from a mining company operating in the river basin. The mine has contaminated the river and destroyed large areas of primary forest, causing landslides, subsidence and a reduction in water flow. Serious impacts to the 12 communities the river serves include displacement and threats. The state authorities responded to the defenders' actions with militarisation of the local area and by filing criminal proceedings against them.

This longstanding conflict dates back to 2012, when the mountain range providing the water source of the rivers was legally protected, mining was prohibited, and the area was renamed the Carlos Escaleras National Park. However, the following year, the National Congress irregularly amended the original decree, removing the specific locations where the mining company was operating from the National Park.

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[36] See this update on CODACOP's website: VÍCTIMAS DEL EXTRATIVISMO: El otro despojo - Codacop.
[37] Hutukara Yanomami Association.
[38] The study 'Impact of Mercury on Protected Areas and Forest Peoples in the Amazon: An Integrated Health-Environment Approach' was conducted by the Sergio Arouca National School of Public Health (Ensp/Fiocruz), in partnership with the Joaquim Venâncio Polytechnic School of Health (EPSJV/Fiocruz), with the support of another CAFOD partner, the Socio-Environmental Institute (ISA). See link: Yanomamis from nine villages harassed by illegal mining are contaminated by mercury.
[39] Dois anos de ações federais na Terra Yanomami: garimpo ilegal despenca e mortes por desnutrição caem 68% — Secretaria de Comunicação Social.
[40] Fundación Equipo de Reflexión, Investigación y Comunicación (ERIC). See Quienes somos | Eric SJ.

In May 2024, the community finally achieved the endorsement of the original decree that protected the National Park.[41] However, mining and extractive activities continue and since 2010, over 160 community members in Tocoa have been assassinated for protecting their land and natural resources.[42]

In 2023, three community leaders were killed in what was seen as retaliation, following the release of original defenders who had been imprisoned in 2012. Later that year, 30 local activists[43] were granted precautionary measures by the Interamerican Court of Human Rights,[44] but in spite of this, one of them, Juan Lopez, was killed in September 2024.

- **Brazilian Mining Conflicts**

Our partner, the Comitê,[45] publishes an Annual report documenting mining conflicts[46] documenting 246 water-related mining conflicts in Brazil during 2023, 143 of which involved violence. Amongst customary communities, quilombolos and indigenous communities, the proportion of violent water-related incidents were almost twice as high.[47]

The Comitê has researched the rapid growth of 'transition mining', necessary for the production and storage of renewable energy. [48] They document ongoing conflicts relating to lithium mining in the Vale de Jequitinhonha in Minas Gerais, where issues include water shortages (as lithium mining uses large quantities of water) and threats to the natural environment and to local cultures and communities. Although the local council cancelled the exploratory permits granted to the mining company in May 2023, there are rumours that at least four other companies are keen to start work in the same valley.

[41] Decree 18-2024.
[42] See Amnesty International (2024) 'Water Defender killed', *Urgent Action case file*. Available here: UA08524.pdf.
[43] Members of the Municipal Committee for the Defense of Common and Public Goods of Tocoa and of the Bufete Justicia para los Pueblos.
[44] Corte Interamericana de Derechos Humanos - Inicio.
[45] Comitê em Defesa dos Territorios Frente a Mineração.
[46] Observatory of Mining Conflicts in Brazil (2025) *'Annual Report on Mining Conflicts in Brazil (2023),'* National Committee for the Defence of Territories against Mining. Available at: http://emdefesadosterritorios.org/wp-content/uploads/2025/01/Conflitos-da-mineracao-no-Brasil-2023-Relatorio-anual.pdf, p15.
[47] All data taken from the Annual Report on Mining Conflicts in Brazil (2023), *Ibid*.
[48] Mansur et. Al. 'Lançamento Relatório- Transição Desigual: as violações da extração dos minerais para a transição energética no Brasil.' Available at: Lançamento Relatório- Transição Desigual: as violações da extração dos minerais para a transição energética no Brasil - Em Defesa dos TerritóriosEm Defesa dos Territórios , p 17.