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***Part I: Introduction***

Water is crucial and indispensable to the continuation of life. Yet, the right to water was not acknowledged as a fundamental human right until 28 July 2010, through Resolution 64/292 in the United Nations General Assembly.<sup>1</sup> In fact, back in 2002, such right has already been recognized by the Committee on Economic, Social and Cultural Rights in the General Comment No. 15,<sup>2</sup> within which further identified water as a prerequisite for realizing other human rights.<sup>3</sup>

Being a party to International Covenant on Economic, Social and Cultural Rights (ICESCR),<sup>4</sup> China in the previous decades ignored its legally binding effect and has violated Article 11 and 12, which recognize the right to an adequate standard of living and the right of health respectively.<sup>5</sup> Since the reform and opening-up of China, rapid urbanization and industrialization has driven China into a water-stressed country with scarce fresh water resources.

***Part II: Current Situation, Problems and Solutions***

**(A) Severity**

Although China accounts for 21% of the world population, she only has 6% global freshwater resources.<sup>6</sup> This reveals why China's per capita water resources could merely reach 28% of the world average.<sup>7</sup> With regards to the definition of right to water as stipulated in the General Comment No.15, the right to water in China is evaluated in the following on various aspects, including adequacy, safety and accessibility.<sup>8</sup>

In terms of adequacy, China is one of the most water scarce countries. 11 out of 31 provinces being assessed in 2014 failed to reach the World Bank's water criteria of supplying 1500m<sup>3</sup> of water per capita annually.<sup>9</sup> Worse still, Beijing's provision of water drastically dropped to 100m<sup>3</sup> per capita in 2015.<sup>10</sup>

As for safety, water resources have been seriously polluted in many urbanized provinces of China, to an extent that they would pose imminent health-threatening risks to both human beings and other organisms. According to a statistics conducted in 2015, 85% of water in Shanghai was undrinkable, among which 56.4% was suitable for no purpose.<sup>11</sup> What's more, 39.9% of water in her capital city, Beijing, was also severely contaminated and regarded as non-usable.<sup>12</sup>

Without doubt, water is significant for social development and diversifying industries. Therefore, it is not hard to understand why accessibility to water generally goes in line with the socio-economic development of a city. Enjoying the fruit of economic boom and prosperous development, China has achieved a promising progress of rural water supply in recent years. Previously in 2004, 323 million rural residents (34% of the rural population) lacked access to safe drinking water.<sup>13</sup> Yet, according to an official survey conducted by the Ministry of Water Resources, the implementation of 11<sup>th</sup> Five-year Plan has successfully diminished that population to 102 million people,<sup>14</sup> providing them the access to safe drinking water.

## **(B) Factors that exacerbate the problem**

### **1. Weak enforcement of domestic laws**

Water Law 2002 was enacted for ensuring and monitoring the water quality in China. Article 54 stipulates that “the government at the various levels should implement positive methods to improve drinking water supply”. However, the local government failed to effectively raid on and shut down polluting industries. Luliang Chemical Industry was a tip of an iceberg. The official report stipulated that it disposed over 5,000 tonnes of chemical wastes, polluting the water in Yunnan province.<sup>15</sup> The locals later revealed that 140,000 tonnes of wastes had already been accumulated over 22 years.<sup>16</sup> Eventually, 7 people, consisting of employees and contractors, were found guilty by the Qilin District court for illegally discharging chromium-contaminated wastes.<sup>17</sup> However, neither follow-up actions were taken nor monitoring system were established for tracking the transport and disposal of hazardous wastes after the conviction.

### **2. Outdated nationwide standards**

The China’s Ministry of Environment has required each province to set up their own 5-year target.<sup>18</sup> Yet, nearly half of the 31 provinces being evaluated did not meet the requirement. The situation in some provinces even deteriorated, with decreasing amount of surface water that was “fit for human conduct” (e.g. Shanxi 1.4%, Sichuan 6.3% and Inner Mongolia 13.6%).<sup>19</sup> Up till now, 19% of main rivers and 35% of reservoirs were considered as useless for agriculture and industry.<sup>20</sup> By 2030, the supply may probably outstrip demand by 199 billion cubic meters.<sup>21</sup>

### **3. Ineffective usage of water**

Due to the low pricing mechanism and enhanced accessibility, corporates and individuals generally find water as easily affordable.<sup>22</sup> This indirectly encourages the over-consumption of water that goes against the sustainable consumption and production model. In 2009, China used ten times more water per unit of production than the average industrialised countries, leading to a great water wastage and pollution.<sup>23</sup>

## **(C) Current solutions**

In order to deal with water scarcity, China has conducted her massive water transportation from the South to the North through 3 canals. Since 2015, the water diversion project has fulfilled the thirst of 100 million people.<sup>24</sup> The idea was inspired by the Chairman Mao, who stipulated in 1952 that “the South has lots of water, the north has less, if was possible, it can borrow a little,”<sup>25</sup> Yet, this solution was criticized for solely addressing the symptoms but not the root of water scarcity. Ma Jun, the Director of Institute of Public and Environmental Affairs and a prominent environmentalist, was doubtful as to its long-term sustainability.<sup>26</sup> He accused that the greater provision of water from the South would only encourage an insatiable demand for water.

The Central Government determined to prioritise conservation over expansion of supply as

her sustainable development direction and has implemented the Sponge City Programme in 16 cities and districts.<sup>27</sup> Although the water resources are mainly situated in the South, the northern part of China could also make use of its rainwater and retain it for future usage. Storing rainwater in the North is never a myth. A serious downpour happened in July 2016 caused more than 75 people to disappear in a flood, affecting the livelihood of several regions, including Beijing, Hebei, Henan and Shanxi.<sup>28</sup> The expeditious urbanization and poor city planning, especially the drainage system designed in the previous decades, have left China prone to flooding. This does not only waste the scarce water resources, but may also pose life-threatening risks to citizens. By utilizing porous concrete materials for building infrastructure and constructing rooftop gardens and manmade wetlands, the government aims to capture 70% rainfall for reusing.<sup>29</sup> This ideology of conservation could indirectly expand her water supply and alleviate the problem of water scarcity.

Tackling with water pollution is another solution for preserving the precious water resources. Some statistics reveal that the untreated sewage discharged from factories have directly polluted the environment and caused the water resources to be undrinkable. Worse still, water pollution is the main culprit of the high mortality rates in the cancer villages<sup>30</sup> In response, the State Council has launched the Water Pollution Prevention and Control Action Plan (Water 10) in April 2015,<sup>31</sup> targeting on several high-polluting industries. Textile and heavy metal industries are some of the instances.<sup>32</sup> Since its implementation, over 50,000 companies which failed to meet the specific requirements had been forced to either close down or cease operation.<sup>33</sup> On top of that, the authorities collected over 4 billion yuan of penalties in 2015, with an increase of 34% within a year.<sup>34</sup> Despite numerical success in enforcement, the authorities were criticized for choosing the simple tasks for the sake of meeting the numbers rather than tackling with the core and complex problems.

### ***Part III: International Human Rights Mechanism***

Although China has accomplished promising improvements in enhancing water supply in the rural areas and launched several water quality management policies, the local government failed to execute the enforcement stringently and reach their targets. Yet, water and sanitation is a worldwide issue, particularly affecting the states in the neighbourhood. In the international context, the global community can deploy the international human rights mechanism to encourage active enforcement and accelerate the pace of improvement in China.

Human rights mechanisms are mainly divided into charter-based and treaty-based processes. Under the charter-based process, the UN Human Rights Council (HRC) organizes three regular sessions each year.<sup>35</sup> During which, international human rights matters are addressed and discussed by 47 appointed member states in HRC, whose term of office is 3 years and could be extendable for another 3 years for once.<sup>36</sup> Special sessions are held in emergency situations. Distinct from the regular sessions, the Universal Periodic Review (UPR) which is held in every 4 years, consists of a greater involvement and coverage of state members.<sup>37</sup> All 193 UN stated members are bound by the charter and have to engage in the review process. Each of them is required to submit their own national report on evaluating their human rights situation and commitments made. Meanwhile, other members are encouraged to provide recommendations and comments towards the state under review. Through conducting an interactive discussion among the state under review and other members, it is hoped that the international community could work hand-in-hand in assisting each other in addressing and solving their human rights problems. Apart from the involvement of government states, special procedures of HRC can be initiated by independent human rights experts.<sup>38</sup> With a thematic and country-specific objective, they make reports and advance recommendations to the HRC and/ or UN General Assembly.

On the other hand, treaty-based mechanisms are only applicable in certain member states that have signed and accepted the treaties by ratification. Based on each nine core treaties, a specific committee<sup>39</sup> that comprises of independent human rights experts is established for evaluating country reports, accepting complaints and issuing General Comments or Recommendations to clarify treaty provisions by interpretation. Take water and sanitation as an example, the Committee of Economic, Social and Cultural Rights correlated the right to water

with Article 11 and 12 of ICESCR and provided a more detailed definition of the right to water in General Comments No. 15.<sup>40</sup> Such interpretation acts as a legitimate basis and guidance for the international community and member states to implement the treaties in their domestic laws.

(A) Criticisms against the mechanism

Although treaties are only legally enforceable on member states upon ratification, regardless of the treaty-based or charter-based mechanism, some alleged that the international human rights mechanism as a whole could only act as a toothless tiger with no practical punishment systems. The ambiguously and vaguely defined human rights law provides the states with enormous discretion.<sup>41</sup> The success in improving one's human right conditions solely depends on whether the states themselves are willing to implement the recommendation. Their voluntariness of taking the initiative to speed up the pace of improvement is of essence. Even if some member states fail to adhere to the guidelines, reach their commitment and violate the international human rights requirements, the global community could hardly impose any repercussions or sanctions.<sup>42</sup>

On the other hand, within the UPR system, some states that faced harsh criticism of treating their human rights issue are alleged of forming allies and rallies to gain support for confronting the dissidents.<sup>43</sup> In order to maintain a good political and diplomatic relationship among member states, some countries including Venezuela, Uganda and Saudi Arabia, are willing to support their rallies in spite of their notorious status in dealing with human rights issues.<sup>44</sup> Originally, the intellectual communication among the states aim to promote international cooperation and eventually construct a global community with better human rights conditions. The blind support from allies renders the mechanism less effective than it should have been.

(B) Taking advantage of the mechanism to alleviate the problem

Despite the backdrop of the mechanism, the international human rights mechanism does provide an interactive platform for the global community to address the human rights issues and place significant weight on dealing with them.<sup>45</sup> Creating constructive dialogues among member states is the cornerstone for reaching its ultimate aim – to improve the human rights situation in each country. The member states can take advantage of the opportunities for self-evaluation and review their own progress in dealing with human rights issues, for instance during the UPR process. Several advantages brought by the international human rights mechanism should be highlighted.

First, transparency of the governmental policies and their working progress could be enhanced.<sup>46</sup> Through deploying the UPR mechanism, the government should disclose their progress in alleviating water pollution and publish related statistics and accurate data to the public, allowing the community to attain their right to information. This would indirectly enhance the overall quality of life of the public, preventing them from mistakenly drinking water that fails the minimum standard.

Second, accountability of member states could be ensured.<sup>47</sup> As the national reports of state under review are required to be submitted to the HRC periodically, through constructive dialogues among states, the effectiveness and pace of implementing policies by the state under review would be evaluated by other 192 UN members. Given that the state under review may face accusations raised by the other states, making them accountable for their performances.<sup>48</sup> Therefore, even though there are no punishing mechanism for non-compliance in practice, the member states which cherish their reputation, image and political international status would be willing to comply with the globally recognised charters and treaties voluntarily.

Third, the human rights conditions could be monitored more frequently with stringent requirements by the independent experts and NGOs. Generally, individuals or teams carry out follow-up activities, contribute to the development of international human rights standards and

undertake joint activities, coordinating communications among multiple stakeholders. They may as well initiate special procedures of HRC against a particular country where imminent issues relating to human rights arise in a certain area. NGOs and other civil societies can collect their own set of data by utilizing advanced methodology and submit shadow reports based on their analysis of data.<sup>49</sup> This can reveal the actual situation of water pollution and freshwater supply in their respective countries. On one hand, this can prevent the government from covering up the scandals or adverse conditions and indirectly drives the authorities to confront to the problems. On the other hand, provided that the data from both civil societies and the state are genuine, disclosing those from the civil societies can enhance the reliability and trust-worthiness of the national report that is prepared by the state. Effective policies implementation and improvements in dealing with water pollution and sewage treatment can be reflected from the governmental data. This could strengthen and reinforce the legitimacy of the government.<sup>50</sup> If the state achieves impressive and striking improvements on its human rights condition, it can further stabilise its position in the international context.

#### ***Part IV: Conclusion***

Establishing a peaceful relationship in the global context is of essence for promoting international governance and guarantees. Despite the absence of a retribution mechanism for non-compliance, given that there is no any better alternatives, creating a constructive and diplomatic dialogue for member states' communication is probably the best solution for improving human rights conditions worldwide.

It is hoped that through adopting the international human rights mechanism, the problem of water scarcity and pollution at source would be brought up in the international discussion forums. Eventually, China would confront to her problems, implement suitable policies and carry out stringent enforcement with a greater determination.

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