Humans Rights to Water and Sanitation in Courts

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Good afternoon,

My name is Yamile Najle, from the Center for Human Rights and Environment of Cordoba Argentina. I am the Legal Advisor and Coordinator of the Legal Clinic of CEDHA.

I would like to thank Ms. Catarina Albuquerque for the opportunity to participate and, share our experience with you.

To start with I would like to introduce a few general details about this case and then to share the good practices.

I- The Case in General, the Facts, and the Human Rights Violation.

Cordoba is a city with 1.500.000 habitants. The sewage system has collapsed. The city's sewage plant is called Edar Bajo Grande, and is owned and operated by the Municipality of Cordoba. It is located on the border of the Suquia River. Close to the plant is a community called Chacras de la Merced. This community had no access to safe drinking water as a public service. The primary source of drinking water comes from wells.

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As the sewage plant was (and still is) collapsed, the sewage liquid was dumped directly into the river with little if any treatment and as a result the river and the ground water is contaminated with fecal coliforms. This bacteria is known to be responsible for many different symptoms such as gastrointestinal problems and skin problems, in the worst cases it can result in death.

When we started to work with the community they had no access to safe drinking water, because they were drinking water from the contaminated wells. They had sent letters, and filed complaints to different government institutions with no response.

Facts:

- -At the time 40 neighborhoods of the city of Cordoba were without safe drinking water. In Chacras de la Merced more than 200 families had no access to safe drinking water.
- -A collapsed sewage plant, resulting in contamination of the river and ground water.
- -The need to stop human rights violation by the Municipality and the Province. Violation of rights to water, life, health, and healthy environment.
- -Need for public policies regarding water and sanitation.

II- The Judicial Approach as a means to find a solution.

When we began work with the community, they were very tired and disappointed, believing that they were not able to access safe drinking water, and felt that they had no rights. We started to study and work with the human rights international frame work, and local law, to create a judicial action. We brought the action against the Municipality and the Province of Cordoba because they were responsible for the human rights violation.

It wasn't easy, but in the end we obtained a favorable sentence in the matter. Some of the difficulties we can mention are:

- -There was no judicial precedent for a case like this in Cordoba.
- -The judicial system is not prepared to handle this kind of case or problem. The court needed to be informed on the International Framework of Human Rights and the National approach to it, to be able to apply it in a case.
- -Problems regarding the implications of this kind of sentence for the State and the limitations of the justice system on political issues.
- -Cost and financial support for the case.

Finally, after one year in court the judge sentenced:

- 1- The Province of Cordoba must provide 200 liters of safe drinking water per day for each family until the creation of a definitive water supply.
- 2- The Municipality of Cordoba must reduce the contamination of the river Suquia, product of the sewage plant mismanagement.

This sentence was one of the first of its kind in Cordoba recognizing the human right to water and a healthy environment, and drew the attention of the Executive Powers of the Province and Municipality to the responsibility that they had to protect this right.

-Important Points:

- **1-Continuity:** The community has, since the sentence, been supplied with safe drinking water, at first by water trucks that the Province provided and now from a permanent system.
- **2-Accesibility:** The water supply network has a connection to each house making clean water accessible to the whole community.

- **3-Afortability:** In Cordoba, the water supply is provided by the private sector, but the connection to the community was made, and is run by the Province of Cordoba, who doesn't charge for the service.
- **4-Security:** The water supply is controlled by a special branch of the Province: the Secretary of Water Resources.
- **5-Acceptability**: Studies were conducted to ensure, that the ground water was acceptable for human consumption.
- **6-Non-Discrimination:** The community of Chacras de la Merced was marginalized, and the sentence recognizes the right and put it into practice. It is important to point out that this whole sector now has access to safe water due to a new public policy that also resulted from this sentence. We are still working on the environmental discrimination suffered.
- **7- Participation:** The community was continuously informed of their rights, and the judicial steps that were taken to ensure them. After each sentence a commission was formed of neighbors, CEDHA staff, and representatives of the Municipality and the Province. In this commission all of the participants had access to information, where they could ask questions and seek answers from the directly responsible.
- 8-Sustainability: Education, information, replication of the practices.
- **9-Impact:** The community learned that they can claim their rights. All the citizens of Córdoba were informed about the terrible contamination of the river. The need for a new public policy was brought to light.
- **10-Accountability:** The court made the Province and the Municipality responsible for the human rights violations, and provided a sentence to enforce compliance.

The sentence was very important for the community, the vindication of their rights, and the direct contact with the public functionaries responsible.

Results since the sentence:

-Related to Water:

The Province of Cordoba comply the sentences and gave 200 liters of water per day to the families. Is important to notice that the Province gave water, to the hole neighborhood not only to the families that take the court action.

Towards the end of 2008, 4 years after the sentence, the Province of Cordoba has finished the potable water system for the entire community.

Last Friday, the governor of Cordoba announced that for 2011, the whole city of Cordoba is going to have safe drinking water from the water system, because "Water is a right that separates poverty from extreme poverty". The program is called "Water for All".

-Related to Sanitation:

After the sentences the Municipality of Cordoba, received money from the national government to make a bigger sewage plant for the city; to this day the plant is still contaminating the river, ground water and the environment.

CEDHA presented on behalf of the community, two more judicial actions.

-In September 2009, a federal criminal case was brought by CEDHA against the Municipality of Cordoba on charges of criminal contamination. This process is not yet finished, but two public functionaries are being investigated by the court.

-In December 2009, a petition to the judge to execute the sentences because the contamination of the river with fecal coliform as grow 1200%. The justice has asked the local University, to investigate compliance with the sentence. We are currently waiting the execution of the sentences.

III-What we learned from this experience.

-Judicial: There were no precedents for this practice. It was a very important precedent on how to use and apply international framework law at a local level.

-Social: Awareness of rights, education, information and use of the legal tools to

take action. Replicability in other cases.

-Right to Sanitation: This practice points out the importance of water treatment

systems in the enjoyment of Human Rights. Sanitation impacted in a direct

manner the river, ground water, and enjoyment of the Human Rights to Water,

Life, to Health, and to a Healthy Environment. This is a way to approach the

concretization of the right.

The contamination caused by the mismanagement of the sewage treatment

plant, forced the people of this area to change the way that they had been

living. They used to drink potable water from their wells. They used to fish. The

children used to play in the river. They used to grow vegetables. They used to

have a healthy environment.

Six years after the sentence, the problem of the Cordoba sewage plant is not

solved. Sanitation is a complex matter that involves rights, public policy and

budget. It is not an easy problem to solve. Sanitation refers to the needs of the

human being, society, requiring a holistic approach because it is inextricably

linked with the enjoyment of all human rights.

Thanks,

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