

# Ecocide of the Nechi river: Invocation of the *inter communis* effect

Ecocidio del río Nechí: invocación del efecto *inter comunis*  
 Ecocídio do rio Nechí: invocando o efeito *inter communis*

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## Abstract

**Introduction:** Mining in Colombia has long been one of the economic activities carried out by the population, both illegally and artisanally; moreover, this practice has spread to companies seeking to exploit these soil resources in our territories. However, the consequences of both practices raise alarms in nearby communities due to their damage to human health. **Objective:** The main objective of this work is to make the general public aware of the current situation of the Nechi River. This study employs a descriptive and qualitative approach to make visible the current situation of the Nechi River, affected by the indiscriminate use of harmful chemicals such as mercury and others, due to illegal mining practices. This approach allows for a detailed understanding of the environmental and health impacts on the communities surrounding the river. **Reflection:** The results indicated that the Nechi River is indeed undergoing an ecocide that has it on the brink of extinction. **Conclusions:** All the aforementioned obliges the State authorities to act and prevent catastrophic results in the future, using legal tools such as invoking the *inter comunis* effect, which would allow, by extension, the recognition of rights to the Nechi River.

**Keywords:** Ecocide; Effect; Catastrophe; Mercury; Community; Extinction; Extinction.

## Resumen

**Introducción:** La minería en Colombia ha sido desde antaño una de las actividades económicas realizadas por la población de manera ilegal y artesanal, mas también se ha propagado esta práctica en empresas que han buscado explotar estos recursos del suelo de nuestros territorios. Sin embargo, las consecuencias de ambas prácticas encienden las alarmas en las comunidades aledañas por sus daños a la salud humana. **Objetivo:** El objetivo principal de este trabajo es hacer visible a la comunidad en general la situación que padece en la actualidad el río Nechí. Este estudio emplea un enfoque descriptivo y cualitativo para hacer visible la situación actual del río Nechí, afectado por el uso indiscriminado de químicos nocivos como el mercurio y otros, debido a la práctica ilegal de la minería. Este enfoque permite una comprensión detallada de los impactos ambientales y de salud en las comunidades aledañas al río. **Reflexión:** Los resultados arrojados permitieron indicar que efectivamente el río Nechí está siendo objeto de un ecocidio que lo tiene al borde de su extinción. **Conclusiones:** Todo lo anterior obliga a las autoridades del Estado a actuar y evitar resultados catastróficos en el futuro, haciendo uso de las herramientas legales como la invocación del efecto *inter comunis* que permitiría por extensión el reconocimiento de derechos al río Nechí.

**Palabras clave:** Ecocidio; Efecto; Catástrofe; Mercurio; Comunidad; Extinción.

## ¿Cómo citar este artículo?

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## Resumo

**Introdução:** A mineração na Colômbia tem sido, há muito tempo, uma das atividades econômicas realizadas pela população de forma ilegal e artesanal, mas essa prática também se espalhou para empresas que buscaram explorar esses recursos do solo de nossos territórios. No entanto, as consequências de ambas as práticas estão causando alarme nas comunidades vizinhas devido aos danos à saúde humana. **Objetivo:** O principal objetivo deste trabalho é tornar visível para a comunidade em geral a situação atual do Rio Nechí. Este estudo emprega uma abordagem descritiva e qualitativa para tornar visível a situação atual do Rio Nechí, afetado pelo uso indiscriminado de produtos químicos nocivos, como mercúrio e outros, devido à prática ilegal de mineração. Essa abordagem permite uma compreensão detalhada dos impactos ambientais e na saúde das comunidades que cercam o rio. **Reflexão:** Os resultados obtidos nos permitiram indicar que, de fato, o rio Nechí está sendo submetido a um ecocídio que o coloca à beira da extinção. **Conclusões:** Tudo o que foi exposto acima obriga as autoridades do Estado a agir e evitar resultados catastróficos no futuro, fazendo uso de ferramentas legais como a invocação do efeito inter communis que permitiria, por extensão, o reconhecimento de direitos ao Rio Nechí.

**Palavras-chave:** Ecocídio; Efeito; Catástrofe; Mercúrio; Comunidade; Extinção; Extinção



## Introduction

After observing different media outlets that unfortunately include headlines such as "Nechí River: Victim of ecocide by mining company" (Aldana, 2018), it is necessary, out of moral and ethical obligation, to make a call to all local and national authorities, reminding them that historically in Colombia we have jurisdictional tools that allow us to generate legal instruments to save one of the most important lungs of the country's ecosystem. When a river gets sick, which is practically what authors such as Aldana (2018) and Cifuentes (2023), who have addressed the issue, also get sick the communities that subsist and survive on the food life it provides. In addition, millions of species living in this habitat are becoming extinct, according to reports by governmental entities such as the Ombudsman's Office (2015) and non-governmental entities such as the Observatory of Human Rights and Peace (2018).

All of the above can be evidenced in the development of this work by looking at the different sources of information that will support it. It cannot be forgotten that this is an issue that threatens the customs and way of life of ancestral cultures that for decades have taken their food from this channel; for this reason, it is necessary to remember that humanity in the entire world is currently facing one of its most difficult moments, such as the destruction of planet Earth due to contamination.

The indiscriminate use of people in the practice of artisanal and illegal mining is exercised by common criminals who organize themselves to extract the wealth of the tributary, which is then poured into the money that will finance the war that kills so many human lives. The above through the indiscriminate use of chemicals, such as mercury and cyanide, catalogued among the most harmful to water sources and a threat to both wildlife and human life, accompanied by others that complement this damage to the planet, such as sulfuric acid, solvents, nitric acid and ammonium nitrate, which should be the trigger for all those who have the power to save this river to proceed in a dynamic and responsible way generating the relevant actions.

It should be made clear that the planet Earth cannot survive without water; therefore, this article will raise awareness so that everyone can do their part to safeguard this great waterway. There is still time to save it.

## Theoretical framework

### *Current status of the Nechí River*

To contextualize, it will be argued how important the Nechí River is for all the inhabitants of the riparian zones and for the farmers of the region:

The source of the Nechí River begins in the town of Yarumal, Department of Antioquia, at an altitude of approximately 2,730 meters above sea level.

This river is very important in the Antioquia area, both for its waters, whose average flow is

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The water level is 830 cubic meters per second, as well as the fact that a large part of the population of this place is concentrated in its basin, which has a surface area of 320 square kilometers (Rivers of the Planet, 2020).

Likewise, in terms of its extension, "it reaches 252 kilometers and due to its location, the streams that exist in the north, the Bajo Cauca and the Aburrá Valley, flow into its basin, which has a surface area of 320 square kilometers" (Ríos del Planeta, 2020). Historically, it was recognized by a group of Spanish explorers as a river rich in aquatic life and gold. It is a tributary that crosses towns such as Cuturú, Puerto Claver, Zaragoza, El Bagre and Nechí; according to the indigenous people who inhabited and still inhabit these lands, "yamesi means river of gold". Historical documents report that, "after the independence of Colombia and with the expulsion of the last Spaniards from Zaragoza, a French multinational arrives to this same site of Bajo Cauca Antioqueño where this river is located", which upon realizing the great existing wealth does not hesitate to bring "the first steam dredge to continue extracting gold left by the Spaniards, but this time from the bottom of the river where the gold was confused with the sands of the Nechí riverbed" (Vásquez, 2018, p. 6).

### *Ecocide of the Nechí River*

There are many feelings that are awakened when doing this work, especially when addressing the issue of pain and the inability to solve it at this very moment and take the respective measures to reduce and alleviate the disease that one of the richest rivers in Colombia is going through, according to Méndez Paz and other authors.

The word ecocide arises, according to Weisberg (1970), quoted in Neira et al. (2019), "from the use of this term in the mid-1970s by a biologist named Arthur Galston at the Washington Conference on War and National Responsibility". It could be observed that this term was eventually used by other authors, for example, in the work of "Galston, who later titled the collective book *Ecocide and Thoughts Toward Survival*, edited by Clifton Fadiman and Jean White (Fadiman and White)". It is evident how Harvey Wheeler translates this term as a damage of great magnitude, in short as a disaster caused by "the massively increased effect of relatively insignificant changes in the use of marginal resources" (p. 128).

Currently, this term is taken to expand on Neira et al. (2019):

It is possible to conclude provisionally that the notion of ecocide covers a semantic field that, although varied, points in all cases to anthropic damage to the environment so serious that it endangers the basis for the survival of human beings and many species and constitutes, philosophically, a crime and that legally it is not easily reducible to national or international environmental legislation that addresses these environmental issues in a partial way. (p. 131).

Having clarified the meaning under study, we proceed with the verification of literature that will allow us to demonstrate the magnitude of what is currently happening with this water source, which is being affected by one of the most criminal phenomena, called illegal mining by official sources.

On this occasion, the denunciation is made from "Bajo Cauca Antioqueño, since, by criminal hands of the Clan del Golfo and the Caparros, for illegal mining, they are destroying the Nechí River and its riverbed has disappeared to leave pools of chemicals in the landscape" (Noticias RCN, 2020).



It is chilling to observe in graphs the current state of this important tributary, to the point of perhaps blaming the negligence of the authorities in the fulfillment of their functions. Some questions arise: how is it possible to allow things to reach these extremes, and is it that the actions taken for the protection of this resource are not enough? It is time to wake up from this lethargy and for the communities to speak out before the State, demanding effective and diligent actions that will allow the restoration of the Nechí River (Figure 1).

The environmental impact can be seen from the air. Stretches of up to five kilometers of the Nechí River in Antioquia have disappeared. What was once thick and rich vegetation is now a desert terrain, where only mercury pools and dredges that have been installed to tear out pieces of fertile land can be seen (Noticias RCN, 2020).

**Figure 1.**  
*Nechí River*



Source: Cifuentes (2023).

The environmental damage is so great that it will take many decades, if not centuries, to recover. The tributary is being riddled, disappeared, exterminated; there is no word to express the pain felt when observing what has happened. Could it be that the people who live there do not realize that if this natural source of life disappears, they are doomed to disappear with it? Do they not realize that water is synonymous with life, wellbeing and progress, or have they not understood that gold money is ephemeral, that it runs out, that it generates wars in the communities, insecurity, death, among other phenomena that threaten the survival of humanity? (Figure 2).

**Figure 2.**  
*Sludge and chemical lagoons*



Source: Botero (2017).

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Figure 2 was taken from the heights and shows how a large expanse of forest is destroyed and lifeless, threatening the extinction of natural life. Law enforcement authorities indicate that "today the power of groups such as the Clan del Golfo and the Caparros reigns, who are fighting for the profits from illegal mining and are destroying the country's natural wealth" (Canal RCN, 2020). These same authorities state that, so far this year, "troops of the seventh division of the Army led to the destruction, so far this year, of 70 dredges, 23 backhoes and the capture of 30 people who have caused serious environmental damage on a daily basis" (Canal RCN, 2020).

Along with this and among the information consulted is that "a report of the Seventh Division of the Army revealed that 75% of the Nechí River is contaminated by bad practices after mining" (Rutas del Conflicto, 2019, p. 3), information that is very discouraging because it indicates that only 25% of the tributary is in survival conditions; the rest is destroyed, which leads to reflect. We must react, we must launch an SOS to remedy this situation. Where are the control bodies, the environmental authorities? This source of life cannot be allowed to be exterminated; this sentence is worrying:

"Mountains of disaster. Thus, with that phrase that is synonymous with catastrophe, defined the Ombudsman, Carlos Negret, the desolate panorama he found in the town of Mercaderes, in Cauca, where mining, mainly illegal, is drying rivers and killing vegetation due to the chemicals used to exploit gold. ("Illegal mining contaminates rivers Samingo, Nechí", 2019).

The Nechí River is also invaded by giant mechanical dragons that are in charge of removing the soil from the banks of the river. Large tons of material, once extracted, are artfully processed to extract the gold, using the most harmful chemicals available to affect the environment and human health. According to Clarkson et al. (2003):

Mercury (Hg) used as a mechanism for gold extraction is one of the main heavy metals polluting aquatic systems. Given its high capacity for bioaccumulation and bio-magnification in the form of methylmercury (MeHg), a highly toxic ionic compound, mercury has a high impact on aquatic biota.

Currently, despite being prosecuted by the authorities, these people who carry out this activity illegally continue to find ways to evade state control in order to continue with the development of this activity, which day by day continues to produce environmental damage of great magnitude, described by many scholars as an enormous and incalculable environmental catastrophe. According to official sources, it is indicated that a large number of families who have no other option subsist from mining activity, in addition to the fact that they have the possibility of joining illegal groups, among which are Los Caparros, the Clan del Golfo, the National Liberation Army (ELN), and to complement, become part of drug trafficking structures, since large amounts of forests are used for coca cultivation, all of the above supported by reports submitted by the Ombudsman's Office (2015).

The Comptroller General's Office warned in 2017 that 80% of mining exploitation in the country is illegal. Even though in Antioquia there is no census to determine the number of miners who do not comply with the requirements provided by law, Dora Elena Balvín Agudelo, Secretary of Mines of Antioquia, estimated that this figure would reach 82% in the territory. In addition, 70 % of the country's formalization contracts have the department as their axis.(Ortiz Jiménez, 2018).



Likewise, the law enforcement authorities are fulfilling their constitutional function of prosecuting the crime that is causing so much damage to the ecosystem of the municipality of Nechí:

During 2022, the Task Force Aquiles, of the General Command of the Military Forces, captured 85 people for the crime of illegal exploitation of mining deposits, and destroyed 185 dredges, 47 backhoes and 587 motor pumps that were used to extract gold from various points of the Nechí River. The environment will take between 50 and 60 years to recover, only if the criminal actions of illegal groups are stopped ("Los estragos que deja la minería ilegal en el bajo Cauca", 2023).

In addition to this, the supposedly legal activity of the multinational company Mineros S.A., which, in developing its activity and contributing to the so-called locomotive of progress, has caused great environmental damage to this area of the country, including the disappearance of some 40 marshes in the region. The concern is great, and the question that arises is this: what will be there after ten years? If this situation persists, why not take as a starting point the Constitutional Court's pronouncement regarding its definition of *illegal mining* made in Ruling T-095/15, which defines it as:

Mining exploration and exploitation with the following characteristics: (i) they do not have a mining title; (ii) they are not registered in the National Mining Registry; or (iii) in spite of having a mining title, they are carried out outside the area delimited in the license. In general, it is carried out by people who have traditionally been engaged in mining activities and have not been able to legalize their work due to difficulties in complying with the requirements for this purpose, in addition to limitations in access to technology, transportation and education.

**Figure 3.**  
*Ecocide in all its magnitude*



Source: The Informants (2019).

Figure 3 shows how a large extension of water flow is invaded by the famous dragons that in their path only leave great damage to the ecosystems, extensions of territory that are left without natural life, water wells contaminated by the chemicals used for illegal mining, territories that will take decades to recover their fertility and use for human survival.

***Damage to human health and the environment***

In this section, we will proceed to verify the literature that will allow us to indicate which chemicals are the most important.

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used in gold mining and the damage they can cause to human and environmental health. For greater clarity, it is specified that "on August 16, 2017, the Minamata Convention on Mercury entered into force, a global treaty to protect human health and the environment from emissions and releases of mercury and mercury compounds" (United Nations Environment Programme [UNEP], 2020), chemicals that are increasingly used by humanity without measuring the consequences generated by their indiscriminate use. According to statistics, "up to 9,000 tons of mercury are released annually into the atmosphere, water and soil. The largest source of these emissions is artisanal and small-scale gold mining," a situation that is of concern not only to the governments of the world, but also to humanity in general. This chemical "has a long environmental lifespan and a global pathway, since it circulates between the atmosphere, the ocean and the land". It is common to hear from many scholars and researchers regarding the harm that this chemical can cause to humans when exposed directly or indirectly to it, but it seems that this is not credible. According to the World Health Organization (WHO, 2017):

- Mercury is a naturally occurring element in air, water and soils.
- Exposure to mercury (even small amounts) can cause serious health problems and is dangerous for intrauterine and early life development.
- Mercury can be toxic to the nervous and immune systems, digestive system, skin and lungs, kidneys and eyes.
- For the WHO, mercury is one of the ten products or groups of chemicals that pose special public health problems.
- The main route of human exposure is the consumption of fish and shellfish contaminated with methylmercury, an organic compound present in these foods.
- Methylmercury is very different from ethylmercury. It is used as a preservative in some vaccines and does not pose a health risk.

Similarly, WHO (2017) indicates that "intrauterine exposure to methylmercury from maternal consumption of fish or shellfish can damage the growing brain and nervous system of the infant". And what is more dangerous is that "exposure to this substance during the fetal stage can subsequently affect the child's cognitive thinking, memory, ability to concentrate, language, fine motor and spatial-visual skills".

Along with this, it is necessary to consider how dangerous this chemical is for human health, to the point of generating worldwide concern. The Ministry of Health and Social Protection (MinSalud, 2019).

It has been recognized that, worldwide, the main route of human exposure to mercury is the consumption of fish and shellfish contaminated with methylmercury; other foods also represent sources of exposure to this metal; however, the concentration contributed is often below the detection limit, even in drinking water Hg can generally be found in a range of 0.5-100 ng of Hg per liter of water (ng Hg/L), with an average value of 25 ng Hg/L. The intake





from drinking water is estimated to be 50 ng Hg/day.

Likewise, WHO (2017) indicates that,

When Hg is released into the environment, it can be deposited in bodies of water, where certain bacteria can transform it into methylmercury (CH<sub>3</sub>Hg<sup>+</sup>), from where it enters the aquatic food chain through plankton that is consumed by herbivorous fish [...] it then ascends to carnivorous fish, marine mammals and, at the top of the chain, man. Marine mammals are the species that are most likely to accumulate methylmercury compounds (70-90% % or more of the total).

Similarly, WHO (2017) notes that, in the results of these studies conducted in marine species,

High concentration levels of methylmercury have been found in long-lived predatory species such as tuna, shark and swordfish. Concentrations found in edible tissues of various fish species range from 0.05 to 1,400 mg methylmercury/kg wet fresh weight. The concentration of methylmercury in fish tissue is due to biomagnification processes through the food chain.

Similarly, we will analyze what concerns the damage caused to the environment in the report presented by the Ombudsman's Office (2015), where it can be observed how.

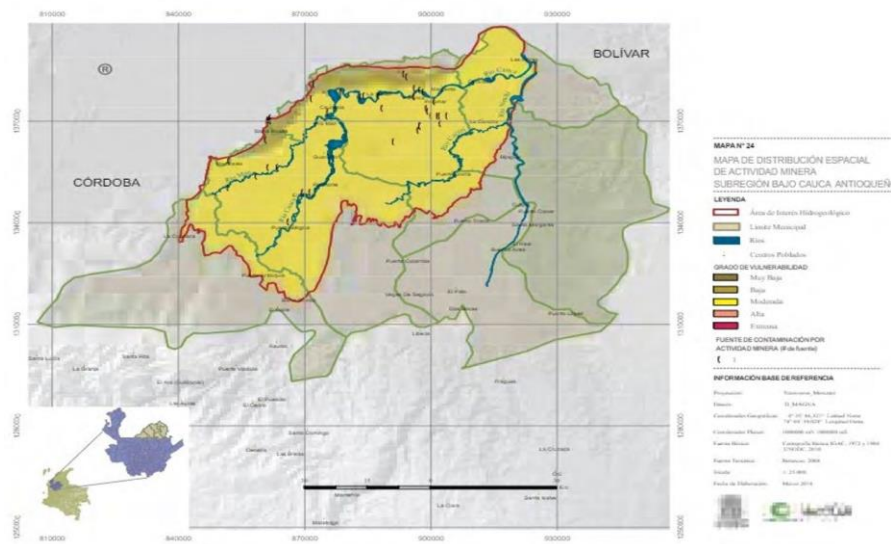
The landscape that is part of the Bajo Cauca sub-region of Antioquia is highly impacted by mining activities, biotic and abiotic elements, such as hydrology and vegetation, show important alterations, which generates consequences both in the quality of the landscape and the environment of the region. (p. 17)

In addition, the water was found to have a color that is not normal for a tributary:

The turbidity and color of the water in rivers such as the Nechí, Man and other water sources, due to the waste from the removal of material, raise the sedimentation layer; also, gigantic craters have been dug in extension and depth; tree, shrub and herbaceous vegetation has disappeared, to give way to large deposits of mining waste, affecting soils and associated fauna. Watercourses have been altered and large lakes have been formed (Ombudsman's Office, 2016, p. 34).

Figure 4 shows the spatial distribution of mining activity in the Bajo Cauca sub-region of Antioquia, which makes it possible to identify the main sources of contamination and their location.

**Figure 4.**  
*Hydrogeologic atlas of the Bajo Cauca region of Antioquia*

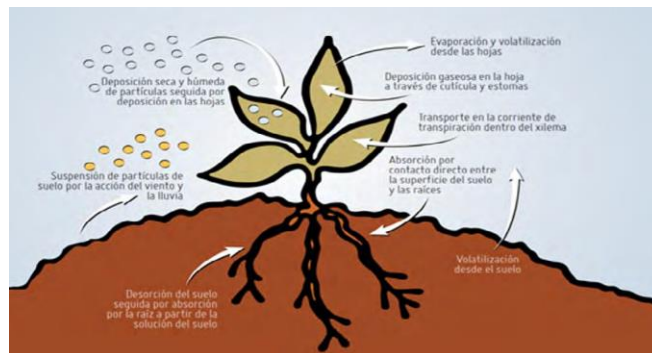


Source: Corantioquia (2014, p. 34).

Figure 5, reflects the map of the "sources of contamination by mining activity and the degree of vulnerability of aquifers in the area of hydrogeological interest" (Ombudsman's Office, 2016, p. 34), which allows inferring that this water source is in extreme danger of disappearing and, with it, all the existing natural wealth. How sad to have to refer to this extreme, but the outlook is not the best for the Nechí River. It is also evident how the forests and the banks of the water source have become mud and sand lagoons, it is as if an atomic bomb had detonated. How sad to have to show these x-rays of the current situation of one of the richest waterways in Colombia.

Likewise, Figure 5 shows how the food that is grown for the subsistence of the riverside dwellers is contaminated by mercury and other chemicals used in the mining activity. According to Rodríguez Eugenio et al. (2019), the transfer is a cycle that allows and facilitates that the food consumed by the inhabitants of the region is the cause of many diseases, in attention to the fact that many of the crops in the region receive the waters of the Nechí River as irrigation, in addition to the fact that herbivorous animals also consume the pastures, animals that are then consumed by humans.

**Figure 5.**  
*Contamination pathways in the food chain caused by the transfer of contaminants from soil through plants.*

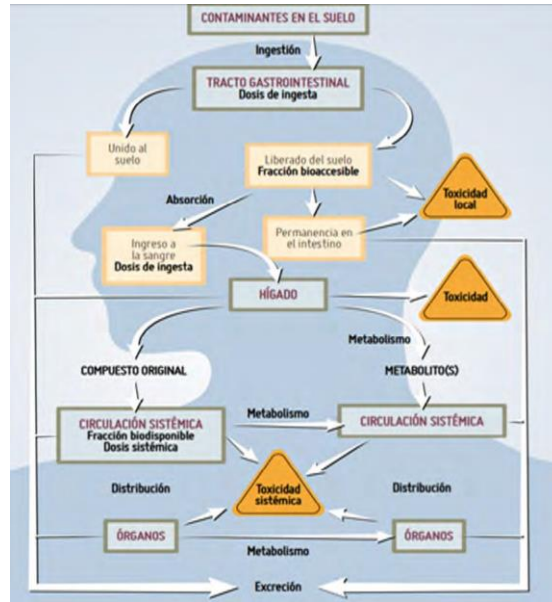


Source: Rodríguez Eugenio et al. (2019).



Figure 6 shows how humans are constantly exposed to contaminants used in many daily activities. It should be mentioned that, for gold mining on the banks of the Nechí River, the inhabitants are also exposed. The study conducted by Rodríguez Eugenio et al. (2019) evidences that contamination, to a first extent, occurs by ingestion, which depends on the dose, and absorption participates. It is indicated that in this cycle vital organs are compromised, such as the liver, intestines, circulatory system, among others.

**Figure 6.**  
*Simplified route of oral exposure to soil contaminants*



Source: Rodríguez Eugenio et al. (2019).

Table 1 contains the number of existing establishments in the municipality of Nechí, which are currently sources of risk of mercury intoxication. It is indicated that there are 98 plants in the region.

**Table 1.**  
*Consolidation of mercury poisoning risk establishments*

MUNICIPIO	MINAS	ENTABLES MINEROS	COMPRAS DE ORO	JOYERIAS	EXPENDIOS DE MERCURIO	OTROS	MESA MINERA AMBIENTAL
ANORI	4	1	1	3	0	0	Reactivada
ANZA	2	8	1	0	0	0	Reactivada
BURITICÁ	32	2	6	5	0	0	Creada
CÁCERES	6	3	14	0	0	0	Creada
CAUCASIA	18	14	27	7	0	0	Creada
EL BAGRE	150	50	35	8	0	5	Creada
NECHÍ	98	31	5	2	0	0	Creada
REMEDIOS	12	25	2	1	0		Reactivada
SEGOVIA	129	85	53	7	1	26	Reactivada
TARAZA	19	1	13	6	0	0	Reactivada
ZARAGOZA	20	2	18	1	0	0	Creada
<b>Total</b>	<b>490</b>	<b>222</b>	<b>175</b>	<b>40</b>	<b>1</b>	<b>31</b>	

Source: Sectional Secretariat of Health and Social Protection (2017).

This is a work that seeks to make visible to the community in general the current situation of the Nechí River. This study employs a descriptive and qualitative approach to make visible its current situation, affected by the indiscriminate use of harmful chemicals, such as mercury and others, due to the illegal practice of mining. This approach allows for a detailed understanding of the environmental and health impacts on the communities surrounding the river.

According to Hernández Sampieri et al. (2010), this approach is used to

measure and evaluate various aspects, dimensions or components of the phenomenon or phenomena to be investigated. From the scientific point of view, to describe is to measure. That is, in a descriptive study, a series of questions are selected and each one of them is measured independently, in order to describe what is being investigated (p. 71).

Similarly, according to Gálvez Toro (2002), this approach is a

structured procedure whose objective is the location and retrieval of relevant information for a user who wants to answer any question related to his practice, be it clinical, teaching, research or management (p. 25).

## Reflection

### *Invoking inter communis effect as a means of protection*

When speaking of invoking the *inter communis effect*, it becomes clear what this is or what it refers to. To clarify, this is a tool that allows communities to claim from the authorities equal treatment with respect to prerogatives granted in a tutela action to others.

The Constitutional Court specified that *inter comunis* effects occur exceptionally, when the tutela ruling is extended to persons who, although they did not seek constitutional protection, are affected by a de facto or de jure situation of an authority or an individual, based on the need to provide equal and uniform treatment to ensure the effective enjoyment of fundamental rights (M. P.: Gabriel Eduardo Mendoza Martelo). ("Learn when *inter comunis* effects are applicable in judgments of the Constitutional Court", 2016).

As De la Cuesta-Benjumea (2011) indicates, the term reflexivity comes from the English language and Spanish speakers must give it a technical meaning. Reflexivity expresses the researcher's awareness, it speaks of his or her connection with the research situation. It is a process in which the researcher returns to him/herself to critically examine the effect he/she has on the study and the impact of the interactions with the participants.

The purpose that motivates this reflective research is the situation that is occurring with the Nechí River, which is agonizing due to the indiscriminate use of chemicals and human actions that in the development of mining activities are destroying it. It is in this part where a call is made to the scientific community to generate an alarm through the academy.



Recognizing nature as a subject of rights expands the community to which we belong. It is the principle of solidarity, a civic duty we have with those we share in time and space, with future generations, and with other sentient beings that inhabit the planet.(Pardo, 2019).

Along the same lines, it is possible to find pronouncements made by international organizations that mark an institutional route to be followed and even become obligatory for the state organizations in charge of their control.

The UN makes an additional call: environmental laws established since 1972 have increased 38-fold, and the failure is in implementing and enforcing them. This is one of the biggest problems in mitigating climate change, reducing pollution, and preventing species and habitat loss.(Pardo, 2019)

In other words, as indicated, it is a wake-up call for those in charge of legislating in Colombia to understand their responsibility with respect to the protection of this water source. Says lawyer Gabriela Eslava:

To the 25 children and young people who filed the first tutela on climate change in Latin America, "judges in Colombia are trying to respond to a protection deficit, in a context of a pressing climate crisis". For her, law has many ways to change realities that from the legal system are translated into cultural changes "that take time." (Pardo, 2019)

Currently, in Colombia we find pronouncements of the high courts that have served to set jurisprudential precedents that can be taken into account in the case at hand in order to save the existence of the Nechí River and all the communities whose existence is being threatened. This must be addressed with extreme urgency; one of the richest rivers in Colombia cannot be allowed to become extinct without doing what needs to be done. Let us remember that, through Ruling T-622/16, the Constitutional Court "resolved to recognize the Atrato River as a subject of rights, in response to the need to find a legal way to guarantee its conservation and protection" (Gutiérrez Garrido, 2020).

It is important to bear in mind that this highest court, on that occasion, in order to reach a decision and make a pronouncement in accordance with the law, studied different aspects that helped it to reach this conclusion. It is pertinent to point out that the Constitutional Court

proceeded to develop an approach based on five main theses: biocultural rights; the fundamental right to water; the principle of prevention; the precautionary principle; and the violation of the fundamental rights to life, health and environment of ethnic communities. (Gutiérrez Garrido, 2020).

On this occasion, the highest court proceeded to conduct research on the subject under study, which allowed it to conclude for the good of the Atrato River on this occasion:

In developing each of these aspects, the Court concluded that public policies for biodiversity conservation must be adequate and focused on the preservation of life and its manifestations, as well as recognize the link between culture and nature. (Gutiérrez Garrido, 2020).



On the other hand, reference is made to another historical favorability issued by the Administrative Court of Quindío in which it "decided to declare this body of water as a subject of rights to protection, conservation, maintenance and restoration, from its source to its mouth, due to its state of contamination by dirty discharges" ("The Quindío River, new subject of rights", 2019).

As a conclusion, and in order to be heard by state authorities and academia in general, it is indicated that Ruling T-622 of 2016:

It has *inter communis* effects; this means that it is applicable to the ethnic communities of Chocó that are in the same situation as the communities of the Atrato. This means that what we do now will set a great precedent and will have an impact not only on the Atrato, but on all of Colombia's rivers. (Centro de Estudios para la Justicia Social Tierra Digna, n. d.)

## Conclusions

The first thing to do is to recommend and invite the affected communities to unite and form a common front to file before the Administrative Court of Antioquia, by jurisdiction, a popular action in which the following entities are sued, as they are the ones called to protect the water source of the Nechí River. These are, in order: the Ministry of the Interior, the Ministry of Environment and Sustainable Development, the Ministry of Mines and Energy, the National Mining Agency, the Ministry of Health and Social Protection, the Ministry of Agriculture, the Ministry of Housing, City and Territory, the Ministry of National Education, the Ministry of Defense, the Ministry of Finance, the Information and Financial Analysis Unit, the National Planning Department, the Department for Social Prosperity, the Government of Antioquia, the National Environmental Licensing Agency, the National Health Institute and the Regional Autonomous Corporation of Central Antioquia, as well as the municipalities of Nechí, Yarumal, Cuturú, Puerto Claver, Zaragoza and El Bagre, and the Bajo Cauca region of Antioquia.

Initiate academic workshops in educational institutions at all levels to inform about the situation of the Nechí River, in which this problem will be contextualized.

That the ombudsmen, the Attorney General's Office and the Ombudsman's Office lead these activities, since they are constitutionally mandated to preserve and defend violated human rights.

Remember that what has been called the locomotive of progress is a distractor to attack existing natural resources. It should be remembered that when the natural wealth of the planet is destroyed, the life of future generations is being threatened.



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