

The Human Right to Water as an Instrument of Peace in Transboundary Water Cooperation

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1. How is the right to water related to transboundary cooperation?



Definition of the human right to water

“The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic use”

UN Committee on Economic, Social and Cultural Rights, General Comment No. 15 on the Right to Water (2002), para.12

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How is the right to water related to transboundary cooperation?

Legal value of the General Comment No. 15

- Authoritative interpretation of the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR)
- Based on Article 11 (right to an adequate standard of living) and Article 12 (right to health) of the ICESCR
- Features of the Committee on ESCR: independent body, consensus-based, consultations
- Reference in international jurisprudence

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How is the right to water related to transboundary cooperation?

Inter-state obligations

“To comply with their international obligations in relation to the right to water, **States parties have to respect the enjoyment of the right in other countries.** International cooperation requires States parties to refrain from actions that interfere, directly or indirectly, with the enjoyment of the right to water in other countries. Any activities undertaken within the State party’s jurisdiction should not deprive another country of the ability to realize the right to water for persons in its jurisdiction”

UN Committee on Economic, Social and Cultural Rights, General Comment No. 15 on the Right to Water (2002), para.31

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How is the right to water related to transboundary cooperation?

The human right to water and the UN Watercourses Convention

“Vital human needs”

The 1997 UN Convention on the Law of Non-Navigational Uses of International Watercourses & the 2008 Int. Law Commission’s Draft Articles on the Law of Transboundary Aquifers

Equitable and reasonable use

(social and economic needs must be taken into account)

States must prevent significant damage

(harm to the environment and health)

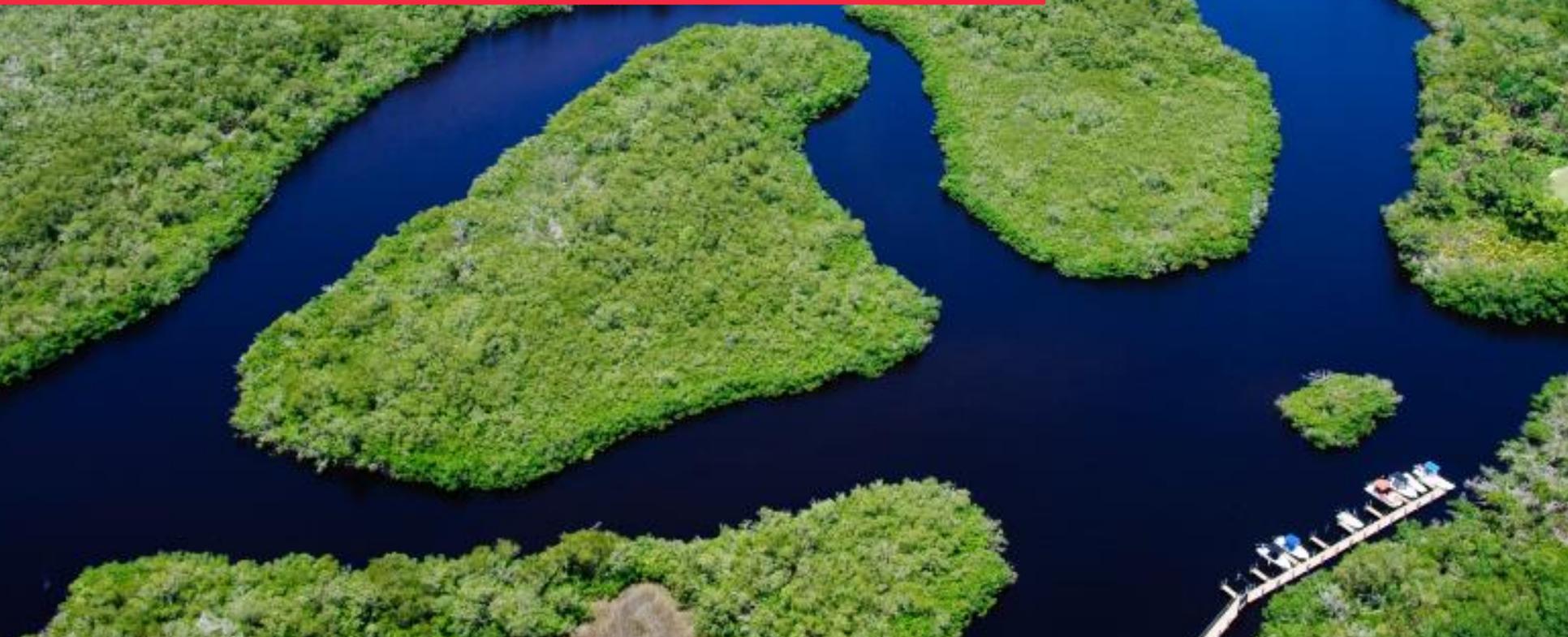
In the case of conflict

priority of vital human needs

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How is the right to water related to transboundary cooperation?

2. Why should the human right to water be included in fresh water agreements?



Arguments to include the right to water in transboundary fresh water agreements

- Prevention of water conflicts at national and international levels
- Public Participation and access to justice
- Protection of other human rights (health, adequate standard of living, clean environment, etc.)

General Comment No. 15 and international cooperation

“States parties should ensure that the right to water is given due attention in international agreements and, to that end, should consider the development of further legal instruments”

UN Committee on Economic, Social and Cultural Rights, General Comment No. 15 on the Right to Water (2002), para.35

2 Why should the human right to water be included in fresh water agreements?

International cooperation and the human right to water

“Affirming also the importance of regional and international technical cooperation, where appropriate, as a means to promote the progressive realization of the human rights to safe drinking water and sanitation, **without any prejudice to questions of international water law, including international watercourse law**”

Human Rights Council, A/HRC/RES/33/10, 2016

2 Why should the human right to water be included in fresh water agreements?

Sustainable Development Goals: Water, Transboundary Cooperation and Peace

- **Goal 6** : “Availability and sustainable management of water and sanitation for all”
- **Goal 6.5** : “By 2030, implement integrated water resources management at all levels, including through transboundary cooperation as appropriate”
- **Goal 16** : “Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels”

- **Complementarity between SDGs**

States have to respect the enjoyment of the right to water in other countries



Vital human needs and the right to water are included in fresh water agreements at global and basin levels

The human right to water allows the participation of individuals and local communities in water management



Public participation at national and transboundary levels prevent water conflicts and are an instrument of peace.

Final Remarks

Thanks!

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