

## COOPERATION IN INTERNATIONAL WATER LAW AND, STATES HUMAN RIGHTS OBLIGATION TO FULFILL THE HUMAN RIGHT TO WATER

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**ABSTRACT:** *Water is an issue that has a deep impact on human lives and livelihood. Promoting human rights would provide better protection of individuals within water law. Although, International human rights law sets basic minimum standards for water use, allocation, conservation and dispute resolution, but there is very little research on how human rights law can form the basis of the rights and responsibilities of states with regard to trans-boundary watercourses. States may have obligations to cooperate, in order to uphold their human rights obligations. This area has many disputes how to use water, disputes which will greatly affect the lives of citizens. There is very little research on how these two areas of law can function together to be mutually supportive. In this paper, briefly we are trying to find that how may International human rights law and International water law be made coherent and mutually supportive as regards human rights to water, and explain about Transboundary Water Cooperation between states, in order to fulfill the right to water.*

**KEYWORDS:** The Right to Water, International human rights, International trans-boundary waters, Vital Human Need, UNECE Convention, UN Watercourses Convention

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### INTRODUCTION

Based on International human rights instruments, all states have the responsibility for the promotion and protection of all human rights. Human rights entail both rights and obligations. States assume obligations and duties under international law to respect, to protect and to fulfil human rights. The obligation to respect means that States must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to protect requires States to protect individuals and groups against human rights abuses. The obligation to fulfil means that States must take positive action to facilitate the enjoyment of human rights. At the individual level, while we are entitled our human rights, we should also respect the human rights of others<sup>2</sup>. Sometimes, non-fulfillment of human rights obligations by one State is due to its international disputes with the other states to implement obligations which arise from an international treaty. For example, some disputes between countries with transboundary waters, arise from violations of the accepted international rules and principles of international transboundary waters in their treaties, the same as Equity and Reasonable Utilization, the No-Harm Principle, and the Duty to Cooperate, the violation of which can directly or indirectly affect the human rights of people living in river basins.

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<sup>2</sup>-Available at: <http://www.ohchr.org/EN/Issues/Pages/WhatAreHumanRights.aspx>

Because these arguments are concerned with one of the main and more important rights, the right to water, here I focus on the more specialized international instruments on human rights and international legal documents on waters as they relate to the human right to water.

### **The Right to Water:**

The right to water is one of the main human rights, without access to water other human rights, like the right to life, the right to food, the right to healthy environment, and others couldn't be exercised, but it wasn't mentioned in the Universal Declaration of Human Rights. But later in 2010, the United Nations General Assembly by recalling "all previous resolutions of the Human Rights Council on human rights and access to safe drinking water and sanitation, including Council resolutions 7/22 of 28 March 2008 and 12/8 of 1 October 2009, related to the human right to safe and clean drinking water and sanitation, general comment No. 15 (2002) of the Committee on Economic, Social and Cultural Rights, on the right to water (articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights) and the report of the United Nations High Commissioner for Human Rights on the scope and content of the relevant human rights obligations related to equitable access to safe drinking water and sanitation under international human rights instruments, as well as the report of the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation recognized that water and sanitation <sup>3</sup>", recognized the right to safe and clean drinking water and sanitation as a human right which is very important for fulfilling other human rights.

### **The Human Right to Water in Human Rights Instruments:**

- **UN Charter, 1945:**

UN Charter did not explicitly refer to the right to water, but in its article (55), indirectly is mentioned to the fundamental role of water in achieving the goals of the Charter. Article 55(a): "higher standards of living, full employment, and conditions of economic and social progress and development..."<sup>4</sup>.

- **The Universal Declaration of Human Rights (UDHR), 1948:**

The provisions of the Universal Declaration of Human Rights are not binding but are considered as rules of customary international law. Article 25 of the Universal declaration points to the right to a standard of living adequate for the health which include the right to food, clothing, housing and medical care and other factors. This article does not refer to water directly, while the realization, or access to the standards which are mentioned to this article, is not possible without water<sup>5</sup>.

<sup>3</sup>- Resolution adopted by the General Assembly on 28 July 2010, 64/292., The human right to water and sanitation Available at: <http://www.un.org/es/comun/docs/?symbol=A/RES/64/292&lang=E>

<sup>4</sup>-CHARTER OF THE UNITED NATIONS AND STATUTE OF THE INTERNATIONAL COURT OF JUSTICE, SAN FRANCISCO 1945, p 11. Available at: <https://treaties.un.org/doc/publication/ctc/uncharter.pdf>

<sup>5</sup>-The Universal Declaration of Human Rights, 1948, p 52.

Available at: [http://www.un.org/en/udhrbook/pdf/udhr\\_booklet\\_en\\_web.pdf](http://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf)

- **The four Geneva Convention, 1949:**

The four Geneva conventions protect civilians and combatants during armed conflict and they are universally ratified, it means that these provisions are legally binding. The Geneva Conventions are about people in war, for this reason, it is trying to preserve their dignity and fulfill their basic needs in war time. One of their basic needs is water. Articles 20, 26, 29 and 46 Geneva Convention III 1949, have mentioned to the right to water explicitly.

### **Geneva Convention III (1949) – Treatment of Prisoners of War<sup>6</sup>**

Article 20: The Detaining Power shall supply prisoners of war with sufficient food and potable water, and with the necessary clothing and medical attention<sup>7</sup>.

Article 26: ... Sufficient drinking water shall be supplied to prisoners of war<sup>8</sup>.

Article 29: The Detaining Power shall take all sanitary measures necessary to ensure the cleanliness and healthfulness of camps and to prevent epidemics...Also, apart from the baths and showers with which the camps shall be furnished prisoners of war shall be provided with sufficient water and soap for their personal toilet and for washing their personal laundry...<sup>9</sup>.

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<sup>6</sup>-GENEVA CONVENTION RELATIVE TO THE TREATMENT OF PRISONERS OF WAR OF AUGUST 12, 1949 (GENEVA CONVENTION III) Entry into Force: 21 October 1950.

Available at: [https://www.legal-tools.org/uploads/tx\\_ltpdb/GenevaConvention\\_3rd\\_Prisonersofwar\\_1949\\_E\\_05.pdf](https://www.legal-tools.org/uploads/tx_ltpdb/GenevaConvention_3rd_Prisonersofwar_1949_E_05.pdf)

<sup>7</sup>-Geneva Convention III (1949) – Treatment of Prisoners of War, Article 20: The evacuation of prisoners of war shall always be effected humanely and in conditions similar to those for the forces of the Detaining Power in their changes of station. The Detaining Power shall supply prisoners of war who are being evacuated with sufficient food and potable water, and with the necessary clothing and medical attention. The Detaining Power shall take all suitable precautions to ensure their safety during evacuation, and shall establish as soon as possible a list of the prisoners of war who are evacuated. If prisoners of war must, during evacuation, pass through transit camps, their stay in such camps shall be as brief as possible.

<sup>8</sup>-Geneva Convention III (1949) – Treatment of Prisoners of War, Article 26: The basic daily food rations shall be sufficient in quantity, quality and variety to keep prisoners of war in good health and to prevent loss of weight or the development of nutritional deficiencies. Account shall also be taken of the habitual diet of the prisoners. The Detaining Power shall supply prisoners of war who work with such additional rations as are necessary for the labour on which they are employed. Sufficient drinking water shall be supplied to prisoners of war. The use Prisoners of war shall, as far as possible, be associated with the preparation of their meals; they may be employed for that purpose in the kitchens. Furthermore, they shall be given the means of preparing, themselves, the additional food in their possession. Adequate premises shall be provided for messing. Collective disciplinary measures affecting food are prohibited.

<sup>9</sup>-Geneva Convention III (1949) – Treatment of Prisoners of War, CHAPTER III, Hygiene and medical attention, Article 29: The Detaining Power shall be bound to take all sanitary measures necessary to ensure the cleanliness and healthfulness of camps and to prevent epidemics. Prisoners of war shall have for their use, day and night, conveniences which conform to the rules of hygiene and are maintained in a constant state of cleanliness. In any camps in which women prisoners of war are accommodated, separate conveniences shall be provided for them. Also, apart from the baths and showers with which the camps shall be furnished prisoners of war shall be provided with sufficient water and soap for their personal toilet and for washing their personal laundry; the necessary installations, facilities and time shall be granted them for that purpose.

Article 46: The Detaining Power shall supply prisoners of war during transfer with sufficient food and drinking water to keep them in good health...<sup>10</sup>.

### **Geneva Convention IV(1949) – Protection of Civilian Persons in Times of War<sup>11</sup>**

Articles 85, 89 and 127 are about the detaining Powers duties for providing sufficient water for daily needs of prisoners of war. Article 85: ... Internees shall be provided with sufficient water and soap for their daily personal toilet and for washing their personal laundry; installations and facilities necessary for this purpose shall be granted to them. Showers or baths shall also be available...<sup>12</sup>.

Article 89: ...Sufficient drinking water shall be supplied to internees...<sup>13</sup>.

Article 127: The Detaining Power shall supply internees during transfer with drinking water and food sufficient in quantity, quality and variety to maintain them in good health ...<sup>14</sup>.

<sup>10</sup>-Geneva Convention III (1949) – Treatment of Prisoners of War, CHAPTER VIII, TRANSFER OF PRISONERS OF WAR AFTER THEIR ARRIVAL IN CAMP, Article 46: The Detaining Power, when deciding upon the transfer of prisoners of war, shall take into account the interests of the prisoners themselves, more especially so as not to increase the difficulty of their repatriation. The transfer of prisoners of war shall always be effected humanely and in conditions not less favourable than those under which the forces of the Detaining Power are transferred. Account shall always be taken of the climatic conditions to which the prisoners of war are accustomed and the conditions of transfer shall in no case be prejudicial to their health. The Detaining Power shall supply prisoners of war during transfer with sufficient food and drinking water to keep them in good health, likewise with the necessary clothing, shelter and medical attention. The Detaining Power shall take adequate precautions especially in case of transport by sea or by air, to ensure their safety during transfer, and shall draw up a complete list of all transferred prisoners before their departure.

<sup>11</sup>-Convention (IV) relative to the Protection of Civilian Persons in Time of War, Geneva, 12 August 1949. Available at: <https://ihl.databases.icrc.org/ihl/385ec082b509e76c41256739003e636d/6756482d86146898c125641e004aa3c5>

<sup>12</sup>-Geneva Convention IV (1949) – Protection of Civilian Persons in Times of War, article 85: The Detaining Power is bound to take all necessary and possible measures to ensure that protected persons shall, from the outset of their internment, be accommodated in buildings or quarters which afford every possible safeguard as regards hygiene and health, and provide efficient protection against the rigours of the climate and the effects of the war.... They shall be provided with sufficient water and soap for their daily personal toilet and for washing their personal laundry; installations and facilities necessary for this purpose shall be granted to them. Showers or baths shall also be available. The necessary time shall be set aside for washing and for cleaning....

<sup>13</sup>-Geneva Convention IV (1949) – Protection of Civilian Persons in Times of War, article 89: Daily food rations for internees shall be sufficient in quantity, quality and variety to keep internees in a good state of health and prevent the development of nutritional deficiencies. Account shall also be taken of the customary diet of the internees. Internees shall also be given the means by which they can prepare for themselves any additional food in their possession. Sufficient drinking water shall be supplied to internees. The use of tobacco shall be permitted. Internees who work shall receive additional rations in proportion to the kind of labour which they perform. Expectant and nursing mothers and children under fifteen years of age, shall be given additional food, in proportion to their physiological needs.

<sup>14</sup>-Geneva Convention IV (1949) – Protection of Civilian Persons in Times of War, article 127: The transfer of internees shall always be effected humanely. As a general rule, it shall be carried out by rail or other means of transport, and under conditions at least equal to those obtaining for the forces of the Detaining Power in their changes of station. If, as an exceptional measure, such removals have to be effected on foot, they may not take place unless the internees are in a fit state of health, and may not in any case expose them to excessive fatigue. The Detaining Power shall supply internees during transfer with drinking water and food sufficient in quantity, quality and variety to maintain them in good health, and also with the necessary clothing, adequate shelter and the necessary medical attention. The Detaining

**Additional Protocol I (1977)- Protection of Victims of International Armed Conflict<sup>15</sup>**

Article 54 is about the prohibition of attack against the places which are necessary to the survival of the civilian population, such as foodstuffs, agricultural areas, drinking water installations and other places. Article 54: 2. It is prohibited to attack, destroy, remove or render useless objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and.... 3. The prohibitions in paragraph 2 shall not apply to such of the objects covered by it as are used by an adverse Party: (b) – If not as sustenance, then in direct support of military action, provided, however, that in no event shall actions against these objects be taken which may be expected to leave the civilian population with such inadequate food or water as to cause its starvation or force its movement<sup>16</sup>.

**Additional Protocol II (1977) – Protection of Victims of Non-international Armed Conflict<sup>17</sup>:**

Article 5(b): Persons whose liberty has been restricted...shall be provided with food and drinking water and be afforded safeguards as regards health and hygiene<sup>18</sup>. Article 14: It is therefore prohibited to attack, destroy, remove or render useless for that purpose, objects indispensable to the survival of the civilian population such as food-stuffs, agricultural areas for the production of food-stuffs, crops, livestock, drinking water installations and supplies and irrigation works<sup>19</sup>.

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Power shall take all suitable precautions to ensure their safety during transfer, and shall establish before their departure a complete list of all internees transferred....

<sup>15</sup>-PROTOCOLS ADDITIONAL TO THE GENEVA CONVENTIONS OF 12 AUGUST 1949, International Committee of the Red Cross. Available at: [https://www.icrc.org/eng/assets/files/other/icrc\\_002\\_0321.pdf](https://www.icrc.org/eng/assets/files/other/icrc_002_0321.pdf)

<sup>16</sup>-Additional Protocol I (1977) - Protection of Victims of International Armed Conflict, Article 54: Starvation of civilians as a method of warfare is prohibited. 2. It is prohibited to attack, destroy, remove or render useless objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works, for the specific purpose of denying them for their sustenance value to the civilian population or to the adverse Party, whatever the motive, whether in order to starve out civilians, to cause them to move away, or for any other motive.

3. The prohibitions in paragraph 2 shall not apply to such of the objects covered by it as are used by an adverse Party: a) as sustenance solely for the members of its armed forces; or b) if not as sustenance, then in direct support of military action, provided, however, that in no event shall actions against these objects be taken which may be expected to leave the civilian population with such inadequate food or water as to cause its starvation or force its movement...

<sup>17</sup>-Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977.

Available at: <https://ihl-databases.icrc.org/ihl/7c4d08d9b287a42141256739003e636b/d67c3971bcff1c10c125641e0052b545>

<sup>18</sup>-Additional Protocol II (1977) – Protection of Victims of Non-international Armed Conflict, article 5: 1. In addition to the provisions of Article 4 the following provisions shall be respected as a minimum with regard to persons deprived of their liberty for reasons related to the armed conflict, whether they are interned or detained;...(b) the persons referred to in this paragraph shall, to the same extent as the local civilian population, be provided with food and drinking water and be afforded safeguards as regards health and hygiene and protection against the rigours of the climate and the dangers of the armed conflict;...

<sup>19</sup>-Additional Protocol II (1977) – Protection of Victims of Non-international Armed Conflict, article 14: Starvation of civilians as a method of combat is prohibited. It is therefore prohibited to attack, destroy, remove or render useless for that purpose, objects indispensable to the survival of the civilian population such as food-stuffs, agricultural areas for the production of food-stuffs, crops, livestock, drinking water installations and supplies and irrigation works.



- **International Covenant on Civil and Political Rights<sup>20</sup> and International Covenant on Economic, Social and Cultural Rights<sup>21</sup>, 1966:**

The 1966 Covenants, both are legally binding treaties, which states are obligated to protect, respect and fulfill some rights, such as the right to life, the right to dignity, and the right to self-determination. The 1966 Covenants, indirectly have recognized the right to water, especially the ICESCR, because without water, life does not have any meaning, and another reason is that, some features about water should be considered, because lack of attention to them threatens people's life. One is unsafe water and another one is the lack of water, causes the lack of adequate sanitation, which are the main reasons for killing or threatening people's life. Article 11<sup>22</sup>, of ICESCR, recognized the right of everyone to an adequate standard of living including adequate food, the continuous improvement of living conditions and others which without water would be ineffective. Or article 12<sup>23</sup>, of ICESCR, has recognized the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

- **Mar del Plata UN Water Conference, March 1977<sup>24</sup>:**

The Mar del Plata declaration is not a legally binding instrument, but for the first time, the Action Plan, recognized water as a right for all people without paying attention to their stage of

<sup>20</sup>-International Covenant on Civil and Political Rights, Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 23 March 1976, in accordance with Article 49. Available at: <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

<sup>21</sup>-International Covenant on Economic, Social and Cultural Rights, Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 3 January 1976, in accordance with article 27. Available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>

<sup>22</sup>-Article 11: 1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;  
(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

<sup>23</sup>-Article 12: 1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

(a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;  
(b) The improvement of all aspects of environmental and industrial hygiene;  
(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;  
(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

<sup>24</sup>-United Nations Water Conference, 1977(Resolutions), in Report of the United Nations Water Conference, Mar del Plata, 14-25 March 1977 (United Nations publication, Sales No. E.77.II.A.12). (Excerpts).

Available at: <http://www.ielrc.org/content/e7701.pdf>

development and social and economic conditions, and it mentioned these people “have the right to have access to drinking water in quantities and of a quality equal to their basic needs”<sup>25</sup>. One of the main objectives of the plans of action is strengthening and development of water use and agriculture for providing safe drinking water and sanitation for all human. The focus of this action was on promotion of states commitments to provide all people with water of safe quality and adequate quantity and basic sanitary facilities by 1990.

- **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), December 1979<sup>26</sup>:**

Based on Article 14(2)(h) of the CEDAW, the states parties should take all appropriate measures to promote basic human rights, achieve the progress and conquer the barriers of discrimination against women and girls. Especially, eliminate discrimination against women in rural areas, because they have the right to adequate living conditions, participation in development planning, and access to health care and education the same as others. The states parties have to ensure, “To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications<sup>27</sup>”. This convention, explicitly has referenced both water and sanitation within its text.

- **Convention on the Rights of the Child, November 1989<sup>28</sup>:**

The Convention on the Rights of the Child explicitly mentioned to water, environmental sanitation and hygiene. Article 24(2)(c) states: States Parties shall take appropriate measures: “To combat disease and malnutrition, including within the framework of primary health care, through inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;<sup>29</sup>”

<sup>25</sup>-Cahill Ripley, Amanda, 2011, The Human Right to Water and Its Application in the Occupied Palestinian Territories, Routledge, p 12.

<sup>26</sup>-Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), December 1979.

Available at: <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>

<sup>27</sup>-Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), December 1979, Article 14(2)(h): “2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right”: ... (h) “To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications”.

<sup>28</sup>-The United Nations Convention on the Rights of the Child, Adopted and opened for signature, ratification and accession by General Assembly, Resolution 44/25 of 20 November 1989, entry into force 2 September 1990, in accordance with Article 49.

Available at: [http://www.unicef.org.uk/Documents/Publication-pdfs/UNCRC\\_PRESS200910web.pdf](http://www.unicef.org.uk/Documents/Publication-pdfs/UNCRC_PRESS200910web.pdf)

<sup>29</sup>- Convention on the Rights of the Child, Article 24: ... 2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures: ... “(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;”

- **International Conference on Water and Sustainable Development. Dublin Conference, January 1992<sup>30</sup>:**

Dublin Conference on water, has recognized the essential role of women in legislative, Management and Protection of water, and also it recognized the right of reasonable access to clean water and sanitation to all human being. Principle 4 of the Dublin Conference states that "... it is vital to recognize first the basic right of all human beings to have access to clean water and sanitation at an affordable price"<sup>31</sup>.

- **United Nations Conference on Environment and Development. Rio Summit, June 1992<sup>32</sup>:**

Safe water is one of the main factor for protecting the environment and promoting the human health. One of the most prominent efforts on this area was the Mar del Plata Action Plan adopted by the United Nations Water Conference in 1977, which was the final result of the launching Decade of the International Drinking Water Supply and Sanitation in 1981. Chapter 18 of Agenda 21, approved the Resolution of the Mar del Plata Water Conference that based on, all people have the right to have access to drinking water. The commonly agreed premise was that "all peoples, whatever their stage of development and their social and economic conditions, have the right to have access to drinking water in quantities and of a quality equal to their basic needs"<sup>33</sup>.

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<sup>30</sup>- International conference on water and the environment: development issues for the 21st century, 26-31 January 1992, Dublin, Ireland: the Dublin statement and report of the conference, 1992, World Meteorological Organization -Geneva, CH, WMO, Geneva, Switzerland.

Available at: <http://www.ircwash.org/sites/default/files/71-ICWE92-9739.pdf>

<sup>31</sup>- International conference on water and the environment: development issues for the 21st century, 26-31 January 1992, Ibid, p 4.

<sup>32</sup>-United Nations Conference on Environment & Development Rio de Janeiro, Brazil, 3 to 14 June 1992 AGENDA 21.

Available at: <https://sustainabledevelopment.un.org/content/documents/Agenda21.pdf>

<sup>33</sup>-Chapter 18.47 of the United Nations Conference on Environment & Development Rio de Janeiro, Brazil, 3 to 14 June 1992 AGENDA 21: Safe water-supplies and environmental sanitation are vital for protecting the environment, improving health and alleviating poverty. Safe water is also crucial to many traditional and cultural activities. An estimated 80 per cent of all diseases and over one third of deaths in developing countries are caused by the consumption of contaminated water, and on average as much as one tenth of each person's productive time is sacrificed to water-related diseases. Concerted efforts during the 1980s brought water and sanitation services to hundreds of millions of the world's poorest people. The most outstanding of these efforts was the launching in 1981 of the International Drinking Water Supply and Sanitation Decade, which resulted from the Mar del Plata Action Plan adopted by the United Nations Water Conference in 1977. The commonly agreed premise was that "all peoples, whatever their stage of development and their social and economic conditions, have the right to have access to drinking water in quantities and of a quality equal to their basic needs". 2/ The target of the Decade was to provide safe drinking-water and sanitation to underserved urban and rural areas by 1990, but even the unprecedented progress achieved during the Decade was not enough. One in three people in the developing world still lacks these two most basic requirements for health and dignity. It is also recognized that human excreta and sewage are important causes of the deterioration of water quality in developing countries, and the introduction of available technologies, including appropriate technologies, and the construction of sewage treatment facilities could bring significant improvement.



- **United Nations International Conference on Population and Development, September 1994<sup>34</sup>:**

The Programme of Action of the UN International Conference on Population and Development in one of its principles (2) states about the importance of human resources for countries and it refers to the state's duty to ensure adequate rights for the people who are living in these countries. It affirms that all people: “Have the right to an adequate standard of living for themselves and their families, including adequate food, clothing, housing, water and sanitation.”<sup>35</sup>

- **UN General Assembly Resolution A/Res/54/175 “The Right to Development”, December 1999<sup>36</sup>:**

UN General Assembly in its Resolution, restated that the right to food, clean water and the right to shelter are basic human rights and some other human rights the same as the right to health and education are necessary for development. Article 12 of the Resolution affirms that “in the full realization of the right to development, inter alia: (a) the rights to food and clean water are fundamental human rights and their promotion constitutes a moral imperative both for national Governments and for the international community”.

- **World Summit on Sustainable Development, September 2002<sup>37</sup>:**

In the Political Declaration of the Summit, governments agreed to reduce the number of people (halve), who have been faced with the problem of lacking clean drinking water and basic sanitation, by 2015. Also, the governments decided to develop household sanitation systems and improve sanitation in public institutions, especially schools, by uniting the water resources management and water efficiency plans by 2005. This consensus on that time was one of the most useful result of the summit. The Political Declaration of the Summit states “We welcome the Johannesburg Summit focus on the indivisibility of human dignity and are resolved through decisions on targets, timetables and partnerships to speedily increase access to basic requirements such as clean water, sanitation, energy, health care, food security and the protection of biodiversity<sup>38</sup>”.

- **General comment No. 15, November 2002<sup>39</sup>:**

<sup>34</sup>-Report of the International Conference on Population and Development, Cairo, 5-13 September 1994. Available at: [http://www.unfpa.org/sites/default/files/event-pdf/PoA\\_en.pdf](http://www.unfpa.org/sites/default/files/event-pdf/PoA_en.pdf)

<sup>35</sup>-The Programme of Action of the UN International Conference on Population and Development, Ibid, principle 2, pp 8-9.

<sup>36</sup>-Resolution Adopted by the General Assembly, The right to development, A/RES/54/175, 15 February 2000, Fifty-fourth session, Agenda item 116 (b). Available at: <http://www.worldlii.org/int/other/UNGA/1999/205.pdf>

<sup>37</sup>-Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August- 4 September 2002. Available at: [http://www.unmillenniumproject.org/documents/131302\\_wssd\\_report\\_reissued.pdf](http://www.unmillenniumproject.org/documents/131302_wssd_report_reissued.pdf)

<sup>38</sup>-Report of the World Summit on Sustainable Development, Ibid, p 3.

<sup>39</sup>-General Comment No. 15 (2002), The right to water (arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights), E/C.12/2002/11, 20 January 2003, COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, Twenty-ninth session, Geneva, 11-29 November 2002, Agenda item 3.

Available at: [http://www2.ohchr.org/english/issues/water/docs/CESCR\\_GC\\_15.pdf](http://www2.ohchr.org/english/issues/water/docs/CESCR_GC_15.pdf)

According to General Comment No.15, the right to water is known as a human rights that realization of other human rights are also depends on it. Based on this right, everyone has the right to adequate, accessible, affordable, safe and clean water for personal and domestic uses. The UN Committee on Economic, Social and Cultural Rights, in November 2002, adopted its general comment, on the right to water and states that: "The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses."<sup>40</sup>

- **Draft Guidelines for the Realization of the Right to Drinking Water and Sanitation. E/CN.4/Sub.2/2005/25, July 2005<sup>41</sup>:**

The draft guidelines for the Realization of the Right to Drinking Water and Sanitation, adopted in Sub-Commission on the Promotion and Protection of Human Rights which inscribed in the report of the Special Rapporteur to the UN Economic and Social Council, El Hadji Guissé, too. In this context, the right to safe drinking water and sanitation precisely has been recognized as a human right, which other people can realize their needs by it. The needs like: to have access to acceptable sanitation facilities, human dignity, public health and environmental protection. Of course, this definition of the right to water and sanitation by these guidelines are not legally, but they are just a kind of guidance.

The purpose of this draft is, to assist government policy makers, international agencies and members of civil society who are working in the area of water and sanitation, in order to achieve access to drinking water and sanitation for all people.

- **Human Rights Council Decision 2/104, November 2006<sup>42</sup>:**

Based on this decision, the Human Rights Council decided to do research more extensively on human rights obligations that are related to equitable access to safe drinking water and international human rights instruments.

- **Convention on the Rights of Persons with Disabilities, December 2006<sup>43</sup>:**

According to paragraph 2(a) of Article 28 of the Convention on the Rights of Persons with Disabilities, Member States shall recognize some rights for persons with disabilities irrespective of any discrimination based on their weaknesses. In order to fulfill these rights, governments should take measures including: "(a) to ensure equal access by persons with disabilities to clean

<sup>40</sup>-General Comment No. 15 (2002), Ibid, pp1-2.

<sup>41</sup>-ECONOMIC, SOCIAL AND CULTURAL RIGHTS, Realization of the right to drinking water and sanitation Report of the Special Rapporteur, El Hadji Guissé, E/CN.4/Sub.2/2005/25 11 July 2005. Available at: [http://www.ohchr.org/Documents/Issues/Water/Sub\\_Com\\_Guisse\\_guidelines.pdf](http://www.ohchr.org/Documents/Issues/Water/Sub_Com_Guisse_guidelines.pdf)

<sup>42</sup>-Human rights and access to water, Decision 2/104.

Available at: [http://www2.ohchr.org/english/issues/water/docs/HRC\\_decision2-104.pdf](http://www2.ohchr.org/english/issues/water/docs/HRC_decision2-104.pdf)

<sup>43</sup>-United Nations Convention on the Rights of Persons with Disabilities, 6 December 2006.

Available at: [http://www.un.org/disabilities/documents/convention/convention\\_accessible\\_pdf.pdf](http://www.un.org/disabilities/documents/convention/convention_accessible_pdf.pdf)

water services, and to ensure access to appropriate and affordable services, devices and other assistance for disability-related needs;<sup>44</sup>

- **Report of the United Nations High Commissioner for Human Rights on the scope and content of the relevant human rights obligations related to equitable access to safe drinking water and sanitation under international human rights instruments, August 2007<sup>45</sup>:**

The Report from the High Commissioner for Human Rights which was following decision (2/104) of the Human Rights Council, states that: “It is now the time to consider access to safe drinking water and sanitation as a human right, defined as the right to equal and nondiscriminatory access to a sufficient amount of safe drinking water for personal and domestic uses... to sustain life and health<sup>46</sup>”. The Office of the United Nations High Commissioner for Human Rights, did a detailed study on the scope and content of human rights obligations related to equitable access to safe drinking water and sanitation based on international human rights documents.

- **Human Rights Council Resolution 7/22, March 2008<sup>47</sup>:**

The Human Rights Council, by recalling the report of the United Nations High Commissioner for Human Rights on the scope and content of the relevant human rights obligations related to equitable access to safe drinking water and sanitation under international human rights instruments, decided to designate an independent specialist on the matter of human rights obligations, in order to monitor the implementation of human rights obligations which are related to access to safe drinking water and sanitation. The Human Rights Council decides “To appoint, for a period of three years, an independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation<sup>48</sup>”.

- **Human Rights Council Resolution 12/8, October 2009<sup>49</sup>:**

In this resolution, the Human Rights Council, after welcoming the consultation with the independent specialist on the matter of human rights obligations, in order to monitor the

<sup>44</sup>-United Nations Convention on the Rights of Persons with Disabilities, Ibid, p 18.

<sup>45</sup>-Council's Decision 2/104 - Human Rights and Access to Water.

Available at: <http://www2.ohchr.org/english/issues/water/>

<sup>46</sup>-Report of the United Nations High Commissioner for Human Rights on the scope and content of the relevant human rights obligations related to equitable access to safe drinking water and sanitation under international human rights instruments, A/HRC/6/3, 16 August 2007, HUMAN RIGHTS COUNCIL, Sixth session, Item 2 of the provisional agenda, p 26.

Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G07/136/55/PDF/G0713655.pdf?OpenElement>

<sup>47</sup>-Human rights and access to safe drinking water and sanitation, Resolution 7/22., Human Rights Council.

Available at: [http://ap.ohchr.org/documents/E/HRC/resolutions/A\\_HRC\\_RES\\_7\\_22.pdf](http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_7_22.pdf)

<sup>48</sup>-Human rights and access to safe drinking water and sanitation, Resolution 7/22., Ibid, p 3.

<sup>49</sup>-Promotion and Protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, Resolution adopted by the Human Rights Council, A/HRC/RES/12/8, 12 October 2009, Human Rights Council, Twelfth session, Agenda item 3.

Available at:

<https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/G09/165/71/PDF/G0916571.pdf?OpenElement>

implementation of human rights obligations which are related to access to safe drinking water and sanitation, and acknowledging the independent expert's first annual report for the first time, has been recognized the states obligations to omission of any differentiation "with regard to access to sanitation, and urges them to address effectively inequalities in this area;<sup>50</sup>"

- **UN General Assembly Resolution A/RES/64/292, July 2010<sup>51</sup>:**

The UN General Assembly, for the first time formally recognized the right to safe and clean drinking water and sanitation as a human right that is indispensable for the realization of other human rights. The Resolution requested "States and international organizations to provide financial resources, help capacity-building and technology transfer to help countries, in particular developing countries, to provide safe, clean, accessible and affordable drinking water and sanitation for all<sup>52</sup>."

- **Human Rights Council Resolution A/HRC/RES/15/9, September 2010<sup>53</sup>:**

Following the Human Rights Council Resolution, one of the main obligations or responsibilities to states is ensuring the full realization of all human rights, especially the rights to water and sanitation that are counting as a part of existing international law and are legally binding for States. It also "calls upon States to develop appropriate tools and mechanisms to achieve progressively the full realization of human rights obligations related to access to safe drinking water and sanitation, including in currently unserved and underserved areas.<sup>54</sup>"

- **Human Rights Council Resolution A/HRC/RES/16/2, April 2011<sup>55</sup>:**

The Human Rights Council adopted, access to safe drinking water and sanitation as a human right which are include: a right to life and to human dignity, by this Resolution (16/2)<sup>56</sup>. In Human Rights Council Resolution A/HRC/RES/16/2, the Human Rights Council decided to "extend the mandate of the current mandate holder as a special rapporteur on the human right to safe drinking

<sup>50</sup>-Promotion and Protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, Resolution adopted by the Human Rights Council, A/HRC/RES/12/8, Ibid, p 2.

<sup>51</sup>-Resolution adopted by the General Assembly on 28 July 2010, A/RES/64/292, the human right to water and sanitation, Sixty-fourth session, Agenda item 48.

Available at: [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/64/292&referer=http://www.un.org/en/ga/64/resolutions.shtml](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/64/292&referer=http://www.un.org/en/ga/64/resolutions.shtml) & Lang =E

<sup>52</sup>-Resolution adopted by the General Assembly on 28 July 2010, A/RES/64/292, Ibid, p 3.

<sup>53</sup>-Resolution adopted by the Human Rights Council, A/HRC/RES/15/9, Human rights and access to safe drinking water and sanitation, Fifteenth session, Agenda item 3.

Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G10/166/33/PDF/G1016633.pdf?OpenElement>

<sup>54</sup>-Resolution adopted by the Human Rights Council, A/HRC/RES/15/9, Ibid, p 3.

<sup>55</sup>-Resolution adopted by the Human Rights Council, 16/2, The human right to safe drinking water and sanitation, Human Rights Council, Sixteenth session, Agenda item 3, Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development.

Available at: <http://www.refworld.org/pdfid/4dc108202.pdf>

<sup>56</sup>-The Human Right to Water and Sanitation, Media brief, part 1.

Available at: [http://www.un.org/waterforlifedecade/pdf/human\\_right\\_to\\_water\\_and\\_sanitation\\_media\\_brief.pdf](http://www.un.org/waterforlifedecade/pdf/human_right_to_water_and_sanitation_media_brief.pdf)

water and sanitation for a period of three years<sup>57</sup>” and “Encourages the Special Rapporteur, in fulfilling his or her mandate... to promote the full realization of the human right to safe drinking water and sanitation by, inter alia, continuing to give particular emphasis to practical solutions with regard to its implementation, in particular in the context of country missions, and following the criteria of availability, quality, physical accessibility, affordability and acceptability<sup>58</sup>”.

### ❖ **The Codification of the Right to Water in International Water Law:**

#### ➤ **UNECE Convention<sup>59</sup>:**

The Convention on the Protection and Use of Trans-boundary and International Lakes or the Water Convention is an international environmental agreement. This convention by preparing cooperation between members States wants to protect and ensure the quantity, quality and sustainable use of trans-boundary water resources. In this convention there is no provision which directly refers to human rights, although the objective of this Convention is directly linked to the human right to water (quantity and quality of water). In Protocol on Water and Health to the 1992 Convention on the Protection and Use of Trans-boundary Watercourses and International Lakes in 1999, mentioned human rights aspects<sup>60</sup>. The protocol in addition to human needs and the right to water, has pointed out to other human rights, such as: The right to health and the right to a healthy environment<sup>61</sup>, the right to development<sup>62</sup>, the right to sanitation<sup>63</sup> and the right to food<sup>64</sup>.

#### ➤ **UN Watercourses Convention 1997<sup>65</sup>:**

The UN Watercourses Convention between other agreements which are related to water was the first agreement that presented the “Vital human needs” term, it contains a provision that has a special normative utility in establishing the human right to water.

<sup>57</sup>-Resolution adopted by the Human Rights Council, 16/2, part 4.

<sup>58</sup>-Resolution adopted by the Human Rights Council, 16/2, part 5(a).

<sup>59</sup>-The Convention on the Protection and Use of Trans-boundary Watercourses and International Lakes (Water Convention). Available at: <http://www.unece.org/env/water.html>

<sup>60</sup>-Protocol on Water and Health to the 1992 Convention on the Protection and Use of Trans-boundary Watercourses and International Lakes, done in London, on 17 June 1999.

Available at: <http://www.unece.org/fileadmin/DAM/env/documents/2000/wat/mp.wat.2000.1.e.pdf>

<sup>61</sup>-Protocol on Water and Health to the 1992 Convention on the Protection and Use of Trans-boundary Watercourses and International Lakes, done in London, on 17 June 1999, Article 1, Article 2(1), Article 2(6), Article 2(7), Article 2(12)(b), Article 4(1), Article 4(2)(a), Article 4(2)(b), Article 4(2)(c), Article 4(2)(d), Article 4(4)(a), Article 4(6), Article 5(i), Article 6(1)(b), Article 6(2)(a), Article 6(2)(i), Article 8(1)(a)(iii), Article 9(1)(a), Article 9(2)(a), Article 9(4)(b), Article 13(1)(d).

<sup>62</sup>-Article 1, Article 2(10), Article 4(4)(c), Article 5(j), Article 6(2)(m), Article 9(4)(a), Article 9(4)(b), Article 10(1)(a), Article 10(1)(c).

<sup>63</sup>-The 1992 Convention on the Protection and Use of Trans-boundary Watercourses, Article 2(8), Article 2(9)(b), Article 2(12)(b), Article 6(1)(b), Article 6(2)(d), Article 6(2)(e), Article 6(2)(f), Article 6(2)(i), Article 9(2)(a), Article 9(2)(b), Article 9(3), Article 14(1).

<sup>64</sup>-The 1992 Convention on the Protection and Use of Trans-boundary Watercourses, Article 2(2).

<sup>65</sup>-UN WATERCOURSES CONVENTION User's Guide, 2012, Rieu-Clarke, Alistair, Moynihan, Ruby, Oliver Magsig, Bjørn, United Kingdom.



The definition of “vital human needs”, in Article 10(1) (1) of the Convention, could be “Sufficient water to sustain human life, including both drinking water and water required for the production of food in order to prevent starvation”<sup>66</sup>.

Therefore, the provisions of Watercourses Convention on vital human needs are based on the human right to water, so the main condition for preparing these vital human needs is accessing to water or fulfilling the human right to water to all<sup>67</sup>. The provision on the ‘vital human needs’ provision under article 10 of the Watercourses Convention affirms that states have indeed been willing to recognize the human right to water, a stance that has been reiterated in the General Assembly’s 2010 declaration on the human right to water<sup>68</sup>. In this convention directly or indirectly has mentioned to some human rights or other rights which are derived from the right to the water. In this part we are going to refer to these human rights that have stated in UN Watercourse Convention, for example Article 1, “applies to uses of international watercourses and of their waters for purposes other than navigation and to measures of protection, preservation and management related to the uses of those watercourses and their waters”<sup>69</sup>. In this article the right to a healthy environment and the right to food inexplicitly have mentioned. Since the people who are living along the river may provide their foods through the international watercourses, the use of living resources in international water courses is very important. The UN Watercourse Convention explicitly didn’t apply to the use of living resources, but from the interpretation of the convention, there are some limitations for fishing just for protection and preservation of ecosystem of the international watercourses<sup>70</sup>.

Water course states have obligations to do regularly exchange data and information. This obligation is based on the general obligation to cooperate in article 8 of the 1997 UN Watercourses Convention, which are related to watercourse issues, such as: hydrological, ecological nature and water quality. If one of the water course states request to another state to provide and collecting data or information, it should collect data, information and do the best endeavor to fulfill requests of the requesting states<sup>71</sup>. This obligations can be relate to the right to freedom of opinion and expression. This right has recognized as the right of everyone to access information by public bodies at all levels, local, national and international. “This right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers”<sup>72</sup>. Watercourse states, based on article 30 of the 1997 UN Watercourses Convention, have some obligations which are about “exchange of data and information, notification, communication, consultations and negotiations, through any indirect procedure

<sup>66</sup>-UN WATERCOURSES CONVENTION User’s Guide, 2012, Ibid, Article 10 (1) (1) p 128.

<sup>67</sup>-BULTO, TAKELE SOBOKA, 2011, The Human Right to Water: Invention or Discovery?, Melbourne Journal of International Law, Vol 12, p 24. Available at: <https://www.law.unimelb.edu.au/files/dmfile/download4b811.pdf>

<sup>68</sup>-BULTO, TAKELE SOBOKA, 2011, Ibid, p 25.

<sup>69</sup>-The 1997 UN Watercourses Convention, Article 1.

<sup>70</sup>-The 1997 UN Watercourses Convention, Articles 20, 22 and 23.

<sup>71</sup>-The 1997 UN Watercourses Convention, Article 9: Regular Exchange of Data and Information.

<sup>72</sup>-The Universal Declaration of Human Rights, Article 19.

accepted by them”<sup>73</sup>. There is one exception about this right in this case, based on article 31, “the notifying state is not required to submit any data or information which is vital to its national defense or security”<sup>74</sup>. Also, articles 20 of the 1997 UN Watercourses Convention, states that “Watercourse states shall, individually and, where appropriate, jointly, protect and preserve the ecosystems of international watercourses”. The water courses states obligations count as a development of the equitable and reasonable utilization and participation as a general principle. States must prevent the new sources of pollution, cooperate with other state to protect the marine environment. By development of article 5 of the UN Water Convention, the obligation to protect ecosystems of international watercourses, can be seen. States should do the adequate protection which encompasses measures relating to conservation, security, and water-related disease, as well as technical and hydrological ‘control’ mechanisms, such as the regulation of flow, floods, pollution, erosion, drought and saline intrusion<sup>75</sup>. Beside this article, articles 21 to 25 are all about the ecosystem of the watercourse. For more explanation, Article 21, has mentioned to changing the composition and quality of the water that can have effect on human health or safety, or article 22<sup>76</sup>, which prevent Watercourse states to introduction of alien or new species that “may have effects detrimental to the ecosystem of the watercourses resulting in significant harm to other watercourse states”. Article 23 obliged Watercourse states to cooperate with other states in order to protection and preservation of the marine environment, by taking into account generally accepted international rules and standards<sup>77</sup>. Article 24, contains a combination of other UN Water Convention’s articles, which are directly or indirectly related to human rights, the same as the obligation to cooperate (Article 8), the obligation of equitable participation in Article 5(2), the necessity of exchange data and information (Article 9), the requirement to notify and consult on planned measures (Articles 11-19), the obligation to protect and preserve ecosystems (Articles 20, 21, 22 and 23), prevent and mitigate harmful conditions (Article 27), address emergency situations (Article 28)<sup>78</sup>. Also, Article 25, stressed the principle of cooperation between governments, participation on an equitable basis in the construction and maintenance or defrayal of the costs of such regulation. Article 29 of the Watercourses Convention which is about International Watercourses and Installations in time of Armed Conflict, explains that watercourse states during armed conflicts will apply both the laws of international watercourses and the laws of armed conflict to protection and prevention of significant harm to the international watercourse states. For example, two watercourse states during war time are prohibited from manipulating and attacking drinking water installations, supplies, irrigation or installations that are including dangerous forces the same as dams and dykes<sup>79</sup>. Article 32 of the Watercourses Convention is on

<sup>73</sup>- The 1997 UN Watercourses Convention, Article 30.

<sup>74</sup>-The 1997 UN Watercourses Convention, Article 31.

<sup>75</sup>-Rieu-Clarke, Alistair, Moynihan, Ruby, Oliver Magsig, Bjørn, UN WATERCOURSES CONVENTION User’s Guide, United Kingdom, 2012, The 1997 UN Watercourses Convention, Article5 (1), Commentary article 20(1).

<sup>76</sup>-The 1997 UN Watercourses Convention, Article 22.

<sup>77</sup>-The 1997 UN Watercourses Convention, Article 23.

<sup>78</sup>-Rieu-Clarke, Alistair, Moynihan, Ruby, Oliver Magsig, Bjørn, UN WATERCOURSES CONVENTION User’s Guide, United Kingdom, 2012, The 1997 UN Watercourses Convention, Article5 (1), Commentary article 24 (1).

<sup>79</sup>-Rieu-Clarke, Alistair, Moynihan, Ruby, Oliver Magsig, Bjørn, UN WATERCOURSES CONVENTION User’s Guide, United Kingdom, 2012, The 1997 UN Watercourses Convention, Commentary article 29 (1, 2).

the protection of people's interests especially who are living in one of the trans-boundary countries, where the injury occurred. This article has referred to one principle is named non-discrimination principle. This principle will apply, when one of the watercourse state face with the environment problems. International law used to ensure that this domestic remedies is including to trans-boundary complainants. The duties of watercourse state is that: it "shall not discriminate on the basis of nationality or residence or place where the injury occurred, in granting to such persons, in accordance with its legal system, access to judicial or other procedures, or a right to claim compensation or other relief in respect of significant harm caused by such activities carried on in its territory"<sup>80</sup>. The provisions of the Watercourses Convention are binding on ratifying states, and in order to ensure that everybody has access to freshwater and that countries do not use water as a coercive tool, all countries must sign an international convention with clear rules and regulations with respect to key points about water and the trans-boundary management of water.

The UNWC and UNECE Conventions already contain the major strategies for trans-boundary negotiations, however, these treaties are not widely accepted. Also, the UN Watercourses Convention does not provide much legal basis for protecting or applying human rights rules, and the only reference is in Article 10 to vital human needs.

- Convention and Statute on the Regime of Navigable Waterways of International Concern (Barcelona, April 20, 1921)
- Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar, February 2, 1971)
- Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Helsinki 1992)
- Protocol on Water and Health to the 1992 Convention on the Protection and Use of Transboundary Watercourses and International Lakes
- United Nations Convention on the Non-Navigational Uses of International Watercourses (UN General Assembly, May 21, 1997)

Totally, by examining these instruments, we are realizing that the mentions to human right to water in these Conventions are not explicit, but as I mentioned before, some of them indirectly or implicitly have mentioned to human right to water. Among all of these documents, Berlin Rules on Water Resources (2004), Helsinki Rules on the Uses of the Waters of International Rivers (1992) and The Seoul Rules on International Ground waters (1986), are Non- treaty Instruments in International Water Law. Generalized legal principles for the management of transboundary waters are defined by the Convention on the Non-Navigational Uses of International Watercourses, ratified by the U.N. General Assembly in 1997. The Convention, reflects the difficulty of marrying legal and hydrologic intricacies: while the Convention provides many important principles, including responsibility for cooperation and joint management, it is also vague and occasionally contradictory. The Convention also provides few practical guidelines for water allocations – the heart of most water conflict. Neither these principles, nor those of the Convention's precursors –

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<sup>80</sup>-The 1997 UN Watercourses Convention, Article 32.

the 1966 Helsinki Rules or subsequent draft articles by international legal bodies – have been explicitly invoked in more than a handful of water negotiations or treaties<sup>81</sup>.

### **The right to water in Current National laws:**

The same decisions of Supreme Court of Appeals or courts of appeal on the same subject matter Creates the legal procedure. In other words, legal procedure can be called common law of the courts. Judicial procedures in establishing the rule of law, especially in cases of violations, silence, implications and contradictions in the law plays a very important role, and this has caused to be placed in the hierarchy of sources of law. For example, the importance of the role of judicial procedures in support of the environment and prevent malicious activity in developing countries, can be noted. Iran and India are among the countries through judicial procedures have imposed the legal rules in the field of environmental law. It seems that countries through their domestic judicial procedures that have been imposed on similar topics can be used to establish the rules of customary international law. Countries through the same judicial decisions about the similar issues on their civil rights and in a long time, can create international norms. In other words, the norm is composed of three elements: 1- repeats a common behavior among countries and international organizations . 2- Time requirement, that should be applied at least in a short time and for the same.3- led to the creation of a judicial procedure. Although, a country's domestic judicial decisions or opinions of international courts are not binding or also have not legal basis, but the purpose of the reference to the decision is Understanding the reasoning method and the quality of implementation of the rule of law. However, judicial precedents such as some internal systems have not been accepted in international law, but it seems that the same countries through judicial procedures on similar topics can be involved in the development of international law. That's why in this part, we refer to domestic judicial decisions concerning the right to water. Due to the high number of cases in this regard, from every continent, only two countries have been selected and briefly outlined the cases raised in them. The right to water in several state policies is counted and guaranteed as the right to basic human needs. Some states have merged the human right to water into their constitutions. Other countries the same as Brazil's National Water Resource Policy, retains government control over certain water rights. The human right to water and a water right, totally are different together, because water right is a legal right that may be granted by the holder of this right to someone else<sup>82</sup>. It seems that, Jurisprudences on the human right to safe drinking water and sanitation by different states into their national legal systems lead to ensuring the right to water and the other human rights which couldn't be exercised without this right in practice. By examining a various cases in the human right to water, it can be understood that judges are willing to apply the human right to water and sanitation in their decisions. There are some principles and criteria in human rights area which are more relevance to the realization of the rights to water and

<sup>81</sup>-Wolf, Aaron T., WATER AND HUMAN SECURITY, p 31.

Available at: <http://opensiuc.lib.siu.edu/cgi/viewcontent.cgi?article=1171&context=jcwre>

<sup>82</sup>-CARLSON, JUSTIN, 2011, A Critical resource or just a wishing well? A Proposal to codify the law on trans-boundary aquifers and establish an explicit human right to water, LAW ON TRANSBOUNDARY AQUIFERS, p 1417.

sanitation. The principles include: non-discrimination and equality, access to information, participation, accountability and sustainability, and the human rights criteria are: availability, physical accessibility, acceptability, affordability, quality and safety. Into the national legal system, we have some cases on the obligations of states to fulfilling the right to water and sanitation which are related to these human rights principles and criteria. In this section we have tried to explain briefly about the selected cases, among the other cases, only to explain or understand more about these principles in national legal systems. Based on, non-discrimination and equality principle states are obliged to the prohibition of discrimination of persons or groups on the various aspects in water and sanitation's area. For realizing the rights to water and sanitation for all, states because of their duties and obligations should consider to different factors. It means that they should have consideration to 1-some places include: informal settlements, rural and urban deprived areas and water scarce regions which their residents have deprived from water and sanitation. 2-Groups that are potentially vulnerable include: indigenous peoples, refugees, women, children and etc<sup>83</sup>. There are so many cases in current national laws in Africa, Americas, Asia and Europe, about the violation of different principles of the human right to water. For example, the case of "Ibrahim Sangor Osman v Minister of State for Provincial Administration & Internal Security eKLR<sup>84</sup>", in the High Court of Kenya in Africa (2011), was one of them which was about the violation of the principle of non-discrimination in human right to water.

### **Vital Human Need in Transboundary Waters:**

In this part, we are going to examine two main instruments of transboundary waters (UN Watercourses Convention 1997 and UNECE Convention) and finding a connection between the right to water and other human rights.

#### **-UNECE Convention<sup>85</sup>:**

The Convention on the Protection and Use of Transboundary and International Lakes or the Water Convention is an international environmental agreement. This convention by preparing cooperation between members States, wants to protect and ensure the quantity, quality and sustainable use of trans-boundary water resources. In this convention, there is no provision which directly refers to human rights, although the objective of this convention indirectly linked to the human right to water (quantity and quality of water). In Protocol on Water and Health to the 1992 Convention on the Protection and Use of Transboundary Watercourses and International Lakes in 1999, mentioned human rights aspects<sup>86</sup>. The protocol in addition to human needs and the right to

<sup>83</sup>- THE HUMAN RIGHTS TO WATER AND SANITATION IN COURTS WORLDWIDE (A SELECTION OF NATIONAL, REGIONAL AND INTERNATIONAL CASE LAW), 2014, WaterLex and WASH United, p 11.

<sup>84</sup>-THE HUMAN RIGHTS TO WATER AND SANITATION IN COURTS WORLDWIDE (A SELECTION OF NATIONAL, REGIONAL AND INTERNATIONAL CASE LAW), 2014, Ibid, pp 38-39.

<sup>85</sup>-The Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention)

Available at: <http://www.unece.org/env/water.html>

<sup>86</sup>-Protocol on Water and Health to the 1992 Convention on the Protection and Use of Trans-boundary Watercourses and International Lakes, done in London, on 17 June 1999.



water, has pointed out to other human rights, such as: The right to health and the right to a healthy environment<sup>87</sup>, the right to development<sup>88</sup>, the right to sanitation,<sup>89</sup> and the right to food<sup>90</sup>.

#### **- UN Watercourses Convention 1997<sup>91</sup>:**

The UN Watercourses Convention was the first agreement that mentioned “Vital human needs.” It contains a provision that has a special normative utility in establishing the human right to water. The definition of “vital human needs”, in Article 10(1) (1) of the Convention, could be “Sufficient water to sustain human life, including both drinking water and water required for the production of food in order to prevent starvation”<sup>92</sup>. Therefore, the provisions of Watercourses Convention on vital human needs are based on the human right to water, so the main condition for preparing these vital human needs is accessing to water or fulfilling the human right to water to all<sup>93</sup>. In other words, the reference to ‘vital human needs’ in Art. 10 of the UNWC may be interpreted to be a reflection of the concerns regarding human right to water. The provision on the ‘vital human needs’ provision under article 10 of the Watercourses Convention affirms that states have indeed been willing to recognize the human right to water, a stance that has been reiterated in the General Assembly’s 2010 declaration on the human right to water<sup>94</sup>. In this Convention, directly or indirectly refers to some human right or other rights that are derived from the right to the water. In this part, we are going to refer to these human rights that have stated in UN Watercourse Convention, for example Article 1, “applies to uses of international watercourses and of their waters for purposes other than navigation and to measures of protection, preservation and management related to the uses of those watercourses and their waters”<sup>95</sup>. In this article the right to a healthy environment and the right to food inexplicitly have mentioned. Since the people who are living along the river may provide their foods through the international watercourses, the use of living resources in international water courses is very important. The UN Watercourse

Available at: <http://www.unece.org/fileadmin/DAM/env/documents/2000/wat/mp.wat.2000.1.e.pdf>

<sup>87</sup>-Protocol on Water and Health to the 1992 Convention on the Protection and Use of Trans-boundary Watercourses and International Lakes, done in London, on 17 June 1999, Article 1, Article 2(1), Article 2(6), Article 2(7), Article 2(12)(b), Article 4(1), Article 4(2)(a), Article 4(2)(b), Article 4(2)(c), Article 4(2)(d), Article 4(4)(a), Article 4(6), Article 5(i), Article 6(1)(b), Article 6(2)(a), Article 6(2)(i), Article 8(1)(a)(iii), Article 9(1)(a), Article 9(2)(a), Article 9(4)(b), Article 13(1)(d).

<sup>88</sup>-Article 1, Article 2(10), Article 4(4)(c), Article 5(j), Article 6(2)(m), Article 9(4)(a), Article 9(4)(b), Article 10(1)(a), Article 10(1)(c).

<sup>89</sup>-The 1992 Convention on the Protection and Use of Trans-boundary Watercourses, Article 2(8), Article 2(9)(b), Article 2(12)(b), Article 6(1)(b), Article 6(2)(d), Article 6(2)(e), Article 6(2)(f), Article 6(2)(i), Article 9(2)(a), Article 9(2)(b), Article 9(3), Article 14(1).

<sup>90</sup>-The 1992 Convention on the Protection and Use of Trans-boundary Watercourses, Article 2(2).

<sup>91</sup>UN WATERCOURSES CONVENTION User’s Guide, 2012, Rieu-Clarke, Alistair, Moynihan, Ruby, Oliver Magsig, Bjørn, United Kingdom.

<sup>92</sup>-UN WATERCOURSES CONVENTION User’s Guide, 2012, Ibid, Article 10 (1) (1) p 128.

<sup>93</sup>-BULTO, TAKELE SOBOKA, 2011, The Human Right to Water: Invention or Discovery?, Melbourne Journal of International Law, Vol 12, p 24.

Available at: <https://www.law.unimelb.edu.au/files/dmfile/download4b811.pdf>

<sup>94</sup>-BULTO, TAKELE SOBOKA, 2011, Ibid, p 25.

<sup>95</sup>-The 1997 UN Watercourses Convention, Article 1.

Convention explicitly didn't apply to the use of living resources, but from the interpretation of the Convention, there are some limitations for fishing just for protection and preservation of ecosystem of the international watercourses<sup>96</sup>. Water course states have obligations to do regularly exchange data and information. This obligation is based on the general obligation to cooperate in article 8 of the 1997 UN Watercourses Convention, which are related to watercourse issues, such as: hydrological, ecological nature and water quality. If one of the water course states request to another state to provide and collecting data or information, it should collect data, information, and endeavor to fulfill requests of the requesting states<sup>97</sup>. Watercourse states, based on article 30 of the 1997 UN Watercourses Convention, have some obligations which are about "exchange of data and information, notification, communication, consultations and negotiations, through any indirect procedure accepted by them"<sup>98</sup>. There is one exception about this right in this case, based on article 31, "the notifying state is not required to submit any data or information which is vital to its national defense or security"<sup>99</sup>. Also, articles 20 of the 1997 UN Watercourses Convention, states that "Watercourse states shall, individually and, where appropriate, jointly, protect and preserve the ecosystems of international watercourses". The water courses states obligations count as a development of the equitable and reasonable utilization and participation as a general principle. States must prevent the new sources of pollution, cooperating with other states to protect the marine environment. By development of article 5 of the UN Water Convention, the obligation to protect ecosystems of international watercourses, can be seen. States should do the adequate protection which encompasses measures relating to conservation, security, and water-related disease, as well as technical and hydrological 'control' mechanisms, such as the regulation of flow, floods, pollution, erosion, drought, and saline intrusion<sup>100</sup>. Beside this article, articles 21 to 25 are all about the ecosystem of the watercourse. For more explanation, Article 21, has mentioned to changing the composition and quality of the water that can have effect on human health or safety, or article 22<sup>101</sup>, which prohibit Watercourse states from introduction alien or new species that "may have effects detrimental to the ecosystem of the watercourses resulting in significant harm to other watercourse states". Article 23 obliged Watercourse states to cooperate with other states in order to protect and preserve the marine environment, by taking into account generally accepted international rules and standards<sup>102</sup>. Article 24, contains a combination of other UN Water Convention's articles, which are directly or indirectly related to human rights, the same as the obligation to cooperate (Article 8), the obligation of equitable participation in Article 5(2), the necessity of exchange data and information (Article 9), the requirement to notify and consult on planned measures (Articles 11-19), the obligation to protect and preserve ecosystems (Articles 20, 21, 22 and 23), prevent and mitigate harmful conditions (Article 27), address emergency situations

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<sup>96</sup>-The 1997 UN Watercourses Convention, Articles 20, 22 and 23.

<sup>97</sup>-The 1997 UN Watercourses Convention, Article 9: Regular Exchange of Data and Information.

<sup>98</sup>- The 1997 UN Watercourses Convention, Article 30.

<sup>99</sup>-The 1997 UN Watercourses Convention, Article 31.

<sup>100</sup>-Rieu-Clarke, Alistair, Moynihan, Ruby, Oliver Magsig, Bjørn, UN WATERCOURSES CONVENTION User's Guide, United Kingdom, 2012, The 1997 UN Watercourses Convention, Article 5 (1), Commentary article 20(1).

<sup>101</sup>-The 1997 UN Watercourses Convention, Article 22.

<sup>102</sup>-The 1997 UN Watercourses Convention, Article 23.

(Article 28)<sup>103</sup>. Also, Article 25, stressed the principle of cooperation between governments, participation on an equitable basis in the construction and maintenance or defrayal of the costs of such regulation. Article 29 of the Watercourses Convention which is about International Watercourses and Installations in time of Armed Conflict, explains that watercourse states during armed conflicts will apply both the laws of international watercourses and the laws of armed conflict to protect and prevent significant harm to the international watercourse states. For example, two watercourse states during war time are prohibited from manipulating and attacking drinking water installations, supplies, irrigation, or installations that contain dangerous forces such as dams and dykes<sup>104</sup>. Article 32 of the Watercourses Convention is on the protection of people's interests especially who are living in one of the transboundary countries where the injury occurred. This article has referred to the non-discrimination principle. This principle will apply when one of the watercourse state is faced with environment problems. International law used to ensure that domestic remedies include transboundary complainants. The duties of a watercourse state is that: it "shall not discriminate on the basis of nationality or residence or place where the injury occurred, in granting to such persons, in accordance with its legal system, access to judicial or other procedures, or a right to claim compensation or other relief in respect of significant harm caused by such activities carried on in its territory"<sup>105</sup>. The provisions of the Watercourses Convention are binding on ratifying states, and in order to ensure that everybody has access to freshwater and that countries do not use water as a coercive tool, all countries must sign an international convention with clear rules and regulations with respect to key points about water and the transboundary management of water. The UNWC and UNECE Conventions already contain the major strategies for transboundary negotiations, however, these treaties are not widely accepted. Also, the UN Watercourses Convention does not provide much legal basis for protecting or applying human rights rules, and the only reference is in Article 10 to vital human needs.

### **Protection of vital human needs and its codifications:**

- Draft articles on the law of the non-navigational uses of international watercourses and commentaries thereto and resolution on trans-boundary confined groundwater, 1994:

The commentary of article 6, has expressed that, a wide variety of international watercourses and human needs preclude achieving a comprehensive list of factors for equitable and reasonable utilization of international waters. However, in case of conflict and disagreement regarding the international transboundary waters, not only this dispute must be resolved through the accepted rules and principles, but through special attention to human needs. Based on general commentary of article 10 (para. 4), this attention "is to be paid to providing sufficient water to sustain human life, including both drinking water and water required for the production of food in order to prevent

<sup>103</sup>-Rieu-Clarke, Alistair, Moynihan, Ruby, Oliver Magsig, Bjørn, UN WATERCOURSES CONVENTION User's Guide, United Kingdom, 2012, The 1997 UN Watercourses Convention, Article 5 (1), Commentary article 24 (1).

<sup>104</sup>-Rieu-Clarke, Alistair, Moynihan, Ruby, Oliver Magsig, Bjørn, UN WATERCOURSES CONVENTION User's Guide, United Kingdom, 2012, The 1997 UN Watercourses Convention, Commentary article 29 (1, 2).

<sup>105</sup>-The 1997 UN Watercourses Convention, Article 32.

starvation. This criterion is an accentuated form of the factor contained in article 6, paragraph 1 (b), which refers to the "social and economic needs of the watercourse States concerned" ". In order to satisfy human water needs, at the first level, the protection and conservation the water and environmental resources have to be considered, and at the second level, it shouldn't be any priority among uses of water, because, "the absence of such a priority among uses will facilitate the implementation of measures designed to ensure that "vital human needs" are satisfied".

- Draft articles on the Law of Transboundary Aquifers, 2008:

Articles 5 (paragraph 2) and 17 (paragraph 3) of Draft articles on the Law of Trans-boundary Aquifers, 2008, referred to vital human needs. Paragraph 2 of article 5 is talking about priority among the factors which are relevant to equitable and reasonable utilization. It is saying that, to prioritize the factors of utilization of transboundary aquifer, vital human needs should be noted. Article 17(3), has expressed, in emergency situations, aquifer states despite other duties and obligations that they have to do, may take measures to fulfill the vital human needs.

- The UN Watercourses Convention:

Article 10: "Sufficient water to sustain human life, including both drinking water and water required for the production of food in order to prevent starvation".

As an outcome, in all of these instruments, there is no exact definition of vital human needs. As I mentioned above, just in "Draft articles on the law of the non-navigational uses of international watercourses and commentaries thereto and resolution on transboundary confined groundwater" in 1994, there is a brief concept of human needs, which does not include the human-rights obligations with respect to food and water. Its definition of vital human needs is limited to: providing sufficient water to sustain human life (drinking water and water required for the production of food). In order to satisfy human water needs: at first, the protection and conservation the water and environmental resources have to be considered, and the second, it shouldn't be any priority among uses of water, because, "the absence of such a priority among uses will facilitate the implementation of measures designed to ensure that "vital human needs" are satisfied".

### **Transboundary Water Law Principles and Human Rights:**

- **Equitable and reasonable use:**

For defining the equity principle, there is no universal consensus. International law experts have different definitions of equity. For example, Brownlie has defined equity "considerations of fairness, reasonableness, and policy often necessary for the sensible application of the more settled rules of law", or Lowe who states that: "serviceable definition of equity is: general principles of justice as distinguished from any particular system of jurisprudence or the municipal law of any State". Also, Frank states: one of the reasons for considerations of applying fairness to sharing

waters in transboundary waters is equity<sup>106</sup>. For the first time, the concept of equity applied in the International Law Association which was founded in 1873. In ILA's meeting in Helsinki in 1966 adopted some articles which have been called the Helsinki Rules on the Uses of the Waters of International Rivers. The Helsinki Rules are one of the first effort at codification of the law of International watercourse law. In the Helsinki Rules, there is equitable utilization as one of the prominent principle in International watercourse law<sup>107</sup>. Also, the concept of equity is applied in the United Nation's 1997 Convention on the Non-Navigational Uses of International Watercourses), which are related to water allocation. In transboundary water, equitable utilization means: water resources within a river basin should be fairly shared by all of the riparian states, based on the equality of rights which are shared by sovereign states<sup>108</sup>. The Permanent Court of International Justice in the "River Oder Case" in 1929, recognized this principle and after that ICJ in Gabčíkovo Nagymaros Case confirmed this principle<sup>109</sup>. ICJ in its different cases, has mentioned to this principle. For example in one of its cases, "The continental shelf (Tunisia-Libya)", stated: "Equity as a legal concept is a direct emanation of the idea of justice"<sup>110</sup>, or in the Fisheries Jurisdiction cases<sup>111</sup>, the court insisted that, the states have an obligation of reasonable use and good faith negotiations for achieving an equitable result<sup>112</sup>.

In international law, equity is equivalent to fairness or justice with procedural and substantive aspects together<sup>113</sup>. In application of the principle of equitable and reasonable utilization, if one state declares that, because of another riparian state's actions, it has bearing or may bear significant harm to its use of an international watercourses by the other riparian state, the state which allegedly is causing this harm has to prove that its uses of the watercourse was based on equitable and reasonable utilization principle, and in this case the burden of proof would transfer from the state that has declared this significant harm, to the state that allegedly may cause or causing the harm<sup>114</sup>. Equity and general principles of law are sources of rules that are used by ICJ for making decisions.

<sup>106</sup>-McIntyre, Owen, Utilization and Environmental Protection of Shared International Freshwater Resources – The Role of Equity, p 2.

<sup>107</sup>-McCaffrey, Stephen C, 2001, The Law of International watercourses (Non-Navigational Uses), Ibid, pp 320-321.

<sup>108</sup>-Fairness and Equity in Trans-boundary Water Resources: A Comparative Analysis of the TWO Analysis and WAS Models as applied to the Jordan River Basin, 2009, The London School of Economics and Political Science, p 9.

Available at: [http://www.transboundarywaters.orst.edu/publications/related\\_research/Baltutis\\_dissertation\\_2009.pdf](http://www.transboundarywaters.orst.edu/publications/related_research/Baltutis_dissertation_2009.pdf)

<sup>109</sup>-McCaffrey, Stephen C, 2001, The Law of International watercourses (Non-Navigational Uses), Ibid, p 329.

<sup>110</sup>-ICJ Reports 1982, Continental Shelf Case (Tunisia/Libyan Arab Jamahiriya), Judgment of 24 February 1982, pp. 18-60, para 71.

Available at: <http://www.icj-cij.org/docket/index.php?sum=330&p1=3&p2=3&case=71&p3=0>

<sup>111</sup>-Fisheries Jurisdiction (United Kingdom of Great Britain and Northern Ireland v. Iceland), Summary of the Summary of the Judgment of 2 February 1973.

Available at: <http://www.icj-cij.org/docket/index.php?sum=302&p1=3&p2=3&case=55&p3=5>

<sup>112</sup>-Anton, Donald K., Shelton, Dinah L, 2011, Environmental Protection and Human Rights, Cambridge University Press, p 98.

<sup>113</sup>-TM, Franck, 1995, Fairness in International Law and Institutions, Clarendon Press, Oxford University Press, p 9.

<sup>114</sup>-McCaffrey, Stephen C, 2001, The Law of International watercourses (Non-Navigational Uses), Ibid, p 339.



These principles are provided in article 38.1.c of the court's statute<sup>115</sup>. In the Gabčíkovo Nagymaros Case, the International Court of Justice in its decision supported the importance of operating "in an equitable and reasonable manner"; also it confirmed the centrality of the principle of equitable utilization. The evidence that Court refers to it as the principle of perfect equality of all riparian states, was the 1997 Watercourse Convention. But, Justice Kooijmans in his separate opinion in the Case Concerning Kasikili/ Sedud Isand, has stated that: "there is overwhelming support for the doctrine of equitable utilization as a general rule of law for the determination of the rights and obligations of states in this field", it indicates from practices and available law<sup>116</sup>. As well as, the Pulp Mills case was another case in International court of justice in which the principle of equitable and reasonable use was reaffirmed. It states that, two factors is required to fulfill the principle of equitable and reasonable use<sup>117</sup>. One is a "balance between Parties' rights and needs to use the river for economic and commercial activities on the one hand, and the obligation to protect it from any damage to the environment that may be caused by such activities on the other"<sup>118</sup>. The International Court of Justice in the Pulp Mills case mentioned the relationship between the equitable and reasonable utilization principle and the right to sustainable development as a human right, which is intended to protect the environment and maintain balance in using shared waters<sup>119</sup>. The equitable principle has an important role in international water resource disputes, because by applying this principle the process of making decision would be clearer and predictable. The courts or decision makers in the court proceeding, in international water resource disputes, firstly, should consider to vital human needs, and the water needs of countries which are involved in this conflict. Secondly, they should consider to other factors the same as physical and geographical characteristics of the drainage basins<sup>120</sup>.

In addition, based on article 13 of the fourth report of the water resources law committee (ILA's), equitable and reasonable use should be determined, due to the relevant factors which include: "a) Geographic, hydrographic, hydrological, hydrogeological, climatic, ecological, and other natural features. b) The social and economic needs of the basin States concerned. c) The population dependent on the waters of the international drainage basin in each basin State,..." and other factors<sup>121</sup>. As can be seen in this article, for making decision about the equity principle and

<sup>115</sup>-GOLDIE, L. F. E, 1985, Equity and the International Management of Trans-boundary Resources, Natural Resources Journal, Vol. 25, pp 666-667.

<sup>116</sup>-Versteeg, Mila, 2007, Equitable Utilization Or The Right to Water?, T.F.L.R. International Law, Vol. 13:368, pp 375-386.

<sup>117</sup>-Pulp Mills on the River Uruguay (Argentina v. Uruguay), Judgment, ICJ, 2010.

Available at: <http://www.icj-cij.org/docket/index.php?p1=3&p2=3&case=135&code=au&p3=4>

<sup>118</sup>-Pulp Mills on the River Uruguay (Argentina v. Uruguay), Summary of the Judgment of 20 April 2010, para 175, p 15.

Available at: <http://www.icj-cij.org/docket/files/135/15895.pdf>

<sup>119</sup>-Sanchez, Juan Carlos, Roberts, Joshua, 2014, Trans-boundary Water Governance, IUCN Environmental Policy and Law Paper No. 75, p 45. Available at: <https://portals.iucn.org/library/sites/library/files/documents/IUCN-EPLP-no.075.pdf>

<sup>120</sup>-McIntyre, Owen, Utilization and Environmental Protection of Shared International Freshwater Resources – The Role of Equity, p 42.

<sup>121</sup>-Helsinki Revision, Sources of the International Law Association Rules on Water Resources, p 47.

reasonable use, in addition to the geographic, hydrographic, hydrogeological, climatic, ecological, and other factors, it has referred to the human needs, such as: social and economic needs and population dependent on the waters. After that, in the next article directly, has mentioned to government's commitment to fulfill the vital human needs. Article 14 states that: "1. in determining an equitable and reasonable use, States shall first allocate waters to satisfy vital human needs. 2. No other use or category of uses shall have an inherent preference over any other use or category of uses".<sup>122</sup>

### **Equitable and reasonable use (How it can be related to human rights?)**

Equity has an important role in protection of the global environment and biological diversity, prevention of stratospheric zone depletion and global climate change<sup>123</sup>, which is connected to human rights indirectly. In the most cases, countries with trans-boundary waters during their operation or using of water resources, due to non-compliance with the equity principle and reasonable use of water to be confronted with some problems. One of the most important is, the health issue of people who are living in these areas, because by reducing the quantity and sometimes the quality of water by other riparian states, accessing to safe drinking water and sanitation for domestic use and agriculture will be limited. Then, human rights and equity principle needs health institutions for amending the health of the poor people and more importantly changing the conditions which have created the poverty. So, human rights and equity principle, both are trying to provide equal opportunity for all people regardless of gender, race, ethnicity or any other discrimination<sup>124</sup>. Equity applies to individual, groups of people and to communities in particular place. "Moreover, equity may often demand that individuals look beyond their own welfare, recognizing that the good of the community may well be different from personal welfare. The community association with water is sufficiently prevalent in many communities to merit status as a distinct equity concern"<sup>125</sup>. The right to human dignity and the basic human needs are originated by the right to water, starts with the individual. Fulfillment of these rights is depended on the international water courses agreements between riparian states for sharing their waters, because fulfillment of the right to basic human needs, human dignity and other rights which originated from the right to water may have some expenses of the fulfillment in the other riparian states. The current challenge that is related to equity and human rights is inequities in access to safe drinking water and sanitation. In some communities, there is no access to safe water and sanitation or they have water depression of water resources due to scarcity, pollution, poor or no management of water and sanitation infrastructures or in some cases because people who are living in these areas cannot afford water services expenses. For more explanation, it Can be cited the

Available at: <http://www.ila-hq.org/en/committees/index.cfm/cid/32>

<sup>122</sup>-Helsinki Revision, Sources of the International Law Association Rules on Water Resources, Ibid, p 49.

<sup>123</sup>-McCaffrey, Stephen C, 2001, The Law of International watercourses (Non-Navigational Uses), Ibid, p 344.

<sup>124</sup>-Braveman, Paula, Gruskin, Sofia, 2003, Poverty, equity, human rights and health, Bulletin of the World Health Organization, 81 (7), p 540.

Available at: <http://www.who.int/bulletin/volumes/81/7/Braveman0703.pdf>

<sup>125</sup>-Whiteley, John M, Ingram, Helen, Perry, Richard, 2008, Water, place, and equity, The MIT Press, Cambridge, Massachusetts London, England, p 13.

South African democratic government, which to apply the equitable principle and as its result, the realization of other human rights, has ratified some rules about promoting equity and prevent unfair discrimination, especially gender discrimination<sup>126</sup>. As an example, the South African democratic government in its National Water Policy of 1997, underlined on the importance of the needs of the majority of this government who don't have access to water for productive use. This policy was going to involve women in participation and management of water<sup>127</sup>. Sometimes, there is another problem. The problem is that these services are not in accordance with the needs of its community, for example, a community has access to safe drinking water and sanitation, but "(a) are not adapted to the particular needs of certain groups (e.g. people with disabilities), (b) are not adequately available in institutions that those groups rely on (e.g. schools, prisons, refugee camps) or (c) certain groups (e.g. ethnic minorities, illegal settlers) may be denied access to water and sanitation due to intentional or unintentional discrimination practices"<sup>128</sup>. The Protocol on Water and Health entered into force in 2005. According this protocol the pan-European region have committed to ensure that "equitable access to water, adequate in terms both of quantity and of quality, (is) provided for all members of the population, especially those who suffer a disadvantage or social exclusion"<sup>129</sup>. The Office of the United Nations High Commissioner for Human Rights, in its decision, 2/104, on Human Rights and Access to Water, referred to the human rights obligations which are related to equitable access to safe drinking water and sanitation under international human rights instruments. As well as, the Office of the United Nations High Commissioner for Human Rights, held a consultation on 11 May 2007 on human rights and equitable access to safe-drinking water and sanitation that concentrates to the domain and contexts of human rights obligations for providing access to safe-drinking water and sanitation<sup>130</sup>.

Based on this statement, the UN expects all states to do all the necessary efforts to assure a non-discriminatory right to water as a normal extension to right to life<sup>131</sup>. Water equity means the equity of water resources which dedicated to various water users in the same district or between various districts. Most of the times, there is a situation of asymmetry between upstream and downstream

<sup>126</sup>-Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000.

Available at: <http://www.justice.gov.za/legislation/acts/2000-004.pdf>

<sup>127</sup>-NOZIBELE MJOLI, RAYMOND NENZHELELE HLATHI DEVELOPMENT SERVICES, 2009, Assessment of Gender Equity in Water User Associations, Report to the Water Research Commission, WRC Report No. KV 219/09, pp 8-9.

<sup>128</sup>-The Equitable Access Score-card, supporting policy processes to achieve the human right to water and sanitation, Protocol on Water and Health to the Convention on the Protection and Use of Trans-boundary Watercourses and International Lakes, p 5.

<sup>129</sup>-The Equitable Access Score-card, supporting policy processes to achieve the human right to water and sanitation, Protocol on Water and Health to the Convention on the Protection and Use of Trans-boundary Watercourses and International Lakes, p 4.

<sup>130</sup>-OHCHR study on human rights obligations related to equitable access to safe drinking water and sanitation, Council's Decision 2/104 - Human Rights and Access to Water.

Available at: <http://www.ohchr.org/EN/Issues/WaterAndSanitation/StudyWater/Pages/OHCHRStudyWaterIndex.aspx>

<sup>131</sup>- AbuZeid, Khaled M, Elrawady, Mohamad H, Water rights and equity in the Arab region, p 1.

Available at: <http://water.cedare.int/files15%5CFile2818.pdf>

countries for using of transboundary waters, because in most cases downstream users may not affect upstream users, but upstream users do cause downstream impacts<sup>132</sup>. This problem refers to international aspect of equity. In domestic law, the principle of equity can be related to human rights, the same as the right to adequate housing, which states: everyone should have a degree of security of occupancy with some available services should, include safe drinking water, sanitation and energy<sup>133</sup>. In this case equity has important role in the water industries, so the equity and water services pricing put together. "Some parties believe that basic water needs for households is a human right and should not be priced at any circumstances and costs of delivery should be provided by governments. Other accept the idea of pricing, but at subsidized rates"<sup>134</sup>. Despite the comments, in 1992, the United Nations in order to tackle countries water resources problems, in its fourth principle has stated the basic right of all human beings to have access to clean water and sanitation at an affordable price. One way to fulfilling efficient and equitable use of water resources is managing water as an economic good<sup>135</sup>. In other words, with respect to water, states have some duties and obligations which include six duties: 1-security 2-conservation 3-sustainability 4-equity 5-investment 6-planning. As we mentioned above, one of these duties is equity. To achieve this goal, which is to be considered a government responsibility, caring some items is very important, because water has the economic characteristics in one hand and on the other hand, all members of the public should be entitled to minimum amounts water for basic human needs regardless of ability to pay. For some people who have low-income, the government could subsidize up to 13 gallons of water per person per day partially or totally. Another item that apply in times of drought or emergencies, is regulation of water use. Governments often use the regulation of water use, that pricing on the water couldn't reduce the water consumption. In accordance with the principle of equity, social ethics, and public perception, all water consumers should reduce the volume of water consumed in times of drought and urgent<sup>136</sup>. In addition to these cases, other governments have some organizations for improving the health situation of poor people and also changing the conditions which causes the situations worse and more complicated. By doing such acts, the links between the principle of equity and human rights is identified. The principle of equity and human rights are closely related to each other, because compliance with the principle of equity, other human rights, including the right to health, access to safe drinking water, sanitation, etc. are realized. For example, to achieve the principle of equity, equal opportunity in the field of health and sanity is created for minorities who have been discriminated against. So, governments in their dominated borders, as parties to human rights treaties are obliged to achieve of full realization of

<sup>132</sup>- AbuZeid, Khaled M, Elrawady, Mohamad H, Water rights and equity in the Arab region, Ibid, p 6.

<sup>133</sup>-Amnesty International, Human rights for human dignity a primer on economic, social and cultural rights, 2005, Amnesty International Publications, London WC1X 0DW United Kingdom, p14.

Available at: <https://www.amnestyusa.org/sites/default/files/pdfs/humanrightsforhumandignity.pdf>

<sup>134</sup>-AbuZeid, Khaled M, Elrawady, Mohamad H, Water rights and equity in the Arab region, Ibid, p 8.

<sup>135</sup>-The DUBLIN Statement on Water and Sustainable Development.

Available at: <http://www.wmo.int/pages/prog/hwrp/documents/english/icwedece.html#p4>

<sup>136</sup>-ARNOLD, CRAIG ANTHONY (TONY), 2009, Water Privatization Trends in the United States: Human Rights, National Security, and Public Stewardship, WM. & MARY ENVTL. L. & POL'Y REV, Vol. 33:785, pp 842-844.

human rights<sup>137</sup>. In international aspect, applying the principle of equitable utilization is not always meant the realization of human rights. Sometimes applying and according to the principle of equitable utilization will lead to human rights violations. In Nile basin water resources, based on the equitable utilization of and benefit from, the common Nile basin water resources and the sustainable development of the entire basin, it designed to build some large dams, but the world commission on dams (WCD), declares that large dams which have poorly planned, can deteriorate problems of poverty, water inequity, regional tensions and other problems. For instance, Nile-Merowe and Kajbar in Sudan, Tekeze and Gilgel-Gibe in Ethiopia, and Bujagali in Uganda, are harmed by social and environmental problems, corruption, secrecy, and human rights violations<sup>138</sup>. As well as, there are some conflicts between applying the principle of equitable utilization and states obligations to fulfilling their human rights commitments. Nowadays, the principle of equitable utilization has developed in international water law, it can be the best solution to secure access to clean drinking water and sanitation, and also to conflicts, especially when water becomes scarce. But there is one problem, that is by applying this principle is likely to face with some challenges, when in one hand, the states have obliged to ensure access of their citizens to a minimum water level and on the other hand, these states should give the priority to the principle of equitable utilization, because it is in line with the global spirit of human rights and in comparison with the right to water as the recently emerged right, it has stronger status in international water law<sup>139</sup>.

#### ○ Intergenerational aspects of the right to water

Equity has an important role in intergenerational and intra-generational areas. Intergenerational means to apply the equity principle between the present and future generations. This specific aspect of equity has been accepted in different areas of international law, including: International Law of the Sea, Outer Space Law, International Law on Nature Preservation and Environment Law. But, intra-generational equity is just for the current generations and it means that all people should have equitable relationships together. As the New Delhi Declaration<sup>140</sup> as a political statement which has mentioned to the states obligations of its members, in order to disaster risk reduction and resilience has stated: “the right of all peoples within the current generations entitlement to the earth natural resources”<sup>141</sup>. The connection of this aspect of equity “intra-generational”, with human rights is, by realizing this principle, it would be fairer access to equal opportunities, rights, and more fair incomes for all people of the community, which are related to international economic law too. While, in the human rights area and also in international economic law, there is no

<sup>137</sup>-Braveman, Paula, Gruskin, Sofia, 2008, Poverty, equity, human rights and health, Ibid, pp 539-540.

<sup>138</sup>-Wouters, Patricia, Tarlock, A. Dan, 2007, Shared Benefits of International Waters an Equitable Apportionment?, Colo. J. Int'l Env'tl. L. & Pol'y, Vol. 18:3, pp 534-535.

<sup>139</sup>-Versteeg, Mila, 2007, Equitable Utilization or the right to water?, Ibid, p 392.

<sup>140</sup>-New Delhi Declaration 2016 – Asian Ministerial Conference on Disaster Risk Reduction (AMCDRR) 2016 Available at: <http://www.rcrc-resilience-southeastasia.org/wp-content/uploads/2016/11/Final-NEW-DELHI-DECLARATION-05-November-2016.pdf>

<sup>141</sup>-Schrijver, N. J, 2007, the Evolution of Sustainable Development in International Law: Inception, Meaning and Status, p 343.



attention to future generations' interests<sup>142</sup>. If countries want to have equitable and reasonable utilization, according to article 6 of the UN Watercourses Convention, they should take into account some criteria that include the hydrologic, climatic, economic, and social conditions of people who are living in basin states, but following those criteria doesn't mean that human rights will be upheld because there is no hierarchy or priority among the criteria. This article doesn't prevent uses from lowering the capacity to uphold human rights. The principle of equitable and reasonable utilization does not have a certain definition of states' obligations in itself, because on one hand the states should ensure that there is sufficient amount of water for realizing vital human needs in transboundary water systems, then based on this assurance and the satisfaction of vital human needs, co-riparian states can be helped. On the other hand, as McCaffrey believes, state's obligations to ensure having enough water in a transboundary water system for the satisfaction of vital water needs for other co-riparian states does not exist. Because when in one country there is not enough water, it is not necessary for this country to ensure the quantity of water that remains in system. This country cannot deprive its people in order to be able to uphold human rights and vital human needs of another basin state's population. In this case, both riparian states according to another general principle "duty to cooperate" should find a common solution. (UN General Assembly 2008) As It has mentioned before, although there is not priority among the criteria of the equitable and reasonable utilization, this general principle should protect vital water needs of people who are living in basin states. "This protection is also taken up in other articles of the UN Watercourses Convention and also in the 2008 Draft Articles on the law of trans-boundary aquifers, prepared by the International Law Commission (ILC) as a codification of customary rules that apply to the management of groundwater resources (United Nations General Assembly 2008)"<sup>143</sup>.

- **No-Harm Principle:**

This obligation exists in the law of the environment and it applied to international watercourses too. There are some important factors in applying this obligation. The first factor is that the harm must be significant and the second is that it should be unreasonable. "In the field of international watercourses in particular, the function of the threshold of "significant harm is to trigger discussion over: a) whether and to what extent harm has occurred, and if so, b) whether the source state exercised due diligence to prevent the harm, and c) whether it is reasonable for the complaining state to insist on being free from the harm"<sup>144</sup>. There are some international instruments on states obligations for avoiding causing significant pollution harm to other states. In the comprehensive Assessment of the Freshwater Resources of the world, prepared by UN agencies, the problem of water pollution is introduced. Also, Agenda 21 and the UN Convention on International

<sup>142</sup>-Schrijver, N. J, 2007, the Evolution of Sustainable Development in International Law: Inception, Meaning and Status, Ibid, pp 343-344.

<sup>143</sup>-Leb, Christina, 2012, The right to water in a transboundary context: emergence of seminal trends, Ibid, p 647.

<sup>144</sup>-McCaffrey, Stephen C, 2001, The Law of International watercourses (Non-Navigational Uses), Ibid, p 380. [There are more recent editions.]

Watercourses (1997) address water pollution problems in their contents. Agenda 21, mentions states' duties to prevent and control of water pollution<sup>145</sup>.

The 1997 UN Watercourses Convention in its articles 20 and 21 mentioned protection and preservation of international watercourse ecosystems and state obligations to prevent, reduce, and control of pollution<sup>146</sup>. The most important consequence from states neglecting these principles and duties is that such neglect may cause significant harm to other watercourse states or their environment. In addition to these instruments, there are the 1992 ECE Convention on the Protection and Use of Transboundary Watercourses and International Lakes, the 1994 Convention on Cooperation for the Protection and Sustainable Use of the Danube River, the 1995 Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin, and the 1995 protocol on shared watercourse systems in the Southern African Development Community Region<sup>147</sup>.

#### ○ **Harm and Human Rights (what is considered harm?)**

For evaluating states actions in applying equitable and reasonable principles, in using transboundary waters, the ILC has a commentary to article 7 of UN Watercourses Convention (1997), which states: "A use which causes significant harm to human health and safety is understood to be inherently inequitable and unreasonable." Significant harm to a state would cause to significant harm to human health, safety, and environment means these kind of uses of transboundary waters was not based on equitable and reasonable use. Also, in the ECE Convention, the definition of transboundary impact is any serious effect on the environment, human health, safety, water, air, and other items<sup>148</sup>. In this case, if we want to understand, how non-compliance with this principle by basin states can effect on the human rights situation of people who are living on these areas, it can be compared to polluting shared water resources because pollution is a kind of harm which inflicted by both upstream and downstream states on each other. Water pollution can affect the human rights of people who are living in basin states, include: the right to food,

<sup>145</sup>-United Nations Conference on Environment & Development Rio de Janeiro, Brazil, 3 to 14 June 1992, AGENDA 21, para 18.40(b): "All States, according to their capacity and available resources, and through bilateral or multilateral cooperation, including United Nations and other relevant organizations as appropriate, could implement the following activities: ... b. Water pollution prevention and control".

Available at: <https://sustainabledevelopment.un.org/content/documents/Agenda21.pdf>

<sup>146</sup>-The 1997 United Nations Convention on the Law of the Non-Navigational Uses of International Watercourses, Article 20: "Watercourse States shall, individually and, where appropriate, jointly, protect and preserve the ecosystems of international watercourses". Article 21: "... 2. Watercourse States shall, individually and, where appropriate, jointly, prevent, reduce and control the pollution of an international watercourse that may cause significant harm to other watercourse States or to their environment, including harm to human health or safety, to the use of the waters for any beneficial purpose or to the living resources of the watercourse. Watercourse States shall take steps to harmonize their policies in this connection.

3. Watercourse States shall, at the request of any of them, consult with a view to arriving at mutually agreeable measures and methods to prevent, reduce and control pollution of an international watercourse, such as: ..."

Available at: <http://www.un.org/law/cod/watere.htm>

<sup>147</sup>-McCaffrey, Stephen C, 2001, The Law of International watercourses (Non-Navigational Uses), Ibid, pp 383-390.

<sup>148</sup>-McCaffrey, Stephen C, 2001, The Law of International watercourses (Non-Navigational Uses), Ibid, pp 386-391.

sanitation, and access to safe and clean water. As a result, the deprivation of an equitable and reasonable use of water in international transboundary waters impacts on humans and human rights, including the right to water, the right to food, and the right to a healthy environment in international water law instruments, the right to health, the right to sanitation, the right to human dignity, and other rights.

- **Duty to Cooperate:**

The Duty to Cooperate is very helpful in international law on transboundary water resources, because there are many states with different technical capacities to use and exploitation of these sources. Cooperation in international water law is an essential factor that other procedural rules for the best functioning need, also for achieving and preserving an equitable allocation of international watercourse. Article 8 of the 1997 UN Watercourses Convention states: “watercourse states shall cooperate on the basis of sovereign equality, territorial integrity, mutual benefit and good faith in order to attain optimal utilization and adequate protection of an international water course”<sup>149</sup>. In addition, in the other articles of the convention mentioned to the general obligation to cooperate. Paragraph 2 of Articles 5 of the Convention on the Law of the Non-Navigational Uses of International Watercourses in 1997, mentions a right to participation of Watercourse States which includes the right to utilize the watercourse and the duty to cooperate in the use, development and protection of trans-boundary waters<sup>150</sup>. Article 25 of the Convention on the Law of the Non-Navigational Uses of International Watercourses, refers to the obligation of cooperation between the countries, but the commitment is not only to meet the state’s needs. Watercourse states in factors such as sovereign equality, territorial integrity, mutual benefit, Good faith, assessment of the others state’s needs, the possibilities of this cooperation and in order to create opportunities for regulation of the flow of the waters of an international watercourse, decide to cooperate<sup>151</sup>. The content of this article includes articles 9<sup>152</sup> of this convention too. Through the regular exchange of relevant information, Watercourse states can have active and equitable participation in the development and protection of International Watercourses by developing good-faith and mutually beneficial cooperation. There are lots of international treaties with respect to minimum flow. In some of these treaties, states join them to decrease harm and to increase benefits, then they can manage cooperation through it. In some treaties the same as Mekong Cooperation Agreement in 1995, Treaty between India and Nepal on the Mahakali River in 1996 (article 1), Treaties on the Nile in 1929 and 1959 (article 10) and Treaty on Sharing of the Ganges Waters at Farakka in 1996, minimum environmental flow requirements were recognized. Among these treaties, the 1996 Treaty on Sharing of the Ganges Waters at Farakka and the 1929 and 1959 treaties on the Nile are the most important instruments which have addressed the minimum flow requirements to fulfilling human needs and ensuring sufficient water for economic and human use of people who are living

<sup>149</sup>-McCaffrey, Stephen C, 2001, The Law of International watercourses (Non-Navigational Uses), *ibid*, pp 399- 402.

<sup>150</sup>-The Convention on the Law of the Non-Navigational Uses of International Watercourses in 1997, p 5.

Available at: [https://treaties.un.org/doc/Treaties/1998/09/19980925%2006-30%20PM/Ch\\_XXVII\\_12p.pdf](https://treaties.un.org/doc/Treaties/1998/09/19980925%2006-30%20PM/Ch_XXVII_12p.pdf)

<sup>151</sup>-The Convention on the Law of the Non-Navigational Uses of International Watercourses in 1997, *Ibid*, p14.

<sup>152</sup>-The Convention on the Law of the Non-Navigational Uses of International Watercourses in 1997, *Ibid*, p14.

in downstream. Beside them, the Niger Basin Water Charter in its article (10) in 2008, has settled down an obligation to preserve the most important minimum flows, in order to protection of human health<sup>153</sup>.

The objective of a legal duty to cooperate has two aspects. First, it includes the equitable and reasonable utilization principle of shared waters and their adequate protection, and second, the cooperative management of the resources from the view of the surrounding environment or ecosystem. The both aspects are related to human needs in different ways. In other words, one of the main purposes of the cooperation obligations of states is ensuring that all the riparian states have their own interests and all their needs including economic and social needs considered<sup>154</sup>.

### **Duty to Cooperate and Human Rights:**

As I mentioned before, based on international human rights instruments, all states have the responsibility to promote and protect all human rights. Human rights entail both rights and obligations. States assume obligations and duties under international law to respect, to protect, and to fulfil human rights. The obligation to respect means that States must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to protect requires States to protect individuals and groups against human rights abuses. The obligation to fulfil means that States must take positive action to facilitate the enjoyment of basic human rights. At the individual level, while we are entitled our human rights, we should also respect the human rights of others<sup>155</sup>. In some international instruments such as “The convention on the rights of the child” in 1989, it was recognized that states by considering to economic, social, and cultural rights, in order to implement these rights shall undertake all appropriate measures and take the necessary steps to maximize their available resources, but if countries fail to fulfill their human rights obligations, according to paragraph 1 of Article 2 of the International Covenant on Economic, Social, and Cultural Rights<sup>156</sup> (CESCR), they can take step through international assistance and co-operation<sup>157</sup>. Along with all these issues, it must be considered that the country's human rights obligations does not refer to the applicant countries, but these obligations impose to other countries for fulfilling the minimum basic human rights of people who are living in countries which have requested assistance. International assistance and cooperation isn't restricted to development assistance and or to developed and developing countries. In transboundary waters, the international

<sup>153</sup>-Leb, Christina, Cooperation in the Law of Trans-boundary Water Resources, 2013, Cambridge University Press, pp 173-174.

<sup>154</sup>-Leb, Christina, Cooperation in the Law of Trans-boundary Water Resources, 2013, Ibid, pp 201-253.

<sup>155</sup>-Available at: <http://www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx>

<sup>156</sup>-International Covenant on Economic, Social and Cultural Rights, Adopted and opened for signature, ratification and accession by General Assembly, resolution 2200A (XXI) of 16 December 1966, entry into force 3 January 1976, in accordance with article 27.

Available at: <http://www.ohchr.org/Documents/ProfessionalInterest/cescr.pdf>

<sup>157</sup>-International Covenant on Economic, Social and Cultural Rights, 1966, Ibid, Article 2: 1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

assistance and cooperation are covering realization of the right to access to safe and sufficient water, notwithstanding the level of development in their economy and finances, because the state's human rights obligations are unavoidable and even by the absence of international assistance, the countries cannot relieve these obligations<sup>158</sup>. The purpose of the obligation to fulfill, which has entered into international instruments, is promoting the enjoyment of human rights in other states. The explanation of this norm has stated by the CESCR in General comment 14 on the right to the highest attainable standard of health. It states: "...States parties have to respect the enjoyment of the right to health in other countries, and to prevent third parties from violating the right in other countries, if they are able to influence these third parties by way of legal or political means, in accordance with the Charter of the United Nations and applicable international law. Depending on the availability of resources, States should facilitate access to essential health facilities, goods and services in other countries, wherever possible, and provide the necessary aid when required....<sup>159</sup>". In addition, the principle of cooperation between states, regardless of their level of development has mentioned in the Alma-Ata Declaration<sup>160</sup> on primary health care. This document has expressed the duty to protect and promote the health of all the people around the world, by all states, communities and health workers. Based on this instrument, to fulfillment of the right to health, States should recognize the principle of international cooperation and realize their commitments. This declaration in its content proclaims that, inequality in the health status of the people in different countries is unacceptable and it is a common concern to all countries. It states: "All countries should cooperate in a spirit of partnership and service to ensure primary health care for all people since the attainment of health by people in any one country directly concerns and benefits every other country...<sup>161</sup>". As a result, international cooperation has a legal basis in international human rights law. Insofar as states which have not strictly adhered to these obligations, they have exercised them as moral or political obligations<sup>162</sup>. These days, the integration of the duty to cooperate on the human rights and interests of individuals is increasing. This is comprehensible through the international instruments in transboundary waters. For example, the main treaties which have focused on promotion of international cooperation between trans-boundary water states are the UN watercourses convention (article 10) and the 2008 ILC Draft Articles (article 5(2)). The vital human needs have been recognized and protected by these documents.

<sup>158</sup>-Leb, Christina, Cooperation in the Law of Trans-boundary Water Resources, 2013, Ibid, p 218.

<sup>159</sup>-CESCR General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12), Adopted at the Twenty-second Session of the Committee on Economic, Social and Cultural Rights, on 11 August 2000 (Contained in Document E/C.12/2000/4), paragraph 39, p 14.

Available at: <http://www.ohchr.org/Documents/Issues/Women/WRGS/Health/GC14.pdf>

<sup>160</sup>-Declaration of Alma-Ata, International Conference on Primary Health Care, Alma-Ata, USSR, 6-12 September 1978. Available at: [http://www.who.int/publications/almaata\\_declaration\\_en.pdf?ua=1](http://www.who.int/publications/almaata_declaration_en.pdf?ua=1)

<sup>161</sup>-Declaration of Alma-Ata, International Conference on Primary Health Care, 1978, Ibid, p 3.

IX: All countries should cooperate in a spirit of partnership and service to ensure primary health care for all people since the attainment of health by people in any one country directly concerns and benefits every other country. In this context the joint WHO/UNICEF report on primary health care constitutes a solid basis for the further development and operation of primary health care throughout the world.

<sup>162</sup>-Leb, Christina, Cooperation in the Law of Trans-boundary Water Resources, 2013, Ibid, p 220.



## CONCLUSION

The states which have common transboundary water borders supply their consuming water by transboundary water systems. It is a fact that the use or exploitation of transboundary waters by one basin state has a direct impact on the quantity and quality of water consumed by other basin states. It can be claimed that one of the weaknesses in the transboundary water agreements is ignoring the human rights obligations that are related to water. By studying most transboundary water agreements between the different states it is concluded that one of the main reasons for creating differences between basin states in using and operating transboundary waters is the lack of attention to human rights obligations related to water. There are many reasons and justifications for these deficiencies and shortcomings in human rights treaties related to water. Some writers and commentators believe that the human right to water is an indispensable right, and, because this is an obvious right there is no longer need to bring it up in international documents. While, another group of authors believed that the right to water is a self-standing human right that can be derived from other rights. Among all the international and regional documents and instruments that have direct or indirect reference to the right to water, General Comments No.15, and 2010 General assembly<sup>163</sup> can be regarded as the only documents, which directly confirm the existence of human rights on the human rights commitment:

## REFERENCES

1. CESCR General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12), Adopted at the Twenty-second Session of the Committee on Economic, Social and Cultural Rights, on 11 August 2000 (Contained in Document E/C.12/2000/4). Available at: <http://www.ohchr.org/Documents/Issues/Women/WRGS/Health/GC14.pdf>
2. Council's Decision 2/104 - Human Rights and Access to Water. Available at: <http://www2.ohchr.org/english/issues/water/>
3. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), December 1979. Available at: <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>
4. Convention (IV) relative to the Protection of Civilian Persons in Time of War, Geneva, 12 August 1949. Available at: <https://ihl.databases.icrc.org/ihl/385ec082b509e76c41256739003e636d/6756482d86146898c125641e004aa3c5>
5. CHARTER OF THE UNITED NATIONS AND STATUTE OF THE INTERNATIONAL COURT OF JUSTICE, SAN FRANCISCO 1945. Available at: <https://treaties.un.org/doc/publication/ctc/uncharter.pdf>
6. Declaration of Alma-Ata, International Conference on Primary Health Care, Alma-Ata, USSR, 6-12 September 1978. Available at: [http://www.who.int/publications/almaata\\_declaration\\_en.pdf?ua=1](http://www.who.int/publications/almaata_declaration_en.pdf?ua=1)

<sup>163</sup>General Assembly, 24 September 2010, A/HRC/15/L.14, Fifteenth session, Agenda item 3, 15/... Human rights and access to safe drinking water and sanitation.

Available at: [http://www.internationalwaterlaw.org/documents/intldocs/UNGA-HRC\\_Resolution-HR\\_to\\_Water\\_and\\_Sanitation.pdf](http://www.internationalwaterlaw.org/documents/intldocs/UNGA-HRC_Resolution-HR_to_Water_and_Sanitation.pdf)

7. ECONOMIC, SOCIAL AND CULTURAL RIGHTS, Realization of the right to drinking water and sanitation Report of the Special Rapporteur, El Hadji Guissé, E/CN.4/Sub.2/2005/25 11 July 2005.  
Available at: [http://www.ohchr.org/Documents/Issues/Water/Sub\\_Com\\_Guisse\\_guidelines.pdf](http://www.ohchr.org/Documents/Issues/Water/Sub_Com_Guisse_guidelines.pdf)
8. Fisheries Jurisdiction (United Kingdom of Great Britain and Northern Ireland v. Iceland), Summary of the Summary of the Judgment of 2 February 1973.  
Available at: <http://www.icj-cij.org/docket/index.php?sum=302&p1=3&p2=3&case=55&p3=5>
9. General Assembly, 24 September 2010, A/HRC/15/L.14, Fifteenth session, Agenda item 3, 15/... Human rights and access to safe drinking water and sanitation. Available at: [http://www.internationalwaterlaw.org/documents/intldocs/UNGA-HRC\\_Resolution-HR\\_to\\_Water\\_and\\_Sanitation.pdf](http://www.internationalwaterlaw.org/documents/intldocs/UNGA-HRC_Resolution-HR_to_Water_and_Sanitation.pdf)
10. General Comment No. 15 (2002), The right to water (arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights), E/C.12/2002/11, 20 January 2003, COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, Twenty-ninth session, Geneva, 11-29 November 2002, Agenda item 3.  
Available at: [http://www2.ohchr.org/english/issues/water/docs/CESCR\\_GC\\_15.pdf](http://www2.ohchr.org/english/issues/water/docs/CESCR_GC_15.pdf)
11. GENEVA CONVENTION RELATIVE TO THE TREATMENT OF PRISONERS OF WAR OF AUGUST 12, 1949 (GENEVA CONVENTION III) Entry into Force: 21 October 1950.  
Available at: [https://www.legal-tools.org/uploads/tx\\_ltpdb/GenevaConvention\\_3rd\\_Prisonersofwar\\_1949\\_\\_E\\_\\_05.pdf](https://www.legal-tools.org/uploads/tx_ltpdb/GenevaConvention_3rd_Prisonersofwar_1949__E__05.pdf)
12. Human rights and access to safe drinking water and sanitation, Resolution 7/22., Human Rights Council.  
Available at: [http://ap.ohchr.org/documents/E/HRC/resolutions/A\\_HRC\\_RES\\_7\\_22.pdf](http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_7_22.pdf)
13. Human rights and access to water, Decision 2/104.  
Available at: [http://www2.ohchr.org/english/issues/water/docs/HRC\\_decision2-104.pdf](http://www2.ohchr.org/english/issues/water/docs/HRC_decision2-104.pdf)
14. Human rights and access to safe drinking water and sanitation, Resolution 7/22., Human Rights Council.  
Available at: [http://ap.ohchr.org/documents/E/HRC/resolutions/A\\_HRC\\_RES\\_7\\_22.pdf](http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_7_22.pdf)
15. Helsinki Revision, Sources of the International Law Association Rules on Water Resources.  
Available at: <http://www.ila-hq.org/en/committees/index.cfm/cid/32>
16. International Covenant on Civil and Political Rights, Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 23 March 1976, in accordance with Article 49.  
Available at: <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>
17. International Covenant on Economic, Social and Cultural Rights, Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 3 January 1976, in accordance with article 27.  
Available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>
18. ICJ Reports 1982, Continental Shelf Case (Tunisia/Libyan Arab Jamahiriya), Judgment of 24 February 1982, pp. 18-60, para 71.  
Available at: <http://www.icj-cij.org/docket/index.php?sum=330&p1=3&p2=3&case=71&p3=0>
19. International Covenant on Economic, Social and Cultural Rights, Adopted and opened for signature, ratification and accession by General Assembly, resolution 2200A (XXI) of 16 December 1966, entry into force 3 January 1976, in accordance with article 27.  
Available at: <http://www.ohchr.org/Documents/ProfessionalInterest/cescr.pdf>

20. New Delhi Declaration 2016 – Asian Ministerial Conference on Disaster Risk Reduction (AMCDRR) 2016.  
Available at: <http://www.rcrc-resilience-southeastasia.org/wp-content/uploads/2016/11/Final-NEW-DELHI-DECLARATION-05-November-2016.pdf>
21. OHCHR study on human rights obligations related to equitable access to safe drinking water and sanitation, Council's Decision 2/104 - Human Rights and Access to Water.  
Available at: <http://www.ohchr.org/EN/Issues/WaterAndSanitation/StudyWater/Pages/OHCHRStudyWaterIndex.aspx>
22. Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000.  
Available at: <http://www.justice.gov.za/legislation/acts/2000-004.pdf>
23. Protocol on Water and Health to the 1992 Convention on the Protection and Use of Trans-boundary Watercourses and International Lakes, done in London, on 17 June 1999.  
Available at: <http://www.unece.org/fileadmin/DAM/env/documents/2000/wat/mp.wat.2000.1.e.pdf>
24. Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977.  
Available at: <https://ihl-databases.icrc.org/ihl/7c4d08d9b287a42141256739003e636b/d67c3971bcff1c10c125641e0052b545>
25. PROTOCOLS ADDITIONAL TO THE GENEVA CONVENTIONS OF 12 AUGUST 1949, International Committee of the Red Cross.  
Available at: [https://www.icrc.org/eng/assets/files/other/icrc\\_002\\_0321.pdf](https://www.icrc.org/eng/assets/files/other/icrc_002_0321.pdf)
26. Promotion and Protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, Resolution adopted by the Human Rights Council, A/HRC/RES/12/8, 12 October 2009, Human Rights Council, Twelfth session, Agenda item 3.  
Available at:  
<https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/G09/165/71/PDF/G0916571.pdf?OpenElement>
27. Pulp Mills on the River Uruguay (Argentina v. Uruguay), Judgment, ICJ, 2010.  
Available at: <http://www.icj-cij.org/docket/index.php?p1=3&p2=3&case=135&code=au&p3=4>
28. Pulp Mills on the River Uruguay (Argentina v. Uruguay), Summary of the Judgment of 20 April 2010, para 175.  
Available at: <http://www.icj-cij.org/docket/files/135/15895.pdf>
29. Resolution adopted by the Human Rights Council, 16/2, The human right to safe drinking water and sanitation, Human Rights Council, Sixteenth session, Agenda item 3, Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development.  
Available at: <http://www.refworld.org/pdfid/4dc108202.pdf>
30. Resolution adopted by the Human Rights Council, A/HRC/RES/15/9, Human rights and access to safe drinking water and sanitation, Fifteenth session, Agenda item 3.

Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G10/166/33/PDF/G1016633.pdf?OpenElement>

31. Resolution adopted by the General Assembly on 28 July 2010, A/RES/64/292, the human right to water and sanitation, Sixty-fourth session, Agenda item 48.

Available at:

[http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/64/292&referer=http://www.un.org/en/ga/64/resolutions.shtml&Lang=E](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/64/292&referer=http://www.un.org/en/ga/64/resolutions.shtml&Lang=E)

32. Resolution Adopted by the General Assembly, The right to development, A/RES/54/175, 15 February 2000, Fifty-fourth session, Agenda item 116 (b). Available at:

<http://www.worldlii.org/int/other/UNGA/1999/205.pdf>

33. Resolution adopted by the General Assembly on 28 July 2010, 64/292., The human right to water and sanitation.

Available at: <http://www.un.org/es/comun/docs/?symbol=A/RES/64/292&lang=E>

34. Report of the United Nations High Commissioner for Human Rights on the scope and content of the relevant human rights obligations related to equitable access to safe drinking water and sanitation under international human rights instruments, A/HRC/6/3, 16 August 2007, HUMAN RIGHTS COUNCIL, Sixth session, Item 2 of the provisional agenda.

Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G07/136/55/PDF/G0713655.pdf?OpenElement>

35. Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August- 4 September 2002. Available at:

[http://www.unmillenniumproject.org/documents/131302\\_wssd\\_report\\_reissued.pdf](http://www.unmillenniumproject.org/documents/131302_wssd_report_reissued.pdf)

36. Report of the International Conference on Population and Development, Cairo, 5-13 September 1994.

Available at: [http://www.unfpa.org/sites/default/files/event-pdf/PoA\\_en.pdf](http://www.unfpa.org/sites/default/files/event-pdf/PoA_en.pdf)

37. The Convention on the Law of the Non-Navigational Uses of International Watercourses in 1997.

Available at: [https://treaties.un.org/doc/Treaties/1998/09/19980925%2006-30%20PM/Ch\\_XXVII\\_12p.pdf](https://treaties.un.org/doc/Treaties/1998/09/19980925%2006-30%20PM/Ch_XXVII_12p.pdf)

38. The Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention)

Available at: <http://www.unece.org/env/water.html>

39. The Convention on the Protection and Use of Trans-boundary Watercourses and International Lakes (Water Convention). Available at:

<http://www.unece.org/env/water.html>

40. The 1997 United Nations Convention on the Law of the Non-Navigational Uses of International Watercourses. Available at: <http://www.un.org/law/cod/watere.htm>

41. The United Nations Convention on the Rights of the Child, Adopted and opened for signature, ratification and accession by General Assembly, Resolution 44/25 of 20 November 1989, entry into force 2 September 1990, in accordance with Article 49.

Available at: [http://www.unicef.org.uk/Documents/Publication-pdfs/ UNCRC \\_ PRESS 200910 web.pdf](http://www.unicef.org.uk/Documents/Publication-pdfs/ UNCRC _ PRESS 200910 web.pdf)

42. The Universal Declaration of Human Rights, 1948.

Available at: [http://www.un.org/en/udhrbook/pdf/udhr\\_booklet\\_en\\_web.pdf](http://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf)

43. The DUBLIN Statement on Water and Sustainable Development.

Available at: <http://www.wmo.int/pages/prog/hwrp/documents/english/icwedece.html#p4>

44. United Nations Conference on Environment & Development Rio de Janeiro, Brazil, 3 to 14 June 1992, AGENDA 21.

Available at: <https://sustainabledevelopment.un.org/content/documents/Agenda21.pdf>

45. United Nations Convention on the Rights of Persons with Disabilities, 6 December 2006.

Available at:

[http://www.un.org/disabilities/documents/convention/convention\\_accessible\\_pdf.pdf](http://www.un.org/disabilities/documents/convention/convention_accessible_pdf.pdf)

46. United Nations Water Conference, 1977(Resolutions), in Report of the United Nations Water Conference, Mar del Plata, 14-25 March 1977 (United Nations publication, Sales No. E.77.II.A.12). (Excerpts).

Available at: <http://www.ielrc.org/content/e7701.pdf>

\*\*\*\*\*

47. ARNOLD, CRAIG ANTHONY (TONY), 2009, Water Privatization Trends in the United States: Human Rights, National Security, and Public Stewardship, WM. & MARY ENVTL. L. & POL"Y REV, Vol. 33:785.

48. AbuZeid, Khaled M, Elrawady, Mohamad H, Water rights and equity in the Arab region.

Available at: <http://water.cedare.int/files15%5CFile2818.pdf>

49. Amnesty International, Human rights for human dignity a primer on economic, social and cultural rights, 2005, Amnesty International Publications, London WC1X 0DW United Kingdom.

Available at:

<https://www.amnestyusa.org/sites/default/files/pdfs/humanrightsforhumandignity.pdf>

50. Anton, Donald K., Shelton, Dinah L, 2011, Environmental Protection and Human Rights, Cambridge University Press.

51. Braveman, Paula, Gruskin, Sofia, 2003, Poverty, equity, human rights and health, Bulletin of the World Health Organization, 81 (7).

Available at: <http://www.who.int/bulletin/volumes/81/7/Braveman0703.pdf>

52. BULTO, TAKELE SOBOKA, 2011, The Human Right to Water: Invention or Discovery?, Melbourne Journal of International Law, Vol. 12.

Available at: <https://www.law.unimelb.edu.au/files/dmfile/download4b811.pdf>

53. CARLSON, JUSTIN, 2011, A Critical resource or just a wishing well? A Proposal to codify the law on trans-boundary aquifers and establish an explicit human right to water, LAW ON TRANSBOUNDARY AQUIFERS.

54. Cahill Ripley, Amanda, 2011, The Human Right to Water and Its Application in the Occupied Palestinian Territories, Routledge.



55. Fairness and Equity in Trans-boundary Water Resources: A Comparative Analysis of the TWO Analysis and WAS Models as applied to the Jordan River Basin, 2009, The London School of Economics and Political Science.  
Available at: [http://www.transboundarywaters.orst.edu/publications/related\\_research/Baltutis\\_dissertation\\_2009.pdf](http://www.transboundarywaters.orst.edu/publications/related_research/Baltutis_dissertation_2009.pdf)
56. GOLDIE, L. F. E, 1985, Equity and the International Management of Trans-boundary Resources, *Natural Resources Journal*, Vol. 25.
57. International conference on water and the environment: development issues for the 21st century, 26-31 January 1992, Dublin, Ireland: the Dublin statement and report of the conference, 1992, World Meteorological Organization -Geneva, CH, WMO, Geneva, Switzerland.  
Available at: <http://www.ircwash.org/sites/default/files/71-ICWE92-9739.pdf>
58. Leb, Christina, *Cooperation in the Law of Trans-boundary Water Resources*, 2013, Cambridge University Press.
59. McIntyre, Owen, *Utilization and Environmental Protection of Shared International Freshwater Resources – The Role of Equity*.
60. NOZIBELE MJOLI, RAYMOND NENZHELELE HLATHI DEVELOPMENT SERVICES, 2009, *Assessment of Gender Equity in Water User Associations*, Report to the Water Research Commission, WRC Report No. KV 219/09.
61. Rieu-Clarke, Alistair, Moynihan, Ruby, Oliver Magsig, Bjørn, *UN WATERCOURSES CONVENTION User's Guide*, United Kingdom, 2012, The 1997 UN Watercourses Convention, Article5 (1), Commentary article 20(1).
62. Schrijver, N. J, 2007, *the Evolution of Sustainable Development in International Law: Inception, Meaning and Status*.
63. Sanchez, Juan Carlos, Roberts, Joshua, 2014, *Trans-boundary Water Governance*, IUCN Environmental Policy and Law Paper No. 75. Available at: <https://portals.iucn.org/library/sites/library/files/documents/IUCN-EPLP-no.075.pdf>
64. TM, Franck, 1995, *Fairness in International Law and Institutions*, Clarendon Press, Oxford University Press.
65. *THE HUMAN RIGHTS TO WATER AND SANITATION IN COURTS WORLDWIDE (A SELECTION OF NATIONAL, REGIONAL AND INTERNATIONAL CASE LAW)*, 2014, WaterLex and WASH United.
66. *The Human Right to Water and Sanitation*, Media brief, part 1.  
Available at: [http://www.un.org/waterforlifedecade/pdf/human\\_right\\_to\\_water\\_and\\_sanitation\\_media\\_brief.pdf](http://www.un.org/waterforlifedecade/pdf/human_right_to_water_and_sanitation_media_brief.pdf)
67. *UN WATERCOURSES CONVENTION User's Guide*, 2012, Rieu-Clarke, Alistair, Moynihan, Ruby, Oliver Magsig, Bjørn, United Kingdom.
68. Whiteley, John M, Ingram, Helen, Perry, Richard, 2008, *Water, place, and equity*, The MIT Press, Cambridge, Massachusetts London, England.

69. Versteeg, Mila, 2007, Equitable Utilization Or The Right to Water?, T.F.L.R. International Law, Vol. 13:368.
70. Wouters, Patricia, Tarlock, A. Dan, 2007, Shared Benefits of International Waters an Equitable Apportionment?, Colo. J. Int'l Envtl. L. & Pol'y, Vol. 18:3.
71. Wolf, Aaron T., WATER AND HUMAN SECURITY.  
Available at: <http://opensiuc.lib.siu.edu/cgi/viewcontent.cgi?article=1171&context=jcwre>
72. Available at: <http://www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx>