

Platform for International Water Law

PAP005705

A. Franca¹, C. Leb², M. Tignino³

(1) Federal University of Paraíba and Faculty of Law, University of Geneva

(2) Faculty of Law, University of Geneva

(3) Faculty of Law, University of Geneva

ABSTRACT

Given the growing competition over freshwater resources in the international arena, international law becomes a key tool as it offers a wide range of mechanisms and norms to regulate the utilization of the resource, to prevent and settle disputes and to transform competition into cooperative development paths. Underlining this important role played by international law, the Platform for International Water Law at the University of Geneva brings together legal experts from different regions of world in order to explore the law applicable to transboundary and national freshwater resources from a variety of perspectives. The Platform seeks to be a permanent advisory group in the development of international water law and to take part in the political, scientific and legal debate on water management as well as in educating future generations of water law experts. The poster will highlight the activities, actors and contributions of the Platform.

KEYWORDS: International water law, cooperation, environment

INTRODUCTION

There are more than 260 rivers, one hundred lakes and more than 300 aquifers which are shared by two or more States. Population growth, climate change, and economic development further add to already abound management challenges and competition over the resource. Given this growing competition over freshwater resources in the international arena, international law becomes a key tool as it offers a wide range of mechanisms and norms to regulate the resource utilization, to prevent and settle disputes and to transform competition into cooperative development paths.

All regions of the world are affected by problems related to water, though the respective causes of the problems differ. In some regions, the key challenge is the simple lack of water, as in the Mediterranean area. In other cases, it is a problem of access; this is the case in Africa. In other instances utilization conflicts might arise due to competing demands of consumptive use of water resources and the need for protection of aquatic ecosystems; for example, when a specific utilization causes challenges with respect to water quality and the maintenance of a minimum flow, such as is the case of some heavily industrialized regions in Europe.

The increasing number of bulk water transfer and virtual water trade raise the issue of economic implications of water resources management. Some argue that fresh water is a commodity, which ought to have a price, especially if it is to be used efficiently. Others view the “commodification” of water as inappropriate and point to the ecosystem needs for water and/or to vital human water needs and related human rights obligations to counter the

market perspective. This debate raises the issue about the legal qualification of water as well as the question to what extent trade rules apply to transboundary movements of freshwater.

The Platform for International Water Law brings together international law experts to explore the law applicable to transboundary and national freshwater resources from that variety of perspectives.

TEAM

Under the direction of and in collaboration with Prof. Laurence Boisson de Chazournes, an internationally renowned expert in the field of the international water law, the Platform brings together a number of associated researchers: Ms. Alessandra Franca, Assistant Professor at the Federal University of Paraíba and PhD Candidate at the University of Geneva, Ms. Christina Leb, Research Fellow at the University of Geneva, Dr. Makane Mbengue, Lecturer at the University of Geneva, M. Komlan Sangbana, PhD Candidate and Researcher at the University of Geneva, Dr. Mara Tignino, Senior Researcher at the University of Geneva and Badr Zerdhoud, PhD Candidate at the University of Geneva. The Platform is located at the Department of International Law and International Organization at the University of Geneva.

INTERNATIONAL WATER LAW – TREATIES AND AGREEMENTS

According to the Food and Agriculture Organization of the United Nations, more than 3,600 treaties related to transboundary freshwater resources have been concluded since AD 805. The majority of these instruments concern the regulation of navigation and the determination of political boundaries. During the last century, the subject matter of regulation increasingly included other subject areas and water uses, such as industrial uses, fisheries, human needs and environmental protection. Over the past decades international water law has achieved major milestones in the codification of universal rules with the adoption of the 1997 Convention on the law of the Non-navigational uses of International Watercourses and the 2008 Draft Articles on the Law of Transboundary Aquifers.

ACTIVITIES

Platform activities include: research projects, teaching and capacity building, conferences, expert activities and involvement in international dispute settlement as legal counsels in proceedings related to water.

STUDY TOPICS

Research topics range from work focused on specific case studies (Senegal, Mekong, Amazon, and Nile Rivers, and the Guarani Aquifer), the legal statute of water in times of armed conflict, water governance and the general duty of cooperation in transboundary water law; economic aspects of water resources management are apprehended through the study of investment disputes and arbitration decisions resulting there from.

DIGITAL INTERFACE

Information about Platform activities and a list of publications of Platform members can be found on our website: <http://www.unige.ch/droit/eau>. The site exists in English and French. It furthermore includes information on

events members participate in and provides information and links to other sites valuable for research in the field of international water law.

RESEARCH PROJECTS

The Platform for International Water Law is involved in the development of a number of research projects. The two main projects, which have been carried out over the last two years are:

1) *Governing Water: The Contribution of International Law to Cooperation on Transboundary Freshwater Resources* – (funded by the Swiss National Science Foundation, initiated in 2009, currently ongoing). This project observes future scenarios on the utilization and development of the Earth's freshwater resources largely focused on the potential conflict inherent in competing demands over the resource with respect to the opportunities for cooperation within the context of managing transboundary water systems. Investigating the many forms in which State cooperation manifests itself, the objective is to determine in what way international water law has developed in order to reinforce existing cooperation among riparian States of international water systems, and to create cooperation where not yet established.

2) *Water Management and Protection: International Law Responses to the Challenges of Resource Scarcity* – (supported by the Fondation Boninchi, Jan. 2009 to Dec. 2010). The project analyzes legal aspects of water resources management and protection with respect to institutional and State practice which takes account of the increasing role of private sector operators. Special emphasis is put on enhancing management mechanisms that prove of critical value in addressing the new challenges posed by climate change, increasing pollution and competing claims over the world's fresh water resources.

Both projects strongly consider the ecological role of water; the analysis follows an eco-systemic approach, which perceives water not only from a utilitarian perspective but also as an environmental good. The water cycle is considered as a whole and the role of water as a cross-sectoral matter is acknowledged. The projects therefore adopt a research approach, which applies a systemic perception of all levels of international water law (universal, regional and basin level), and they explore the interplay between this body of norms and other areas of international law; including environmental law, humanitarian law, human rights law and international economic law.

CONCLUSION

In linking research and teaching activities, the Platform for International Water Law seeks to develop new expertise and capacity in the area of international water law. It trains water experts on the key features of international water law and contributes to the knowledge base on legal tools that enhance cooperation and promote conflict prevention through sustainable natural resources management.