

ABOUT EQUITABLE UTILIZATION OF TRANSBOUNDARY AQUIFERS

Lilian Del Castillo-Laborde

ABSTRACT

This paper will explore from a legal perspective the challenges arising for the implementation of the principle of equitable utilization of shared resources to transboundary aquifers. The principle is included in a number of treaties and was invoked in national and international case law, supporting its recognition as a customary rule of international law. As such, it has been incorporated into the Draft Articles of the International Law Commission annexed to Resolution 63/124 of the United Nations General Assembly. The 'equitable' condition of the utilization of an aquifer becomes enforceable in connection with other aquifer States. On this regard, questions surge about opportunity, scope and procedure: When are these States entitled to evaluate the 'equitability' of the utilization? Is it a duty of behavior or a duty of result? The implementation of the rule demands, or not, an institutional framework for transboundary aquifers?

PALAVRA-CHAVE: transboundary aquifers, equitable utilization, shared resources, customary rule