

Abstract

Water Ecosystems Services – The Interface with Human Rights

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Introduction

The purpose of this paper is to play a part in the development of a deepening dialogue between ecologists, economists and lawyers by providing a summary analysis of the integral links between water ecosystem services and human rights. Additionally, it examines the potential role that a rights-based approach to global environmental governance has to provide an international system of legal obligations that could protect water ecosystem services. As a general rule ecosystems services have been the domain of ecologists, economists and policy makers; lawyers have also engaged in the dialogue and development, but to a lesser extent (Mertens *et al*, 2012: 31). The paper argues that strengthening the dialogue between these different disciplines will be beneficial both for ecosystem service-based and human rights-based approaches to the protection of water resources. An updated version of this paper has now been published as a chapter in an edited collection; see (Turner, 2015).

Methods

The study is divided into two main sections. The first section considers the conceptual and practical relationships between water ecosystem services and human rights. It considers the human rights that can be impacted through the loss of water ecosystem services and also other practical relationships between specific rights and water ecosystem services. The analysis of rights that are affected in the management of water ecosystem services includes the rights to life, health, water, food, and property. In addition, it considers the role of procedural environmental rights in enabling citizens to become involved in decision-making processes related to the environment and also the role of those rights designed to set specific environmental standards (substantive environmental rights).

The second section discusses possible ways that rights-based approaches to governance could be further developed to operationalize the protection of water ecosystem services. Whilst acknowledging the leadership that has taken place in certain regions of the world through the development of innovative systems for the protection of the services that water ecosystems provide, it highlights the overall absence within the global legal architecture of an approach that provides clear legal obligations for decision-makers to ensure that water ecosystem services are protected. Therefore, it considers contemporary research and a draft treaty, which could lay the groundwork for the development of a rights-based framework of legal duties for both state and non-state actors, that could respond to that absence (Turner, 2014). It goes on to discuss the feasibility of the institutional arrangements that would be required to enable such a framework to operate on national and international levels in a manner that would lead to ‘no net loss’ or ‘ecological impact neutrality’ (Salzman, 2005: 908; Achterman and Mauger, 2010: 306; McGillivray, 2012: 417-18).

Results and Discussion

Analysis shows that ‘General Comments’ produced by the United Nations relating to the rights to ‘life’, ‘health’ and ‘an adequate standard of living’ can be interpreted as including a duty for states to protect water ecosystem services in their policy and decision making. Similarly, violations of the constitutional right to life have been declared by courts in a

number of jurisdictions where water ecosystem services have been degraded to the extent that the quality of the drinking water has led to, or would lead to, illnesses and deaths. There is also some evidence of regional human rights instruments being used in matters related to the protection of water ecosystem services.

In addition to the types of specific substantive rights referred to in the previous paragraph it is well acknowledged that procedural environmental rights, such as the rights to access information, to participate in decision-making and to access justice can play an integral role in the management of water ecosystem services (Blanco and Razzaque, 2009).

Examination of a particular rights-based approach to global environmental governance indicates that it has the potential to respond to the absence of a comprehensive international regime by creating legal duties for both state and non-state actors for the protection of water ecosystem services. The paper discusses the arguments for such an approach whilst stressing the significant hurdles that would have to be overcome for such a system to be instituted in practice.

Conclusion

The paper makes three main conclusions.

Firstly, that there are strong links between contemporary understandings of a number of human rights and the protection of water ecosystem services.

Secondly, that there is a case for considering a rights-based system of global environmental governance in this context as it could create an international system of legal duties for the protection of water ecosystem services.

Thirdly, owing to the strong links between rights-based approaches and ecosystem services-based approaches to environmental protection; there is a case for increasing the interdisciplinary work in this area between lawyers, economists, ecologists and policy makers.

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