

# The equitable and reasonable utilization of water in international law: sustainability as a necessary element for transboundary water management assessment.

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a) The purpose or thesis of the work;

Due to its conceptual fluidity, what qualifies an equitable and reasonable utilization (ERU) has varied substantially. However, sustainability seems to be gradually revealing itself as a common necessity to the availability of good-for-use transboundary waters. This raises the question of whether sustainability has become a definitional feature of the principle of ERU, which is the topic of the present study.

b) The key issue(s) or problem(s) addressed;

This research investigates to what extent sustainability has been finding legal expression in the characterisation of what is an ERU. The first part analyses (1) the progressive inclusion of environmental considerations in the fabric of ERU principle, and (2) what kind of environmental considerations have been formally woven into it and how they can be categorised. The second part provides an analytical cut to the findings in the first part, deriving the legal consequences in both applicability and conceptualisation of the principle in present days.

c) The methodology or approach used;

To this end, this study is based on a body of primary sources, composed of all treaties, signed after 1900, that contain an explicit reference to ‘equity’ or ‘equitable’, in relation to water use. Fifty-four treaties form this dataset. The codification work of the ILC and the ILA are employed as a supportive legal basis.

d) The results or conclusions derived from the project; and

The analysis demonstrates that sustainability has been progressively incorporated to the texture of ERU. It evidences a vertical application of the principle, towards the environment per se, within one’s territory and irrespective of harm; and an extended horizontal application of the principle, inter-generationally. A thorough legal analysis of the ways in which these environmental considerations normatively interact with the principle of ERU supports the interpretation of sustainability as a necessary, and therefore definitional, element for its assessment, that would precede the weighting of any other factors.

e) Implications of the project relevant to congress themes

This study is relevant to theme ‘D3. Environmental water: innovations and outcomes in policy, law and practice’, as it demonstrates that the principle of ERU has evolved to accommodate sustainability in its very legal definition. An environmental conceptualisation of the principle facilitates implementation, has the potential to unify riparian States’ determination of ERU and to establish the legal foundations for resolving conflicts of uses, thereby achieving a sustainable outcome.

**Keywords** : international water law, equitable and reasonable utilization, sustainability, ecosystem approach, intergenerational equity