



AVV. FEDERICA IORNO
AVV. PAOLA RITA ESPOSITO

TEMI



La nozione di ciclo idrologico



L'Agenda ONU 2030 per lo Sviluppo Sostenibile e l'Acqua



Il diritto umano all'acqua nel diritto internazionale



Il diritto delle acque, nazionale e internazionale

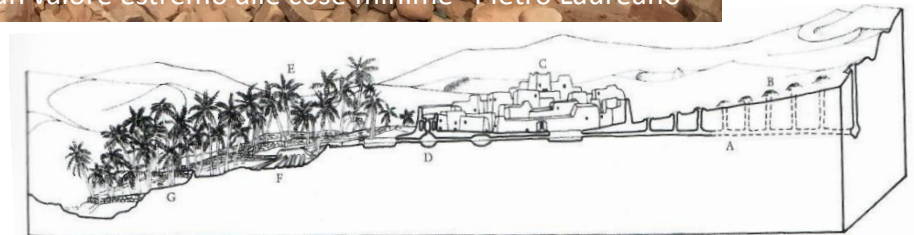
'No Water No Life'

[Chinguetti, Adrar-Mauritanie]



"Le genti del deserto imparano a dare un valore estremo alle cose minime" Pietro Laureano

Per una nuova urbanistica impariamo dalle oasi:
"La piramide rovesciata-Il modello dell'oasi per il pianeta
terra" di Pietro Laureano, Bollati Boringhieri, prima
edizione 1995.



'Water-centred countries'

We cannot afford to wait. Climate policy must put water at the heart of action plans. Water flows across sectors and borders. Working together to manage water more efficiently fights climate change, protects communities and business'

(UN-WATER)

UN-WATER è il sistema di agenzie delle Nazioni Unite (FAO, ESCAP-ECE-ECLAC, UNESCO, ecc.), creato nel 2003, che si occupa delle questioni relative alla Amministrazione e Legislazione delle acque a beneficio dei paesi membri <https://www.unwater.org/>

Attraverso le organizzazioni che fanno parte di UN-Water e altre organizzazioni ed istituzioni finanziarie, come l'Unione Europea, la Banca Mondiale e la Banca di Sviluppo Asiatica, viene offerta assistenza tecnica ai Governi che desiderano modernizzare la propria amministrazione e legislazione delle acque, e per formulare le politiche idriche nazionali.

La FAO (Food and Agriculture Organization of the United Nations) è stata la prima ad avviare studi sulle leggi delle acque nel 1951.

I temi attuali urgenti

❑ Acqua e cambiamenti climatici

“I cambiamenti climatici influenzeranno la disponibilità, la qualità e la quantità di acqua per le necessità essenziali dell'essere umano, minacciando così l'effettivo godimento dei diritti umani all'acqua e ai servizi igienico-sanitari potenzialmente per miliardi di persone. Le alterazioni idrologiche causate dai cambiamenti climatici costituiranno una sfida che andrà ad aggiungersi alla gestione sostenibile delle risorse idriche, già oggetto di notevoli pressioni in numerose aree del mondo. Sicurezza alimentare, salute, insediamenti urbani e rurali, produzione di energia, sviluppo industriale, crescita economica ed ecosistemi dipendono tutti dalle risorse idriche, risultando quindi vulnerabili agli impatti dei cambiamenti climatici. L'adattamento ai cambiamenti climatici e la relativa mitigazione attraverso la gestione delle risorse idriche risultano quindi decisivi per lo sviluppo sostenibile ed essenziali per conseguire gli obiettivi fissati dall'Agenda 2030 per lo sviluppo sostenibile, nell'Accordo di Parigi sui cambiamenti climatici e nel Quadro di riferimento di Sendai per la riduzione del rischio di disastri”

(The 2020 edition of the World Water Development Report (WWDR 2020) entitled 'Water and Climate Change', World Water Assessment Programme (UNESCO WWAP)) https://unesdoc.unesco.org/ark:/48223/pf0000372882_ita

“Il cambiamento climatico sta aumentando la variabilità del ciclo idrologico. La politica e la pianificazione, a livello nazionale e regionale, devono assumere un approccio integrato alla gestione dell'acqua e del cambiamento climatico. La crescente carenza d'acqua e il soddisfacimento della domanda futura di acqua richiedono decisioni su come suddividere le risorse idriche tra tutti gli usi idrici, inclusi quelli per le attività di mitigazione e adattamento delle conseguenze dei cambiamenti climatici, tutti in competizione tra loro”
(da UN-Water Policy Brief on Climate Change and Water, September 2019)

❑ Sicurezza idrica

Si terrà in Senegal il prossimo Forum mondiale co-organizzato dal World Water Council (WWC), che costituisce il più grande evento mondiale sull'acqua: **'9th World Water Forum, Dakar 2021 'Water Security for Peace and Development', WWC** <https://www.worldwatercouncil.org/en/dakar-2021>

Terminologia

CAMBIAMENTO CLIMATICO

The UNFCCC (1992) employs this expression to designate climate change due to human activities (anthropogenic change) only, while it uses the expression "climate variability" to designate climate change due to natural causes.

SCARSITA' IDRICA

'Water scarcity can mean scarcity in availability due to physical shortage, or scarcity in access due to the failure of institutions to ensure a regular supply or due to a lack of adequate infrastructure.' <https://www.unwater.org/water-facts/scarcity/>

SICUREZZA IDRICA

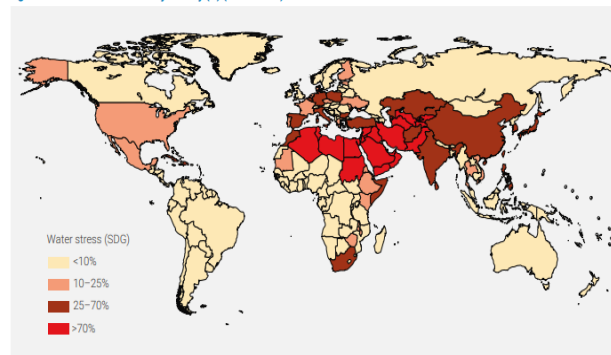
'The capacity of a population to safeguard sustainable access to adequate quantities of acceptable quality water for sustaining livelihoods, human well-being, and socio-economic development, for ensuring protection against water-borne pollution and water-related disasters, and for preserving ecosystems in a climate of peace and political stability.'

<https://www.unwater.org/publications/water-security-infographic/>

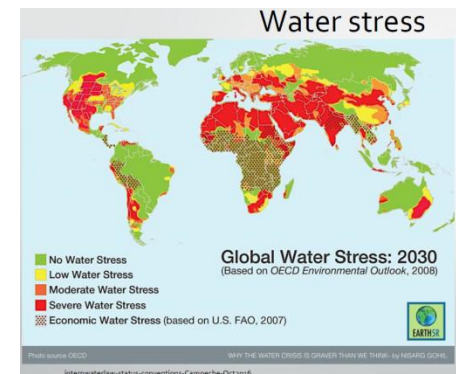
STRESS IDRICO

Level of water stress: fresh water withdrawal as a proportion of available freshwater resources

Figure 3. Levels of water stress by country (%) (2000-2015)



Data source: FAO Aqestat and IWM



THE WATER CYCLE

The Water Cycle Experiment



'Much conventional thinking about the environment tends to separate 'parts' of the same whole. '

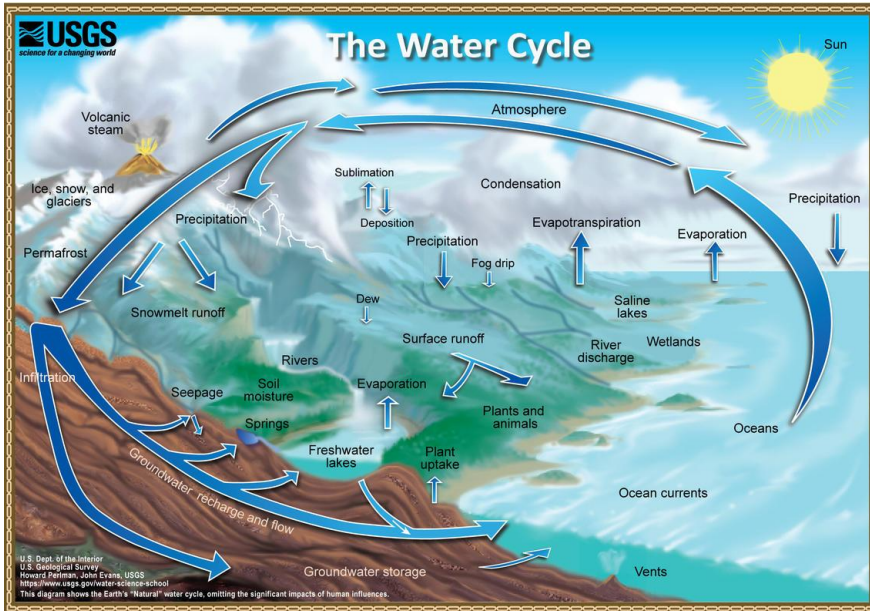
<https://managingwholes.com/eco-water-cycle.htm/>

Quale è la tua frase preferita?

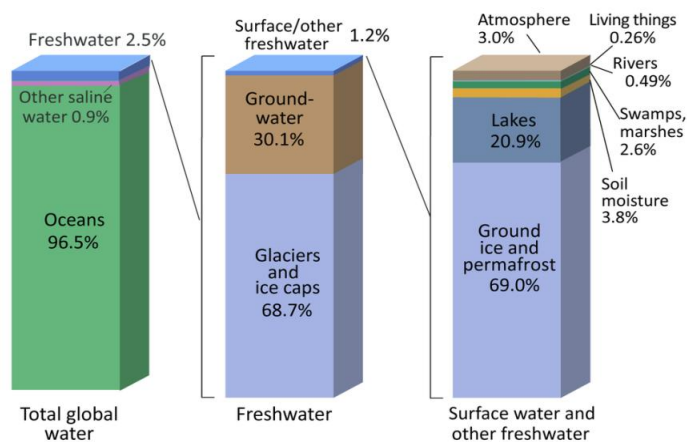
- 1) "Nel ruscello tortuoso trema trepida l'acqua e poi fugge" (Orazio)
- 2) "Se t'avviene di trattare delle acque, consulta prima l'esperienza e poi la ragione" (Leonardo da Vinci)
- 3) "Il percorso più fertile
 - È il più articolato
 - In grado di coprire la distanza maggiore
 - Nel maggior tempo possibile
 - E quindi muovendosi il più lentamente possibile
 - Con la maggiore frizione passiva
 - Su quanti più elementi del sistema possibile" (principio della permacultura)

Se l'acqua fosse una persona come la qualifichereesti?

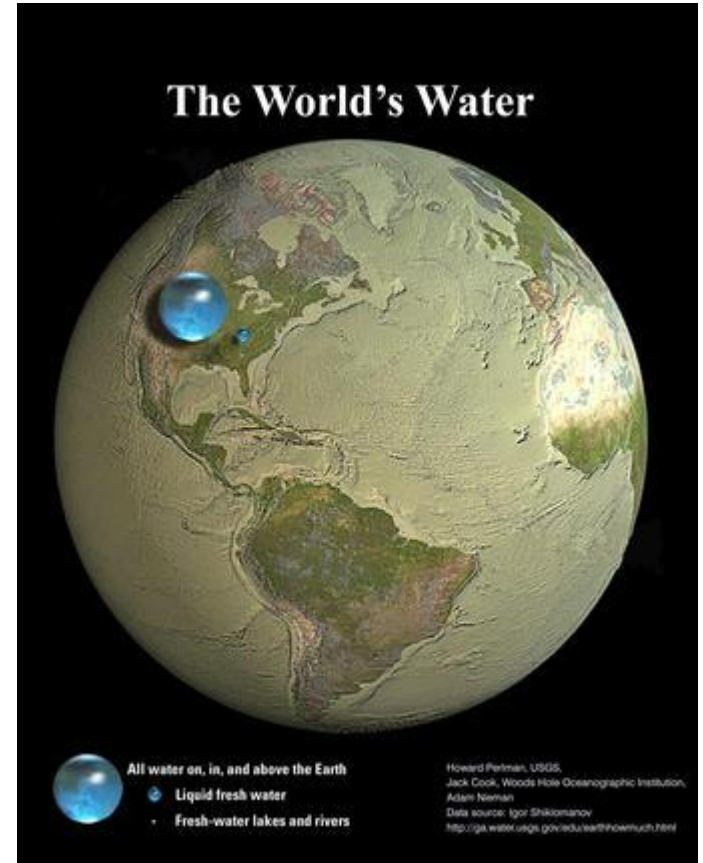
THE WATER CYCLE



Where is Earth's Water?



Credit: U.S. Geological Survey, Water Science School. <https://www.usgs.gov/special-topic/water-science-school>
 Data source: Igor Shiklomanov's chapter "World fresh water resources" in Peter H. Gleick (editor), 1993, Water in Crisis: A Guide to the World's Fresh Water Resources. (Numbers are rounded).



https://www.usgs.gov/special-topic/water-science-school/science/a-comprehensive-study-natural-water-cycle?qt-science_center_objects=0#qt-science_center_objects

THE WATER CYCLE

Council of Europe, Committee of Ministers

RESOLUTION (67) 10

(adopted by the Ministers' Deputies on 26th May 1967):

EUROPEAN WATER CHARTER

"1. Adopts the European Water Charter; 2. Decides to publish the Charter at a ceremony which shall mark the first step and main event in the campaign for the qualitative and quantitative conservation of water in Europe leading up to European Nature Conservation Year – 1970, on the occasion of the meetings of the Committee of Ministers and of the Consultative Assembly in May 1968"

"I. Water falls from the atmosphere to the earth mainly in the form of rain and snow. Streams, rivers, glaciers and lakes are the principal channels of drainage towards the oceans. During its cycle, water is retained by the soil, vegetation and animals. It returns to the atmosphere principally by means of evaporation and plant transpiration. Water is the first need of man, animal and plants.

Water constitutes nearly two-thirds of man's weight and about nine-tenths of that of plants.

Man depends on it for drinking, food supplies and washing, as a source of energy, as an essential material for production, as a medium for transport, and as an outlet for recreation which modern life increasingly demands."

Idrologia e idrogeologia

L'idrologia è la scienza che studia l'acqua sul nostro pianeta.

Con il crescere di discipline specializzate (per es., oceanografia per le acque marine, limnologia per quelle lacustri (acque continentali non correnti = laghi, stagni, paludi, ecc.)), l'idrologia ha assunto un carattere meno ampio, divenendo **la scienza che si occupa delle acque continentali, superficiali e sotterranee**.

In particolare, l'idrologia considera:

- ✓ la distribuzione spaziale e temporale dell'acqua;
- ✓ la sua circolazione (nelle diverse fasi – solida, liquida, vapore – e nei diversi ambienti);
- ✓ la sua disponibilità;
- ✓ le sue proprietà fisiche e chimiche, e le relazioni con l'ambiente, comprese quelle con gli organismi viventi.

L'idrologia è il punto d'incontro di diverse discipline e professioni: *ingegneri, agronomi, geologi, fisici dell'atmosfera, meteorologi, geografi, biologi, climatologi*.

La nozione di ciclo idrologico è il fondamento dell'idrologia.

Il ciclo idrologico è l'insieme dei processi che determina la circolazione idrica.

PRECIPITAZIONE ATMOSFERICA (RAIN WATER): è la fase della circolazione acqua nell'atmosfera terrestre corrispondente al passaggio dell'acqua dall'atmosfera alla superficie terrestre; p. liquida, la pioggia; p. solida, la neve o la grandine; p. invisibile, la rugiada e la brina.

INTERCETTAZIONE: processo di alterazione della precipitazione che raggiunge il suolo causato dall'interazione con l'apparato fogliare della vegetazione arborea, arbustiva ed erbacea, e con la lettiera eventualmente presente.

INFILTRAZIONE E PERCOLAZIONE. INFILTRAZIONE: è il processo attraverso il quale l'acqua penetra nel suolo. **RIDISTRIBUZIONE:** l'acqua all'interno del suolo è soggetta ad un continuo processo di ridistribuzione, con direzioni di flusso che variano al variare della distribuzione spaziale del contenuto di umidità. **PERCOLAZIONE:** è il processo di trasferimento dell'acqua verso il basso all'interno degli strati di suolo non saturi d'acqua.

ACQUE SOTTERRANEE: la riserva idrica sotterranea è costituita da strati di materiale permeabile (acquiferi) saturi d'acqua (falda). Gli strati permeabili sono spesso costituiti da sabbie e ghiaie e sono alternati a strati praticamente impermeabili (acquicludi) costituiti da argille o rocce compatte.

EVAPOTRASPIRAZIONE. Per evapotraspirazione si intende il flusso di acqua sotto forma di vapore che ha luogo dalla superficie del suolo per effetto combinato dei processi di **evaporazione** dell'acqua dalle superfici liquide, dal suolo e dalla superficie della vegetazione, e di **traspirazione** delle piante, principalmente attraverso gli stomi delle foglie.

DEFLUSSO SUPERFICIALE. E' dato dalla porzione di precipitazione che raggiunto il suolo non si infila, né viene ritenuta nelle depressioni superficiali, e che scorre sulla superficie del terreno verso la rete di drenaggio. Si tratta di un moto nel tempo e nello spazio, che può essere sia laminare che turbolento o una combinazione dei due, in corrente lenta o veloce.

WATER LAW

Whenever dealing with water law, one should take into consideration the natural context of water and the way in which it occurs. Because the purpose of water law is to regulate the use, conservation and protection of water, it is necessary to know what the subject of regulation is.

WATER LAW

- In termini ampi, il ciclo idrologico è **IL CICLICO MOVIMENTO DELL'ACQUA NEL GLOBO.**
- Dal punto di vista della legge e dell'amministrazione, il controllo dell'uomo sull'acqua è limitato alla parte del ciclo idrologico in cui l'acqua cade sulla terra.

Integrated Water Resources Management (IWRM)

According to the GLOBAL WATER PARTNERSHIP (**GWP**), a non-governmental organization, integrated water resources management (IWRM) is 'a process which promotes the coordinated development and management of water, land and related resources in order to maximize economic development and management of water, land and related resources in an equitable manner without compromising the sustainability of ecosystems'.

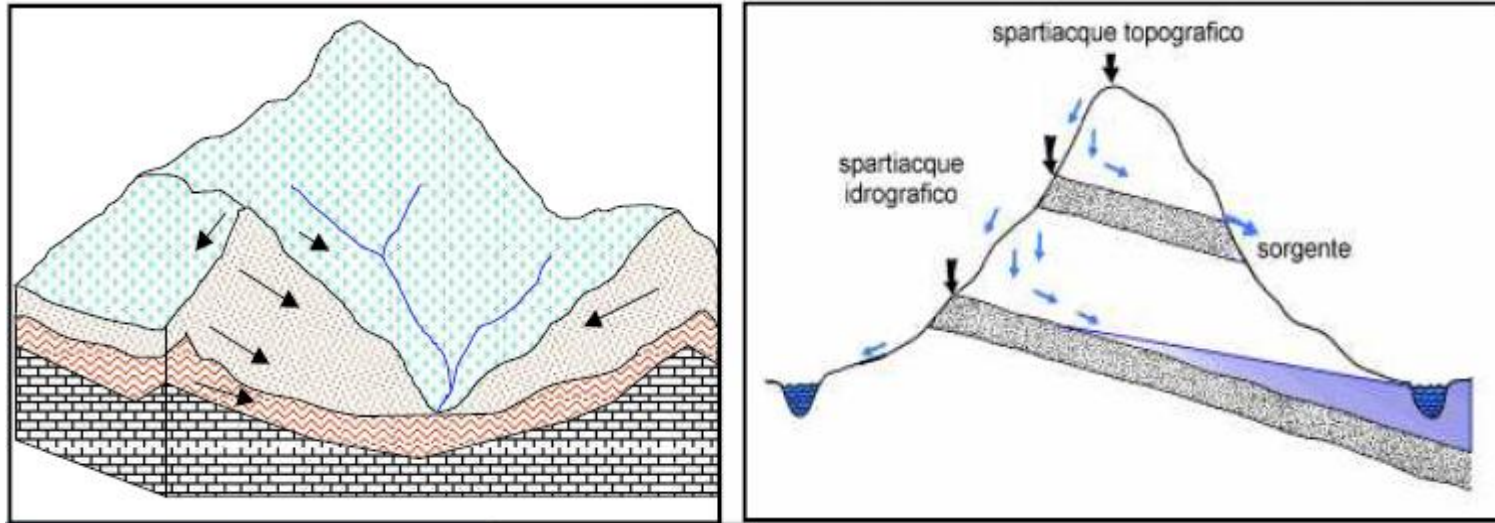
This notion, which was the subject of extensive discussions after the International **Conference on Water and the Environment in Dublin, 1992**, entails that **ALL WATER RESOURCES, WHETHER SURFACE, UNDERGROUND OR ATMOSPHERIC, ALL WATER USES AND WATER QUALITY ASPECTS ARE TO BE CONSIDERED AND MANAGED TOGETHER IN AN INTEGRATED MANNER**, taking into consideration the relationship between these resources, other natural resources and related ecosystems.

By implication, **THE IDEAL UNIT FOR IWRM IS THE RIVER BASIN.**

This holistic approach requires the rejection of the traditional fragmentation of laws and sector-by-sector, top-down, resource management approaches, and the ADOPTION OF COMPREHENSIVE WATER LEGISLATION AND SUPPORTING INSTITUTIONAL FRAMEWORKS.

IL BACINO IDROGRAFICO

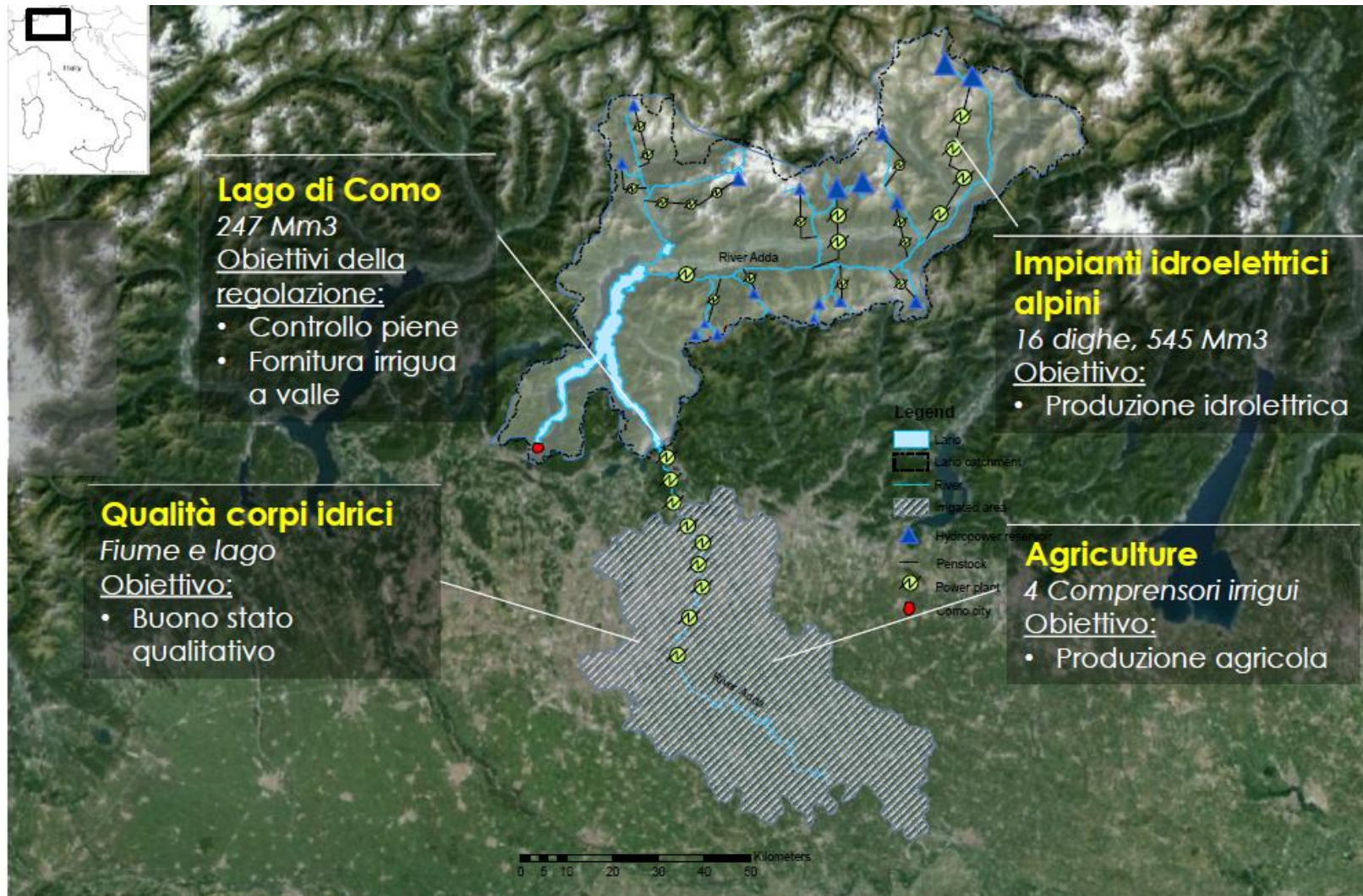
bacino idrografico: porzione di territorio i cui deflussi si raccolgono in uno stesso corso d'acqua e transitano integralmente attraverso una sezione di quest'ultimo (sezione di chiusura), identificata come il punto più depresso all'interno del bacino



Generalmente l'identificazione del bacino idrografico viene effettuata ipotizzando che coincida con il **bacino topografico** (o orografico): porzione del territorio racchiusa entro la linea di dislivello che si origina (e termina) nella sezione di chiusura del bacino. Non sempre il bacino topografico dà conto di tutti i deflussi che transitano nella sezione di chiusura.

La nozione di bacino idrografico, introdotta in origine con riferimento allo scorrimento superficiale, si può estendere al caso dello scorrimento sotterraneo. Al di sotto degli ammassi permeabili, che permettono all'acqua di infiltrarsi e di percolare verticalmente, esiste generalmente uno strato di fondo impermeabile, sopra il quale si forma una zona satura, in cui il moto di filtrazione dell'acqua è prevalentemente orizzontale. Il bacino idrografico sotterraneo si può definire facendo riferimento al rilievo del fondo impermeabile. L'individuazione dello spartiacque sotterraneo è tuttavia molto incerta.

Un esempio: Il bacino dell'Adda



L'Agenda ONU 2030

ORIGINE E ARTICOLAZIONE

Gli SDGs sono considerati il completamento dell'esperienza maturata nel quindicennio 2000-2015 con gli Obiettivi di Sviluppo del Millennio (MDGs), adottati dall'Assemblea Generale su proposta dell'allora Segretario Generale Kofi Annan durante il Summit del Millennio (settembre 2000). L'Agenda 2030 rappresenta anche la conclusione del lunghissimo processo negoziale delle Nazioni Unite sullo sviluppo sostenibile, iniziato nel **1987** con la pubblicazione del Rapporto della Commissione Mondiale su Ambiente e Sviluppo (meglio nota come commissione Brundtland) **Our Common Future**.

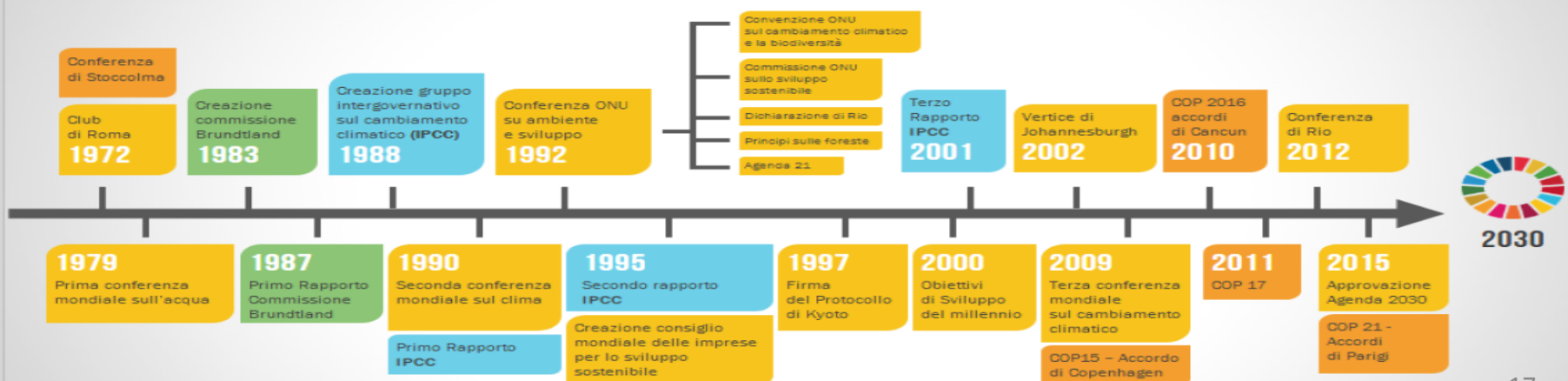
La Conferenza delle Nazioni Unite sullo Sviluppo Sostenibile del **2012** (Rio+20), nella quale è stato adottato il documento "Il futuro che vogliamo " **The future we want** ha avviato il negoziato per la definizione dell'Agenda 2030 e degli SDGs. Tale negoziato ha visto una straordinaria partecipazione dei governi, delle organizzazioni, delle imprese e della società civile.

Il **2015** è stato l'anno conclusivo di questo processo, culminato con tre eventi che hanno definito diversi aspetti cruciali dell'Agenda: la conferenza di Addis Abeba sul finanziamento allo sviluppo sostenibile (luglio); il summit straordinario del 25-27 settembre e l'approvazione della Risoluzione A/RES/70/1 da parte dell'Assemblea Generale dell'ONU; la Conferenza COP21 di Parigi sul cambiamento climatico.

Conferenza 2012 (Rio+20) : A/RES/66/288 (pagine 23, 24-sub nn. 119/124) **"WE RECOGNIZE THAT WATER IS AT THE CORE OF SUSTAINABLE DEVELOPMENT as it is closely linked to a number of key global challenges. We therefore reiterate the importance of integrating water into sustainable development, and underline the critical importance of water and sanitation within the three dimensions of sustainable development**

https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_66_288.pdf

1/8 | Le tappe di avvicinamento verso lo sviluppo sostenibile



L'Agenda ONU 2030 e i suoi 17 obiettivi

Oggi la parola sostenibilità viene usata nel linguaggio comune, nel linguaggio del marketing e dei politici ("greenwashing" = behaviour or activities that make people believe that a company is doing more to protect the environment than it really is (Cambridge dictionary))

Di sviluppo sostenibile si inizia a parlare ufficialmente nel 1987, con il rapporto Brundtland, dove viene definito *"lo sviluppo che è in grado di soddisfare i bisogni delle generazioni attuali senza compromettere la possibilità che le generazioni future riescano a soddisfare i propri"*.

Nell'Agenda 2030 il concetto di sviluppo sostenibile si è evoluto e consiste nell'equilibrio virtuoso tra 3 dimensioni - quella economica, quella ambientale e quella sociale - che si integrano con l'approccio delle 5 P: People, Planet, Prosperity, Peace, Partnership

PEOPLE – Eliminare la povertà e la fame, in tutte le loro forme, assicurando che tutti gli esseri umani possano esprimere il loro potenziale con dignità, equità e in un ambiente sano;

PLANET - Proteggere il pianeta dal degrado ambientale, anche attraverso modelli sostenibili di produzione e consumo, gestendo responsabilmente le sue risorse naturali e agendo rapidamente sul cambiamento climatico, per supportare i bisogni delle generazioni attuali e future

PROSPERITY - Tutti gli esseri umani devono vivere un'esistenza soddisfacente e il progresso economico, sociale e tecnologico deve avvenire in armonia con la natura

PEACE - Le Nazioni Unite incoraggiano l'esistenza di società pacifiche, giuste ed inclusive, libere da paura e violenza. Non può esserci sviluppo sostenibile senza pace e pace senza sviluppo sostenibile

PARTNERSHIP- I mezzi necessari per realizzare l'Agenda 2030 andranno mobilitati attraverso una rinnovata partnership globale per lo sviluppo sostenibile, basata su un rafforzato spirito di solidarietà globale, focalizzata in particolare sui bisogni dei più poveri e vulnerabili e con la partecipazione di tutti i paesi, dei portatori di interessi e le persone

L'Agenda 2030 si basa su tre principi: UNIVERSALITA', INTEGRAZIONE, PARTECIPAZIONE

- **Sostenibilità a livello globale** Tutti i Paesi sono chiamati a contribuire allo sforzo di portare il mondo su un sentiero di sostenibilità, senza distinzione tra Paesi sviluppati, emergenti e in via di sviluppo, anche se le problematiche che ciascun obiettivo pone possono essere diverse a seconda del livello di sviluppo già conseguito. Questo vuol dire che ogni Paese deve impegnarsi a definire una propria strategia di sviluppo sostenibile che gli consenta di raggiungere gli obiettivi entro il termine stabilito.

- **Interdipendenza degli obiettivi**

Oggi nel mondo 700 milioni di persone vivono in condizioni di povertà estrema. Di queste, molte si trovano in zone rurali. Questo si traduce in una forte interdipendenza tra temi apparentemente distanti: povertà e malnutrizione, cambiamenti climatici, educazione, uso delle risorse energetiche e idriche.

- **La sola azione dei governi non basta**

La Agenda 2030 richiama in modo esplicito le responsabilità di tutti i settori della società, dai governi alle imprese, dalla società civile ai singoli. Tutti possono contribuire al conseguimento degli obiettivi

➤ Il 25 settembre 2015 l'Assemblea Generale delle Nazioni Unite ha adottato l'Agenda 2030 per lo Sviluppo Sostenibile **TRANSFORMING OUR WORLD** (A/RES/70/1), corredata da una lista di 17 obiettivi (*Sustainable Development Goals*, SDGs) e 169 sotto-obiettivi, che riguardano tutte le dimensioni della vita umana e del pianeta e che dovranno essere raggiunti da tutti i paesi del mondo entro il 2030, ma alcuni di essi anche entro il 2020.

"Declaration-sub 2: "We are committed to achieving sustainable development in its three dimensions – economic, social and environmental – in a balanced and integrated manner"; sub 3 "We resolve, between now and 2030, to end poverty and hunger everywhere; to combat inequalities within and among countries; to build peaceful, just and inclusive societies; to protect human rights and promote gender equality and the empowerment of women and girls; and to ensure the lasting protection of the planet and its natural resources. We resolve also to create conditions for sustainable, inclusive and sustained economic growth, shared prosperity and decent work for all, taking into account different levels of national development and capacities" sub 5 "This is an Agenda of unprecedented scope and significance. It is accepted by all countries and is applicable to all, taking into account different national realities, capacities and levels of development and respecting national policies and priorities"

<https://sustainabledevelopment.un.org/hlpf/2020>



La governance per lo sviluppo sostenibile

1. GLI SDGS SONO LE PIETRE MILIARI PER I GOVERNI
2. LA COERENZA DELLE POLITICHE È LA GRANDE SFIDA PER LA GOVERNANCE DELLO SVILUPPO SOSTENIBILE

La integrazione delle politiche (*Policy Coherence*) è un concetto che impone - quando si assumono decisioni politiche - di guardare alla interrelazione tra diversi settori e quindi tra diversi obiettivi dell'Agenda ONU 2030, in modo da governarne sia le interrelazioni positive "*spill-over*", sia gli eventuali *trade-offs* che anche possono esistere tra diverse politiche, tra diversi obiettivi, così come - è noto che esistono - tra i *gap* dello sviluppo sostenibile tra le dimensioni economica, sociale, ambientale. In realtà, il concetto di integrazione delle politiche è ancora più articolato, perché presuppone la considerazione delle interrelazioni tra le decisioni assunte tra i diversi livelli di governo all'interno di un paese, tra i diversi paesi, tra le diverse generazioni.

I riferimenti in questo campo sono due:

- i rapporti "PCSD" 2017-2018*-2019, OECD 2017-2018-2019 (lavoro del segretariato);
- "Recommendation of the Council on Policy Coherence for Sustainable Development", OECD 2019

I rapporti del segretariato sono un'analisi tecnica, le raccomandazioni sono un atto politico. L'Italia ha sottoscritto queste raccomandazioni.

* PCSD 2018: goals **6** (pagine 23/39), 7, 11, 12, 15, 17

L'Agenda ONU 2030 e l'Europa

L'AGENDA ONU 2030 AL CENTRO DELLE NUOVE POLITICHE EUROPEE - IL RIORIENTAMENTO DEL SEMESTRE EUROPEO VERSO GLI OSS

Vulnerabilità e resilienza > la chiave della resilienza è il pensiero alla base degli SDGs: "Resilienza trasformativa" > "RIPRESA VERDE E SOCIALE"

L'Europa ha messo sul tavolo gli strumenti per trasformare la nostra società e generare un nuovo pensiero.

L'Europa – la nuova Commissione Von der Leyen – incorpora l'idea di sviluppo sostenibile come architrave delle nuove politiche, al punto che ciascun Commissario e ciascun Vicepresidente è responsabile del raggiungimento degli obiettivi dell'Agenda ONU 2030 nell'area di competenza

17.12.2019 – COM (2019) 650 final – Il **GREEN DEAL EUROPEO** "Strategia annuale di crescita sostenibile 2020"

Il Green Deal Europeo è un piano straordinario basato su: "Giusta transizione" energetica dal punto di vista sociale; piano di investimenti per un'Europa sostenibile e trasformazione della BEI in Banca europea per il clima; tutela della biodiversità, lotta all'inquinamento e agricoltura sostenibile.

<https://ec.europa.eu/transparency/regdoc/rep/1/2019/IT/COM-2019-650-F1-IT-MAIN-PART-1.PDF>

20.05.2020 – COM (2020) 500 final

27.05.2020 – COM (2020) 440 final ; 27.05.2020 – COM (2020) 456 final (balzo in avanti) Conclusioni : "Acceleremo la duplice transizione, verde e digitale, e faremo in modo che al centro della ripresa ci siano le persone"

<https://eur-lex.europa.eu/legal-content/IT/TXT/?uri=COM:2020:456:FIN>

18.06.2020 – Regolamento (UE) 2020/852 sulla tassonomia

21.07.2020 – COM (2020) 442 final - Accordo in sede di Consiglio europeo > **NGEU "NEW GENERATION EU"** (programma complessivo al cui interno c'è il "**Fondo per la ripresa e la resilienza**")

17.09.2020 – Guidance to Member States Recovery and Resilience Plan

01.01.2021 – Regolamento sul Recovery Fund

01.01-30.04.2021 – Presentazione dei Piani nazionali

LE NUOVE POLITICHE IDRICHE EUROPEE

Il Green Deal non prevede un'azione mirata sul tema "acqua", ma è evidente la trasversalità in diverse delle strategie che ne discenderanno quali *from farm to fork*, industria ed economia circolare obiettivo inquinamento zero, biodiversità, contrasto ai cambiamenti climatici.

Per il diritto di accesso all'acqua concorre l'attuazione de **Il pilastro europeo dei diritti sociali**, con specifico riferimento al punto 20 avente ad oggetto "accesso ai servizi essenziali." COM (2020) 14 final: "*Ogni persona ha il diritto di accedere a servizi essenziali di qualità, compresi l'acqua, i servizi igienico sanitari, Per le persone in stato di bisogno è disponibile un sostegno per l'accesso a tali servizi.*" **Agli inizi del 2021 presenteremo un piano d'azione che concretizzerà i diritti e i principi sanciti nel pilastro.**

"Azioni trasformatrici per l'acqua" ATTESE: istituzioni e ruoli pubblici per l'acqua.

La commissione Juncker aveva avviato un processo di consultazione pubblica sull'adeguatezza delle principali direttive relative all'acqua, mentre la **nuova direttiva concernente la qualità delle acque destinate al consumo umano** (rifusione) promossa dall' "INIZIATIVA RIGHT2WATER" ha in chiusura il suo iter d'approvazione con l'adozione finale da parte del Consiglio europeo in data 24.02.2020.

https://asvis.it/public/asvis2/files/Pubblicazioni/Quaderno_Obiettivi_di_sviluppo_sostenibile_e_politiche_europee.pdf



L'Agenda ONU 2030 e l'Italia

- ❑ La strategia nazionale per lo sviluppo sostenibile, documento firmato dal Governo e dal Cipe nel 2017
- ❑ L. 221/2015 Comitato per il capitale naturale
- ❑ Rapporto ISTAT 2020 su SDGs - Informazioni statistiche per l'Agenda 2030 in Italia. E' una best practice a livello internazionale: monitoraggio dati, elaborazione indicatori per la misurazione dello sviluppo sostenibile
<https://www.istat.it/it/archivio/242942>

L'Agenda ONU 2030 e l'Acqua

Nell'ambito dell'Agenda 2030, l'acqua costituisce un elemento di connessione (spesso sottovalutato ma comunque essenziale per il conseguimento dei diversi Obiettivi di Sviluppo sostenibile (SDGs nell'acronimo inglese))

A HOLISTIC WATER GOAL

E' essenziale guardare al ciclo idrologico nella sua interezza, includendo tutti gli usi e tutti gli utilizzatori delle risorse idriche. Per raggiungere l'obiettivo di assicurare disponibilità d'acqua e gestione sostenibile dei servizi di approvvigionamento idrico e igienico-sanitari per tutti, bisogna tenere in considerazione tutti i principali aspetti relativi alle acque. Imparando dal periodo del "Millennium Development Goals" (2000-2015), dove il focus era l'acqua potabile e sanità di base, **questo è il primo passo per affrontare il problema della frammentazione settoriale e regionale.**

<https://www.unwater.org/full-picture-holistic-water-goal/>

GOAL 6



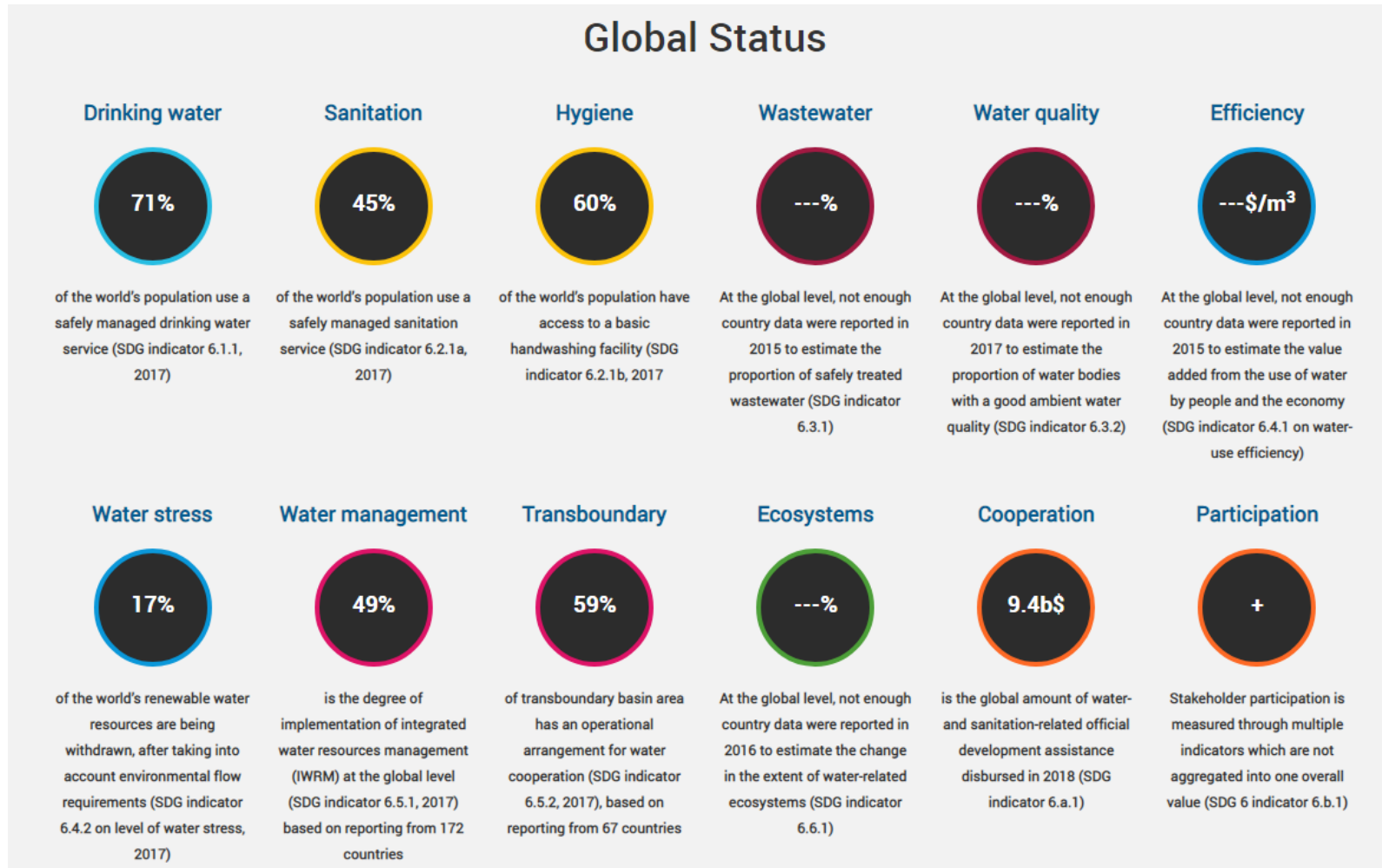
<https://www.un.org/en/sections/issues-depth/water/index.html>

SDG 6 includes eight global targets that are universally applicable and aspirational. However, each government must decide how to incorporate them into national planning processes, policies and strategies based on national realities, capacities, levels of development and priorities. They cover the entire water cycle including provision of drinking water (target 6.1) and sanitation and hygiene services (6.2), treatment and reuse of wastewater and ambient water quality (6.3), water-use efficiency and scarcity (6.4), IWRM including through transboundary cooperation (6.5), protecting and restoring water-related ecosystems (6.6), international cooperation and capacity-building (6.a) and participation in water and sanitation management (6.b).



<https://www.unwater.org/publications/highlights-sdg-6-synthesis-report-2018-on-water-and-sanitation/>

GOAL 6 - DATA



JMP (WHO + UNESCO)

<https://washdata.org/data>

GOAL 6 - DATA

World Health
Organization (WHO)
guidelines, 2003,
WHO/SDE/WSH/03.02
[https://www.who.int/
water_sanitation heal
th/diseases/WSH03.02
.pdf?ua=1](https://www.who.int/water_sanitation_health/diseases/WSH03.02.pdf?ua=1)

Table S1: Summary of requirement for water service level to promote health

Service level	Access measure	<i>Needs met</i>	Level of health concern
No access (quantity collected often below 5 l/c/d)	More than 1000m or 30 minutes total collection time	Consumption – cannot be assured Hygiene – not possible (unless practised at source)	Very high
Basic access (average quantity unlikely to exceed 20 l/c/d)	Between 100 and 1000m or 5 to 30 minutes total collection time	Consumption – should be assured Hygiene – handwashing and basic food hygiene possible; laundry/ bathing difficult to assure unless carried out at source	High
Intermediate access (average quantity about 50 l/c/d)	Water delivered through one tap on-plot (or within 100m or 5 minutes total collection time)	Consumption – assured Hygiene – all basic personal and food hygiene assured; laundry and bathing should also be assured	Low
Optimal access (average quantity 100 l/c/d and above)	Water supplied through multiple taps continuously	Consumption – all needs met Hygiene – all needs should be met	Very low

Table S2: Water supply access data for 1990 and 2000 by no access, access to improved sources and piped supply (from WHO and UNICEF, 2000)

Year	No access (millions)	Access to improved sources within 1 kilometer (millions)	Access through household connections (millions)
1990	22% (1169)	78% (4086)	43% (2255)
2000	18% (1069)	82% (4988)	52% (3169)

GOAL 6 - DATA

Key messages

In 2015,

1. 71 per cent of the global population (5.2 billion people) used a **safely managed** drinking water service; that is, one located on premises, available when needed and free from contamination.
2. Estimates for **safely managed** drinking water were available for 96 countries (representing 35 per cent of the global population), and for four out of eight SDG regions¹.
3. One out of three people using **safely managed** drinking water services (1.9 billion) lived in rural areas.
4. Eight out of ten people (5.8 billion) used improved sources with **water available when needed**.
5. Three out of four people (5.4 billion) used improved sources **located on premises**.
6. Three out of four people (5.4 billion) used improved sources **free from contamination**.
7. 89 per cent of the global population (6.5 billion people) used at least a **basic** service; that is, an improved source within 30 minutes' round trip to collect water.
8. 844 million people still lacked even a **basic** drinking water service.
9. 263 million people spent over 30 minutes per round trip to collect water from an improved source (constituting a **limited** drinking water service).
10. 159 million people still collected drinking water directly from **surface water** sources, 58% lived in sub-Saharan Africa.

7 out of 10 people used safely managed drinking water services in 2015

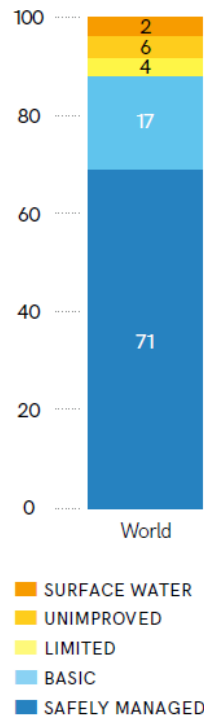


Fig.2

Global drinking water coverage, 2015

Estimates of safely managed drinking water services are available for four out of eight SDG regions

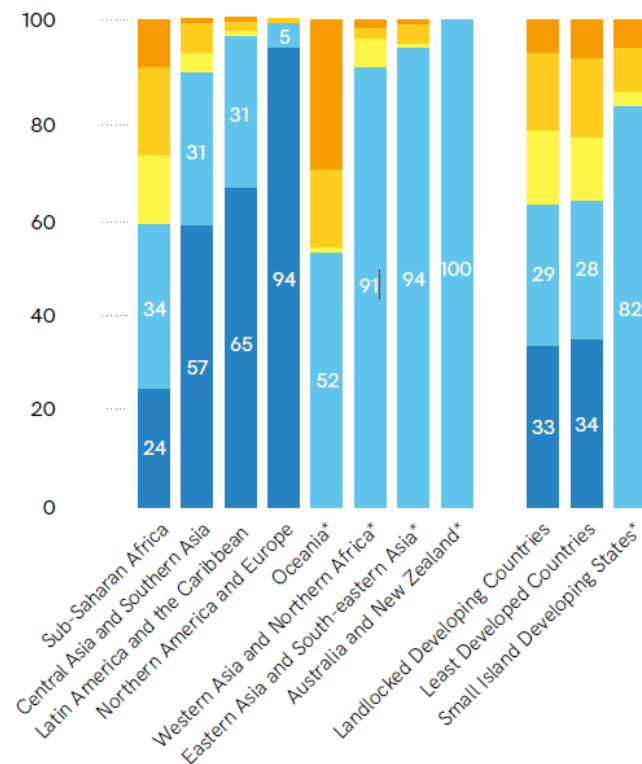


Fig.3

Regional drinking water coverage, 2015²

GOAL 6 - DATA

Progress on Drinking Water, Sanitation and Hygiene: 2017 Update and SDG Baselines:

https://www.unicef.org/publications/index_96611.html

UN-Water Global Analysis and Assessment of Sanitation and Drinking-Water (GLAAS) 2019 Report. National systems to support drinking-water, sanitation and hygiene - Global status report 2019:

https://www.who.int/water_sanitation_health/publications/glaas-report-2019/en/

The new JMP ladder for drinking water:

<https://washdata.org/monitoring/drinking-water>

Goal 16 - INCLUSIVE JUSTICE SYSTEMS

The Secretary-General has described the rule of law as **"a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards.** It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency." ([Report of the Secretary-General: The rule of law and transitional justice in conflict and post-conflict societies](#) (S/2004/616)).

Goal 16 is an enabling goal for Member States to generate national-level policy changes that advance progress on other SDGs.

"The development of INCLUSIVE AND ACCOUNTABLE JUSTICE SYSTEMS and RULES OF LAW REFORMS will provide quality services to people and build trust in the legitimacy of their government. This approach should respond to the needs of individuals and groups and their meaningful participation from the outset, paying particular attention to those historically marginalized and at risk of being left behind. It includes prevention of serious violations of human rights, achieving credible accountability for those responsible at national and international levels and empowering individuals and communities to make sure of justice mechanisms to protect their fundamental human rights."

<https://www.un.org/ruleoflaw/what-is-the-rule-of-law/>

The right to water

The concept of RIGHT TO WATER differs from that of WATER RIGHTS, or THE RIGHT TO USE WATER.

While water rights refers to the entitlement to use water for one or more purposes by virtue of a law or under a permit issued by the water administration, the right to water is the right of everybody to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses.

The existence of a self-standing human right to water in international customary law has been the subject of extensive debate during the past decades, which is still open.

The global community has recognized that, although significant progress has been made in the achievement of the UN Millennium Development Goals, one of which was to halve, by the year 2015, the proportion of people who lack access to safe drinking water, much remains to be done.

WHO/UNICEF (2017) Progress on Drinking Water, Sanitation and Hygiene: 2017 Update and SDG Baselines, Geneva, WHO and UNICEF. According to this report, about 2.1 billion people lacked access to safe, readily available water at home in 2015, and 4.5 billion lacked access to suitable sanitation.

Renewed efforts have thus led, on 25 September, 2015, to the adoption, by the UN General Assembly of Sustainable Development Goal No. 6, among other goals, calling for clean water and sanitation for all by the year 2030.

The International Covenant on Economic, Social and Cultural Rights (1966), as interpreted through General Comment No. 15 on the right to water, requires states to take steps towards the progressive realization of the right to water through appropriate means, including the adoption of legislative measures. Progressivity stems from the consideration that realization may not necessarily take place overnight, due to financial and other constraints.

Definitions

THE RIGHT TO WATER has been defined by the UN Committee on Economic, Social and Cultural Rights (CESCR) in 2002, through General Comment No. 15, as **the entitlement of everyone to 'sufficient, safe, acceptable and physically accessible and affordable water for personal and domestic uses'** (Para 2).

1. The CESCR was established to monitor the implementation by states of the International Covenant on Economic, Social and Cultural Rights (1966). The covenant entered into force on 3 January, 1976:
<https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>
2. General Comment No. 15: The right to water (Arts. 11 and 12 of the Covenant), E/C.12/2002/11 of 20 January, 2003:
https://www2.ohchr.org/english/issues/water/docs/CESCR_GC_15.pdf
3. World Health Organization (WHO) guidelines, 2003, WHO/SDE/WSH/03.02:
https://www.who.int/water_sanitation_health/diseases/WSH03.02.pdf?ua=1

Definitions

General Comment No. 15 - II. Normative content of the right to water (Para 10, 11, 12)

'Sufficient' means that the water available or made available must be enough in term of quantity to satisfy personal and household needs (drinking, sanitation, hygiene, washing, cooking, etc.),

The term 'safe' refers to water quality;

'acceptable' means that water should be of an acceptable colour, odour and taste for each domestic and personal use;

'physically accessible' means that the water and sanitation facility or service must be in the proximity of the households, work place health institution or educational facility;

'affordable' refers to the capacity of people to pay for having access to water, water facilities and water services.

Definitions

General Comment No. 15 - III. States parties' obligations (Para 20/29)

The International Covenant on Economic, Social and Cultural Rights (1966), as interpreted through General Comment No. 15 on the right to water, requires states to take steps towards the progressive realization of the right to water through appropriate means, including the adoption of legislative measures. **Progressivity stems from the consideration that realization may not necessarily take place overnight, due to financial and other constraints.** General Comment No. 15 places emphasis in particular on the obligations of states to *respect, protect and fulfill* the right to water.

The obligation to **respect** entails the duty of states not to interfere with the enjoyment of the right to water.

The obligation to **protect** requires states to prevent any interference by third parties with the enjoyment of the right to water, through the adoption of measures to control water abstractions, assess the impact of proposed developments and prevent water pollution compromising the satisfaction of drinking and other basic water needs.

The obligation to **fulfill** refers to the recognition of this right in national policies and legislation, to the establishment of water resources management plans prioritizing its realization and setting clear objectives, and to the adoption of tariff structures ensuring that water is affordable to all, among other things.

Evolution

The human right to water was not explicitly recognized at the time of codification of human rights law in the aftermath of World War II. The UN Universal Declaration of Human Rights of 1948 reflected the aspiration of the global community after the atrocities of the war and provided a basis for the formulation of two international human right conventions. The first, adopted in 1966, was the International Covenant on Economic, Social and Cultural Rights [Text in: 993, UNTS, 3]. The second, also adopted in 1966, was the International Covenant on civil and Political Rights [Text in 999, UNTS, 171]. **Neither of these two instruments recognizes the right to water as such.** The first covenant places emphasis, *inter alia*, on the right to adequate standards of living 'including adequate food, clothing, and housing' (Art. 11), on the right to health (Art. 12) and on the obligation of the parties to take steps, to the maximum of their available resources, with a view to the progressive realization of these (and other) rights 'by all appropriate means, including particularly the adoption of legislative measures' (art. 2). The second covenant highlights the right to dignity and the right to life.

It was already clear when the two covenants were formulated that water plays a key role in the realization of these rights, but the debate on the right to water gained momentum only in 1977, on occasion of the UN Water conference of Mar del Plata. **The Action Plan produced at this conference declared that all people have a right 'to have access to drinking water in quantities and of a quality equal to their basic needs', and called for international cooperation to ensure that water is AVAILABLE AND EQUALLY DISTRIBUTED AMONG PEOPLE.** This **PRINCIPLE** was reasserted in Chapter 18, Agenda 21, of the UN Conference on Environment and Development, held at Rio de Janeiro in 1992. In the meantime, growing support for the right to water may be tracked in a number of international legal instruments, such as the Convention on the Elimination of all Forms of Discrimination against Women (1979), according to which rural women have the right to 'enjoy adequate living conditions, particularly in relation to water supply', and the Convention on the Rights of the Child (1989), which recognizes the rights of children to clean drinking water.

Population growth, technological progress, industrialization and climate change have been a cause of increasing global concern in the past years, because of their impact on water availability, demand and quality. In 2002, the UN Committee on Economic, Social and Cultural Rights adopted General Comment No. 15, on the right to water, for the stated purpose of interpreting and clarifying the provisions of Articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights. This document explains that the right, being one of the most fundamental conditions for survival, is essential for securing an adequate standard of living and is 'inextricably related to the right to the highest attainable standard of health' (Para 3). **General Comment No. 15 is not legally binding as such.**

Evolution

AS TO INTERNATIONAL WATER TREATIES, **THE UN WATERCOURSES CONVENTION (1997)*** FAILS TO SHED LIGHT ON THE QUESTION AS TO WHETHER THE RIGHT TO WATER IS A SELF-STANDING HUMAN RIGHT.

The convention codifies rules of conduct in the field of transboundary water resources that, being based on consistent state practice and having been embodied in a number of bilateral and multilateral treaties, have become part of international customary law.

The social and economic needs of the states concerned and the effects of the uses of a watercourse by a state on the other water-course states feature among the factors to be taken into consideration to determine equitable and reasonable utilization (Art. 6). The weight to be given to each factor must be determined considering all the other factors, and a conclusion must be reached on the basis of the whole. No use enjoys inherent priority over other water uses in the absence of an agreement or custom asserting the contrary, but in the event of conflict, a solution is to be sought with reference to Article 5 (equitable and reasonable utilization) to 7 (obligation not to cause significant harm), special attention having to be paid to vital human needs (Art. 10). Thus, it may happen that the consideration of the right to water of the population of a given state within a watercourse is overridden by the ability of that state to resort to alternative sources of supply, which is another factor to be considered. If this is not the case, the state cannot be obliged to deprive its own population of the water required to satisfy vital human needs.

* UN Watercourses Convention (1997) online user's guide: <https://www.unwatercoursesconvention.org/>

What does the convention say? <https://www.unwatercoursesconvention.org/the-convention/part-ii-general-principles/>

Evolution

Through **Resolution 64/292 of 28 July, 2010**, the **UN General Assembly** has explicitly recognized the human right to water and sanitation and has acknowledged that clean drinking water and sanitation are essential to the realization of all human rights.

The resolution calls upon states and international organizations to provide **financial resources** and promotes **capacity building and technology transfer** to help countries, **in particular developing ones**, to provide safe, clean, accessible and affordable drinking water and sanitation for all.

A further **Resolution**, adopted by the **UN Human Rights Council on 6 October, 2010**, reaffirms the obligation of states to ensure the full realization of all human rights, and adds that **the delegation of safe drinking water supply and sanitation services to third parties does not exempt states from this obligation**. It calls upon states to develop appropriate tools and mechanisms, including legal and institutional mechanisms.

Neither Resolution 64/292, nor the Human Rights Council resolution, have gained universal acceptance, since many countries have abstained from voting.

1. UN Document A/RES/64/292 of 3 August, 2010 <https://undocs.org/A/RES/64/292>
2. A/HRC/15/9 https://ap.ohchr.org/documents/alldocs.aspx?doc_id=17740
3. A/HRC/30/39 Report of the Special Rapporteur on the human right to safe drinking water and sanitation <https://undocs.org/A/HRC/30/39>
4. A/RES/70/169 ' .. *Welcoming* the adoption of the Agenda for Sustainable Development, including the commitments regarding the human right to safe drinking water and sanitation therein, ... ' https://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/70/169

Evolution

Although it is **not uncommon** to find **THE USE OF WATER** to satisfy drinking and domestic needs ranking high in the order of priorities among water uses established **through treaties, very few contemporary water agreement acknowledge THE RIGHT TO WATER as a self-standing human right.**

The Water Charter of the Senegal River (2002) and the Niger Basin Water Charter (2008) both recognize **the right to water as guiding principle**, and assign to it a clear priority as a factor for the determination of equitable utilization and participation.

The fundamental right of each individual to access water also features in the preamble of the Memorandum of Understanding for the Establishment of a Consultation Mechanism for the Integrated Management of the Water Resources of the Iullemeden, Taoudeni/Tanezrouft Aquifer Systems (2014) [Not in force yet], in addition to being a factor for the determination of equitable and reasonable utilization.

The UNECE Protocol on Water and Health (1999), the stated aim of which is to protect human health and well being through improved water management, **was perhaps the first to place a number of positive obligations on the parties, which are of relevance to the realization of the right to water.** These relate *inter alia* to the prevention, control and reduction of water-related diseases, the protection of the quality of water used for drinking purposes, the preservation of aquatic ecosystems, cooperation in water resources planning, resource monitoring and the setting of indicators and targets for measuring compliance. Without mentioning the right to water as a self-standing human right, the protocol places emphasis on the need to ensure equitable access to water, adequate in terms of both quantity and quality, and to sanitation services, for all, particularly for disadvantaged and marginalized groups.

The emerging rule

Given the paucity of international agreements recognizing the right to water as a self-standing human right, and the fact that the numerous resolutions and declaration on the subject are not binding, the question as to whether such right exists under international customary law is still being debated.

Current international customary water law principles and obligations already provide a framework for its realization and protection, by requiring states to take into account the social needs of the populations, together with other factors, when making decisions as to equitable and reasonable utilization. The obligation not to cause significant harm and the obligation to prevent, control and reduce pollution provide additional safeguards. **In any case, it cannot be denied that the satisfaction of drinking and domestic water needs ranks high in the order of priorities set in many agreements.**

The right to water is now recognized in a number of national constitutions, whether explicitly or indirectly. The constitutions of Bolivia, the Democratic Republic of Congo, Ecuador, Kenya, Mexico, Morocco, Slovenia (through amendments of 2016), South Africa, Uganda, Uruguay and Zimbabwe are cases in point. In India, a Supreme Court pronouncement protects the right to water and sanitation as part of the right to life guaranteed under the constitution.

The constitution of Bolivia, Ecuador and Uruguay go well beyond the recognition of the right to water (and sanitation) as a human right, as they prohibit the privatization of the relevant services.

Moreover, an increasing number of countries have adopted legislation that acknowledges the human right to water **as a matter of principle** and protects it by prioritizing it in national planning and decision making and strengthening the framework for preventing, controlling and reducing pollution. The recognition of the right to water is a feature of water laws recently enacted in a number of countries, including Algeria, Angola, Argentina, Belgium (Brussels-Capital Region and Walloon Region), Burkina Faso, Central African Republic, Costa Rica, Ecuador, France, Guatemala, Guinea, Mauritania, Mexico, Morocco, Namibia, Nicaragua, Paraguay, Peru, South Africa, Tanzania and Venezuela*.

* For a survey of legislation recognizing the right to water, see Various Authors (2012) *The Human Right to Safe Drinking Water and Sanitation in Law and Policy. A Source-Book*. WASH United, Freshwater Action Network and WaterLex: <https://socialprotection-humanrights.org/wp-content/uploads/2015/08/RTWS-sourcebook.pdf>

The emerging rule

These enactments place emphasis on the following:

- the establishment of priorities among water uses in national and basin plans, top priority being afforded to the satisfaction of basic water needs;
- a water allocation (and reallocation) system that respects this priority;
- the need to protect water sources intended for meeting drinking and household needs from depletion and quality degradation;
- the reservation of sufficient amounts of good quality water to the satisfaction of these needs;
- the principle that social considerations must prevail over economic considerations in the provision of water services, and that tariff structures must be based on equity and solidarity criteria;
- the participation of users and civil society in the planning and management of water resources;
- the provision of access to information;
- non-discrimination and protection of vulnerable and marginalized groups, including their customary water rights.

The right to water has also been recognized through decisions of domestic courts in cases of disconnection from water supply networks and pollution of drinking water.

THUS, IF IT HAS NOT ATTAINED THE STATUS OF A RULE OF INTERNATIONAL CUSTOMARY LAW, THE HUMAN RIGHT TO WATER MAY BE CONSIDERED AS A MATTER OF GENERAL PRINCIPLES OF LAW

Decisions of domestic courts

The right to water has been recognized through decisions of domestic courts in cases of disconnection from water supply networks and pollution of drinking water.

SOUTH AFRICA*

- In ***City of Cape Town v. Strumpher*** (2012), the Supreme Court of Appeal of South Africa ordered the restoration of the water supply by the service provider, on the grounds that the right to water is not a contractual matter, but stems from the constitution, which protects the right to water.
- Always in South Africa, the Constitutional Court reached a different conclusion in ***Mazibuko and others v. City of Johannesburg and others*** (2009), by holding that the modifications to water services introduced by the service provider were reasonable, and thus consistent with the constitutional right to water.

BOTSWANA

- ***Kalahari Bushmen v. Botswana*** (2011) '*Botswana Court Awards Kalahari Bushmen Water Rights*' Although the decision was not predicated on a human right to water, the court referred to General Comment 15 of the U.N. Economic and Social Council, and the 2010 UN Human Rights Council Resolution on Human Rights and Access to Safe Drinking Water and Sanitation. The court ruled that by prohibiting the Bushmen from using, at their own expense, borehole water for domestic purposes, the Botswana government had violated the Bushmen's constitutionally protected rights.

* These cases are illustrated in Matchaya, G. Kaaba, O. & Nhemachena, C. (2018) *Justiciability of the Right to Water in the SADC Region: A Critical Appraisal*, Basel, MDPI

Decisions of domestic courts

INDIA

- In *Subhash Kumar v. State of Bihar and others* (1991), the Supreme Court of India acknowledged that the right to life under Article 21 of the Indian Constitution includes the right of enjoyment of pollution-free water.
- *Suo Moto v. State of Rajasthan* (2004). 'This case was concerned with a number of suo moto orders issued by the Rajasthan High Court to the local authorities. The city of Jaipur had problems with large amounts of trash, open sewage and polluted water and this meant to order the authorities to clean-up, restore and maintain the city. The Court held that municipal bodies needed to ensure the right to life under Article 21 of the Constitution which included the right to a decent environment and the right to live in a clean city. Lack of sufficient funds could not be seen as an excuse for the authorities to avoid fulfilling their obligations. Furthermore, the High Court noted that the State should protect the environment and regulate activities degrading it as well as provide work opportunities and shelter in rural areas in order to combat rural-urban migration. The Court issued directions to the State including directions to plan a waste-management strategy for effective waste disposal and collection, to build night shelters for homeless people and to educate the public on hygiene, environmental protection and respecting the law'.*

Full text, Website www.globalhealthrights.org

Decisions of domestic courts

ARGENTINA

- In dealing with similar cases, courts in Argentina have based their decisions on other rights, such as that to a healthy environment, from which the right of water implicitly derives.

COLOMBIA

- *Alberto Castilla Salazar and Others v. Colombia* (2016) (Constitutional Court of Colombia). 'The plaintiffs sued the Colombian government over the constitutionality of two national laws. Law 1450 of 2011, which approves the National Development Plan 2010-2014, and the Law 1753 of 2015, which approves the National Development Plan 2014-2018, were argued to have provisions that put *paramas*, high-altitude and vulnerable wetlands, at risk. The Court noted important features of paramos, including their fragility and their slow recuperation capacity compared with other ecosystems. The Court also referred to the interdependence between paramos and other ecosystems. Paramos source rivers that supply water to more than 70% of Colombians and provide important environmental services, such as regulating hydrological cycles and sequestering carbon for climate change mitigation. The Court recognized these services as fundamental to society because they help ensure rights to water and a healthy environment, and mitigate and adapt to climate change. While provisions in the two laws prohibit agriculture, mining, and oil exploration in paramos, the prohibition only applied to permits issued after specific dates, allowing persons with permits issued prior to these dates to continue these activities. Other provisions enable the national government to declare certain projects as being of national strategic interest, exempting activities from certain local regulations. The Court found these provisions to threaten citizens' fundamental rights to water and a healthy environment, and found some of the provisions unconstitutional'.

Decisions of domestic courts

COLOMBIA

- *Future Generations v. Ministry of Environment and Others* (Apr 5, 2018) (Supreme Court of Justice of Colombia)

‘25 youth plaintiffs, including Indigenous youth, between the ages of 7 and 25, sued Colombian governmental bodies, municipalities, and three autonomous regional corporations operating in the Amazon Rainforest for “increased deforestation in the Amazon.” According to the Paris Agreement and Colombian Law 1753 of 2015, the government committed to reducing the net rate of Amazon deforestation to zero by 2020, and to reducing greenhouse gas (GHG) emissions. However, the plaintiffs showed that the government had increased deforestation in the Amazon, threatening their fundamental rights to a healthy environment, life, food and water. The plaintiffs lodged an acción de tutela, a legal mechanism for individuals to claim immediate protection of their fundamental rights. The Supreme Court of Justice ruled in favour of the plaintiffs and recognized for the first time that the Colombian Amazon is itself a subject of rights. The Court issued five mandatory orders against the defendants to reduce deforestation and GHG emissions’.

Decisioni di organismi internazionali di tutela dei diritti umani

Vi sono pronunce di organismi internazionali di tutela dei diritti umani che riconoscono, sia pure indirettamente, il diritto all'acqua.

LA CORTE EUROPEA DEI DIRITTI DELL'UOMO

- ***Hudorovic and others v. Slovenia*** (March 2020) <https://hudoc.echr.coe.int/eng#>
'Allegedly insufficient measures to ensure access to safe-drinking water and sanitation for Roma communities • Positive obligations triggered only by persistent and long-standing lack of access to safe-drinking water having adverse consequences for health and human dignity effectively eroding core rights under Art 8 • Existence and content of positive obligations to be determined by specific circumstances of the persons affected, legal framework and economic and social situation of the respondent State • Wide margin of appreciation accorded to States_ • Opportunity to access safe drinking water provided by the authorities who actively engaged with specific needs of vulnerable and socially disadvantaged community • Non-negligible proportion of Slovenian population in remote areas lacking access to public water supply and sewerage systems • Applicants not prevented from using their social benefits towards improving living conditions'
- ^{116.} The Court makes clear that access to safe drinking water is not, as such, a right protected by Article 8 of the Convention. However, the Court must be mindful of the fact that without water the human person cannot survive. A persistent and long-standing lack of access to safe drinking water can therefore, by its very nature, have adverse consequences for health and human dignity effectively eroding the core of private life and the enjoyment of a home within the meaning of Article 8. Therefore, when these stringent conditions are fulfilled, the Court is unable to exclude that a convincing allegation may trigger the State's positive obligations under that provision. Existence of any such positive obligation and its eventual content are necessarily determined by the specific circumstances of the persons affected, but also by the legal framework as well as by the economic and social situation of the State in question. The Court considers that the question whether any positive obligations were triggered in the present case and the scope of such obligations, which are the core issues to be examined on the merits, are closely linked to the specific circumstances of the case and their level of seriousness. There is therefore a strong tie between the question of applicability and the merits in the assessment of whether or not a private life issue is raised in the present case'
- ***Zander v. Sweden*** (1993). 'Article 6 provided the basis for a complaint that the applicants had been denied a remedy for threatened environmental harm. The applicants claim was directly concerned with their ability to use the water in their well for drinking purposes. Such ability was one facet of their right of property. The entitlement in issue was thus a 'civil right' and thus Article 6-1 was applicable. At the material time it was not possible for the applicants to have the relevant decision reviewed by a court. The applicability of Article 6 was based on the Court's finding that 'the applicants could arguably maintain that they were entitled under Swedish law to protection against the water in their well-being polluted as a result of VAFAB's [the polluting company] activities on the dump.' Accordingly, the Court held that there had been a violation of Article 6-1 in their case'.

Decisioni di organismi internazionali di tutela dei diritti umani

LA CORTE EUROPEA DEI DIRITTI DELL'UOMO

- *Urgenda v. The State of the Netherlands* (December, 2019)

The Netherlands' supreme court has ruled that the state has 'direct legal obligations' to reduce carbon emissions by at least 25% by the end of 2020, compared to 1990 levels ([Urgenda v The State of the Netherlands, 20 December 2019](#)), following a detailed [Advisory Opinion of the Attorney General and Procurator General](#).

Urgenda, an environmental NGO, issued proceedings in 2013, as representative of 886 individuals, and in the collective interest of the Dutch population. It claimed that constitutional norms, ECHR articles 2 (right to life), 8 (private and family rights) and 13 (right to an effective remedy), and tortious duties, interpreted consistently with international environmental law (IEL), and 'soft law' principles, obliged the state to reduce carbon emissions by 25% — 40% by 2020

Nevertheless, the supreme court held that the state *is* responsible for excessive emissions, triggering positive emissions reduction obligations under ECHR articles 2 and 8. Although ground-breaking, these conclusions are fundamentally premised on established ECHR principles. First, environmental degradation from dangerous industrial activities can violate articles 2 and 8 ([Öneryildiz v Turkey](#); [López Ostra v Spain](#); [Guerra v Italy](#)). Secondly, the state must 'take appropriate steps to safeguard the lives of those within its jurisdiction' ([LCB v UK](#); [Kiliç v Turkey](#)). Thirdly, a causal nexus between a 'real and immediate threat' to individual rights, may trigger states' positive obligations to mitigate harm (the 'Osman duty': [Osman v UK](#)), including for longer-term risks ([Öneryildiz v Turkey](#); [Taşkın v Turkey](#)). Fourthly, positive obligations can extend to all community inhabitants ([di Sarno v Italy](#); [Cordella v Italy](#)), if evidence shows a causal nexus between threats of harm and individual rights within the area.

Decisioni di organismi internazionali di tutela dei diritti umani

LA COMMISSIONE AFRICANA DEI DIRITTI UMANI E DEI POPOLI

- **Caso *SERAC & CESR c. Nigeria*** (2001). Nella decisione dell'ottobre 2001, la Commissione ha preso in considerazione il degrado ambientale della zona del delta del Niger, dovuto ad attività minerarie. La Commissione ha, tra l'altro, stabilito che la contaminazione dell'acqua e le malattie che ne derivano costituivano una violazione degli articoli 16 (diritto alla salute), 24 (diritto all'ambiente) e 21 (diritto alle risorse naturali) della Carta africana dei diritti umani e dei popoli.

Decisioni di organismi internazionali di tutela dei diritti umani

LA CORTE INTERAMERICANA DEI DIRITTI UMANI

- **Comunità indigena XAKMOK KASEK c. Paraguay** (24.08.2010). La Corte ha concluso che la somministrazione di acqua a livelli qualitativi e quantitativi al di sotto del minimo necessario costituiva una violazione del diritto a vivere una vita degna, tutelato dalla Convenzione americana dei diritti.
- **Comunità indigena SAWHOYAMAXA c. Paraguay** (29.03.2006). In un caso analogo, la Corte ha condannato lo Stato a somministrare acqua potabile e a costruire latrine.
- **Medio Ambiente Y Derechos Humanos** (15.11.2017)

'At the request of Colombia, the Inter-American Court of Human Rights made a pronouncement through the mechanism of the Advisory Opinion on the effect of the obligations derived from environmental law in relation to the obligations of respect and guarantee of human rights. To this end, the Inter-American Court interpreted and integrated the principles, rights and obligations of the international environmental protection law together with the obligations assumed by the States under the American Convention. The Advisory Opinion collects, analyzes and systematizes the main rules expressly established or included in customary international law, as well as the general principles of law and soft law, as well as its own jurisprudence and that of other international tribunals: The right to a healthy environment is an autonomous human right included among the economic, social and cultural rights (DESCA) protected by Article 26 of the Convention, a right that protects nature and the environment not only because of its usefulness for being human or by the effects that its degradation could cause in other human rights, but by its importance for the other living organisms with whom the planet is shared, also worthy of protection in themselves (translation based on comment by M. Pena Chacón).'

Decisioni di organismi internazionali di tutela dei diritti umani

COMITATO PER I DIRITTI UMANI DELLE NAZIONI UNITE

▪ *Ioane Teitiota c. Nuova Zelanda* (National – higher court)

The applicant applied for refugee status and protected persons status on the grounds of suffering from the effects of climate change in his country of origin, Kiribati, including steadily rising water levels and associated environmental degradation, which the applicant feared would forcibly displace inhabitants to leave their islands. The Refugee and Protection Office declined his application. In appeal, the Immigration and Protection Tribunal accepted the applicant's concerns, but dismissed his appeal on the grounds that the applicant was not a refugee according to the definition in the United Nations Convention Relating to the Status of Refugees (the Convention) or the International Covenant on Civil and Political Rights (ICCPR). After being refused leave of appeal by the High Court and the Court of Appeal, the applicant appealed to the Supreme Court. The Court found that the applicant does not, if returned to Kiribati, face "serious harm" and there is no evidence that the Government of Kiribati is failing to take steps to protect its citizens from the effects of environmental degradation to the extent that it can. Therefore, the Court dismissed the appeal, but stated that the judgment should not be taken as ruling out the possibility of extending such protection in an appropriate case.

Con la decisione del 24.10.2019-07.01.2020 (art. 6 "diritto alla vita" del Patto sui Diritti civili e politici), il Comitato per i diritti umani delle Nazioni Unite si è allineato con i giudici neozelandesi. Il Comitato ha affermato che il rischio di privazione arbitraria della vita del signor Teitiota non era sufficientemente effettivo: non sono state portate le prove soddisfacenti per stabilire che la famiglia dello stesso non avesse alcun accesso all'acqua potabile; allo stesso tempo, sebbene l'agricoltura sia diventata un'attività difficile, non tutte le colture sono diventate impossibili da praticare; inoltre, Kiribati ha adottato misure concrete per combattere i cambiamenti climatici attraverso un Piano nazionale di adattamento, come previsto dall'Accordo di Cancun e poi dall'Accordo di Parigi con le NDCs. Il Comitato ha accettato le argomentazioni di Teitiota secondo cui l'innalzamento del livello del mare renderà Kiribati non abitabile, ma ha affermato che questo succederà nei prossimi 10-15 anni e, di conseguenza, lo Stato, in questo periodo, potrà prendere le misure necessarie ed eventualmente ricollocare le persone. Il Comitato non ha deliberato in maniera unanime.

Appendice 1

Per uno sguardo globale sui diritti umani all'acqua-
all'ambiente-alla salute-alle risorse naturali nella
giurisprudenza nazionale e internazionale

Free online **DATABASE:**

<https://www.globalhealthrights.org/human-rights/>

Appendice 2

HANDBOOK for Parliamentarians No 26, co-published by the Inter-Parliamentary Union and the United Nations (OHCHR), 2016:
<https://www.ohchr.org/documents/publications/handbookparliamentarians.pdf>

- **International Human Rights Law**
- **What are human rights? Human rights are rights that every human being has by virtue of his or her human dignity**
- **Basic Human rights principles: universal; inalienable; indivisible; interdependent and inter-related**
- **The Office of the UN High Commissioner for Human Rights. How OHCHR works**
- **Regional human rights treaties and monitoring**

HUMAN RIGHTS PRINCIPLES AND WATER

1. **NON-DISCRIMINATION;**
2. **PARTECIPATION & INCLUSION;**
3. **TRANSPARENCY & THE RULE OF LAW;**
4. **RIGHTS-HOLDERS & DUTY BEARERS**

Appendice 3

Ten years after the recognition of water as a human right, UNDP-SIWI's (United Nations Development Programme – Stockholm International Water Institute) water governance facility hosted a webinar on 'Human Rights and Water Security in an Age of Uncertainty', which brought together two UN experts – Dr Léo Heller, Special Rapporteur on 'the Human Rights to Water and Sanitation', and Dr David R. Boyd, Special Rapporteur on 'Human Rights and the Environment'. Their conversation was moderated by Caterina de Albuquerque, SWA and f. Special Rapporteur on the HRWS (13 October, 2020)

VIDEO:

https://siwi.zoom.us/rec/share/O1tTh9-kGiFgMvTitpT0ipv6T9S0vJ8Ng8k8EcPajTsbGQmVkv8oLFAae1G_aKw.A1bQPpcFnT0lXXIc

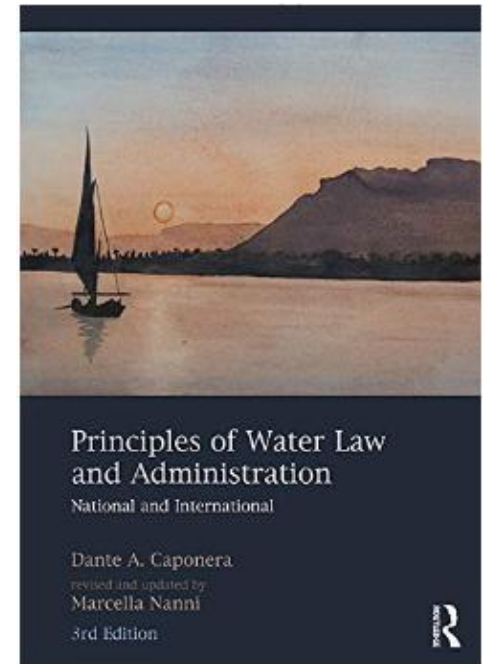
Passcode: aK+FptV3

Appendice 4

LA SCIENZA DELLA POLITICA, AMMINISTRAZIONE E REGOLAMENTAZIONE DELLE ACQUE È UNA SCIENZA RELATIVAMENTE NUOVA CHE RICHIEDE UN APPROCCIO INTERDISCIPLINARE.

BOOK: 'Principles of Water Law and Administration. National and International', Dante A. Caponera, revised and updated by Marcella Nanni, 3rd Edition, 2019

Unfortunately, lawyers trained in the field of water resources are a rare commodity.



***Si ringrazia Marco Gualmini per
la collaborazione tecnica***



info@morepleasefoundation.org