An Analysis of the Legal Nature of SDG 6 Within the Context of International Water Law

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Abstract

Through the Sustainable Development Goals (SDGs), a pledge was made to renew the commitment to sustainable development and to ensure the promotion of an economically, socially and environmentally sustainable future for our planet and for the present and future generations. Water access and conservation are categorised as SDGs by way of SDG 6, which involves a commitment to ensuring the availability and sustainable management of water and sanitation for all. It is one of the most significant goals in terms of its potential impact on development outcomes. Since the state of access to water has been an obstacle for development in many parts of the world for a long period of time, and since there have been increasingly urgent warnings of a global water crisis, SDG 6 has the potential to fast-track the global water agenda by bringing these issues and potential solutions to the fore. The current SDGs are widely regarded as a global effort to recognise basic human rights and needs and to ensure the enjoyment of these needs. Thus, it is pertinent to understand the legal status of SDG 6 (and SDGs in general) within the international community. The fact that these goals are so widely accepted cannot be ignored and their impact is pivotal in awakening the global conscience with regard to key issues within human society and the ecology. The aim of this article is to determine the legal status of SDG 6 by examining the principles of international law and by making comparisons with certain international law instruments and policies related to water and freshwater law.

Keywords

International environmental law; international freshwater law; sustainable development; sustainable development goals; Sustainable Development Goal 6; water access; water scarcity; water quality; water rights; water governance; soft law.

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1 Introduction

> The Sustainable Development Goals (SDGs) seek to build upon the widely acknowledged success of the Millennium Development Goals (MDGs), which for the first time established at the global level a set of quantifiable, ambitious, yet realistic targets for sustainable development, which were non-binding in character and relied solely upon the political commitment of States and other actors.[1]

The global agenda of the Sustainable Development Goals (SDGs) was based on the previous drafted Millennium Development Goals (MDGs), the elaboration of which was required to promote the welfare of humanity, now and in the future, and to address new problems that might arise. The SDGs were drafted in accordance with the outcome document of "Rio+20",[2] in terms of which a pledge was made to renew the commitment to sustainable development and to ensure the promotion of an economically, socially and environmentally sustainable future for our planet and for present and future generations.[3] The United Nations (UN) aimed to establish an inclusive and transparent intergovernmental process open to all stakeholders leading to the drafting of a set of sustainable development goals to be submitted to the General Assembly for approval.[4]

The Sustainable Development Goals (SDGs) aim to allow for a collective participatory process guiding states and actors in decision-making in various spheres, which range from poverty, education and environmental matters to water and sustainable cities and communities. The overall aim of the process was generate a global conscience that would enhance decision- and policy-making within these spheres.[5] Each SDG is made up of targets.[6] SDG 6 focusses on water and expresses a commitment to ensuring the availability and sustainable management of water and sanitation for all. It can be argued that SDG 6 is one of the most significant goals in terms of its potential impact on development outcomes.[7] It foregrounds the overall importance of water for humanity and the need to sustainably use and preserve water for the generations to come. In addition, the devotion of an entire SDG to water is significant as it ensures that the resource is afforded due international recognition in the international context.

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1 McIntyre "International Water Law" 173.

2 Palmer 2015 *Journal of Global Ethics* 2.

3 UNGA *The Future We Want* UN Doc A/RES/66/288 (2012) 1.

4 UNGA *The Future We Want* UN Doc A/RES/66/288 (2012) 47.

5 McIntyre "International Water Law" 173.

6 UNGA *Transforming Our World: The 2030 Agenda for Sustainable Development Approach to Development* UN Doc A/RES/70/1 (2015) 6.

7 McIntyre "International Water Law" 173.

SDG 6 is essential in furthering the agenda pertaining to access to water and its protection and conservation. In addition, it is important to determine where and how it fits into the legal landscape, which may sometimes lack clarity as to its expression of international aspirations and its enunciation of the global agenda, leading to a failure to work towards achieving the goals because of the lack of legal force behind their expression. The issue stems from the uncertainty regarding the status of international goals and aspirations, and how the formation and nature of these aspirations actually fits within the legal landscape, if legal enforcement is not readily available and consequences are not attached to them in the conventional sense. Indeed, international goals and aspirations may fall anywhere within the scale of there being a mere moral obligation to fulfil them or a non-binding commitment to attempting to fulfil them, which may jeopardise the overall purpose and intentions of the goals and aspirations. Depending on the interpretation and which side of the scale the interpretation leans towards, the status of global goals may always be legally uncertain. Thus, it is pertinent to understand the legal status of SDG 6 in the international community. The fact that these goals are so widely accepted cannot be ignored and their impact has been pivotal in awakening the global conscience with regard to key issues in human society and the ecology. The aim of this article is therefore to determine the legal status of SDG 6 by examining the principles of international law and by drawing comparisons with certain international law instruments and policies related to water and freshwater law.

2 Sustainable Development Goal 6 (SDG 6)

SDG 6 on water, sanitation[8] and hygiene holds significant promise and addresses many of the shortcomings of the MDGs. SDG 6 requires the achievement of universal access to water, as against the requirement in the MDGs, which was to halve the proportion of people without sustainable access to safe drinking water by 2015.[9] The enhancement and expansion on what the goals and targets entail cannot be understated, as the focus is now not only on access but on water as a commodity in general.

8 The concept of "sanitation" will not be dealt with in this article. Water is essential for sanitation, be it for human beings, animal or plant life and the link between water and sanitation is evident as sanitation is possible only with proper access to water.

9 Winkler and Roaf 2015 https://www.hhrjournal.org/2015/09/sdg-series-progress-on-water-sanitation-and-hygiene-through-sdg-6-only-if-the-focus-shifts-to-eliminating-inequalities/.

SDG 6.1 aims to achieve universal and equitable access to safe and affordable drinking water for all.[10] It is thus much more ambitious than the water target set out in MDG 7, which called only for improvements in the access to improved water supply.[11] SDG 6.1 has therefore extended the scope of its predecessor to include concepts such as the quality and affordability of water. Universal access implies exposure to all settings for each and every person in society.[12] SDG 6 includes physical and economic access to water. People should be able to easily or reasonably access water for domestic use. The manner in which reasonable accessibility is interpreted should be aligned with international standards. The convenient domestic usage of water is the basis for being able to live a life of reasonable quality, therefore physical accessibility should not be a hindrance. However, with physical accessibility comes economic accessibility as well, where service delivery fees should not also act as a hindrance to people and societies needing water, especially the most vulnerable groups.[13]

The various elements as contained in SDG 6.1 already serve as an indication of the various complexities that can arise in realising this goal. Indeed, an effective water governance system is the best way to progressively realise the goal, as its sole purpose would be the administration and supervision of all water-related matters on a global scale with proper procedures and protocols implemented. As the first goal relating to water within the current SDGs, SDG 6.1 sets the benchmark for what is expected by the global community in relation to access to water. Setting the aim of universal access is thus setting the highest threshold, which invariably indicates the overall importance of water to human existence. Hence, from the outset, SDG 6.1 sets into motion a target of achieving universal access to water for all, which thus shows what the overall purpose of this goal is. In essence, water should be viewed as the most important natural resource and commodity on earth for all of its inhabitants. The need for water for all human, animal and plant life cannot be understated, as water is the most essential element for the continued existence and thriving of human beings, animals and plants. Access to water is the most important part when it comes to water. Indeed, the quality and quantity of water is also of the utmost importance, but in order for life on earth to actually thrive, access must be easy and reasonably attainable first.

The rest of the goals for SDG 6 vary from access to sanitation, the reduction of water pollution, the efficiency of the use of water, the management of

10 Preamble of the UNGA *Transforming Our World: The 2030 Agenda for Sustainable Development Approach to Development* UN Doc A/RES/70/1 (2015).

11 Dar and Khan 2011 *Tropical Medicine and International Health* 540-544.

12 WHO 2017 https://www.unwater.org/app/uploads/2017/05/Methodological-note-6a-and-6b_7-March-2017.pdf 9-10.

13 McIntyre "International Water Law" 179.

water as a resource, international cooperation and local-level cooperation.[14] At its core, the goal is focussed on access to water for all, but the SDG goes further than that by ensuring that control over factors that affect water is also addressed. The importance of eradicating water pollution cannot be understated, as access to water requires access to clean drinking water suitable for human consumption and everyday domestic use. Pollution severely impacts the quality of water to the extent that it is not safe for human consumption. The provision for the control of water pollution in the goal speaks volumes about the approach of the drafters in treating access to water holistically. In addition, if water is used efficiently it would be possible to extend its availability much further than at present. Thus, the smarter and more efficiently water is used, the easier it becomes for water stocks and reserves to be replenished. This, in turn, requires better water-management, which is also addressed by way of SDG 6. The link to sustainable development is indeed evident with the phrasing of the goal and the needs of the present and future generations will indeed be considered if water is properly managed.

3 Legal classification of the SDGs

It is important to first classify the legal status of the SDGs in order to determine the legal context within which they fall. It is also important to do so because this would lead to an understanding of the implications and consequences that these goals have on a legal scale. The importance of understanding the legal status of the SDGs is not to attach legal consequences for non-compliance by member states, but rather for the further emphasis of the importance of the SDGs and the aims associated with them. A full determination of the legal dimensions of the SDGs might in theory lead to member states being more inclined to work towards achieving the relevant targets.

As there is no central authority with legal decision-making powers in such matters, agreements on how to serve common interests can be reached only through debate and the development of a broad consensus.[15] Some countries are not be as affected by the problems the goals seek to remedy as others, since basic human needs and services are usually met in developed countries. It may be pertinent to ask why there is a need to realise the goals if some countries would be more greatly benefitted than others, especially when no legal obligation is attached to the goals. However, international law is imperative to the cohesive functioning of the global world, as it has the ability to allow for structure and procedure when guidance is needed or when disputes arise at an international level. The

14 SDG 6.2 to SDG 6.7 in UNGA *Transforming Our World: The 2030 Agenda for Sustainable Development Approach to Development* UN Doc A/RES/70/1 (2015).

15 Brus "Soft Law in Public International Law" 1.

International Court of Justice (ICJ) also highlights the important nature of international law in terms of Article 38 of the *ICJ Statute*. Article 38 states that international conventions, international custom and the general principles of law recognised by civilised nations shall be applied when dealing with international disputes set before it.[16] Therefore, the categorisation of the SDGs in a legal context in general is of the utmost importance, as this could provide for greater clarity on their practical application.

3.1 The recognition and influence of soft law

In the traditional sense law is considered as a rigid construct that is used to govern, and that needs to be properly enforced in order that an orderly society be maintained. Law is usually categorised as either hard law or soft law. Soft law refers to international norms that are deliberately non-binding in character, but are of great legal relevance.[17] As law is usually something that is readily enforceable, it may be asked if soft law can actually be regarded as law in the true sense of the word. It is often argued that soft law is ambiguous because its legal effects and its implication are often difficult to identify. Soft law leaves large amounts of discretion to states that resort to it. The standards are often so vague that third-party adjudication would be impossible even if it were provided for.[18] Soft law mainly constitutes various parts of the modern law-making process.[19] It is common that resolutions of the United Nations General Assembly (UNGA) may contain soft law norms that may have normative relevance.[20] It is thus important to determine whether the SDGs may be characterised as soft law which may have a normative influence on international environmental law.[21]

It is common practice to find non-binding normative statements in international declarations and resolutions, with compliance with these statements being expected.[22] Commentators refer to these instruments as soft law. However, soft law texts are mainly viewed as political commitments, giving rise to political consequences.[23] Therefore, it is generally understood that soft law is not binding, and instead consists of general norms or principles and is not readily enforceable through binding dispute resolution.[24] Noticeable examples of soft law include resolutions by

16 Article 38 of the *Statute of the International Court of Justice* (1946).
17 Li 2013 *Manchester Journal of International Economic Law* 362-364.
18 Palmer 1992 *AJIL* 269.
19 Abbot 2001 *ELM* 232.
20 Friedrich *International Environmental "Soft Law"* 23.
21 Scholtz and Barnard "The Environment and the Sustainable Development Goals" 225-226.
22 Shelton "Soft Law" 68.
23 Shelton "Soft Law" 68.
24 Boyle 1999 *ICLQ* 901.

international organisations and global plans of action or conduct, like resolutions of the United Nations, or its goals. Soft law operates under a different model from hard law. Hard law is law that is associated with legally binding obligations. It is referred to as legal rules in the traditional sense and understanding. Soft law is characterised by having less degree of precision than hard law.[25] Thus, the term soft law creates somewhat of a paradox as it seems to incorporate elements of flexibility and concession in relation to its implementation. Environmental strategists have often opted for soft law because of the diversification of the components of the global community.

Soft law is where international law and international politics combine to build new norms.[26] It comprises of an interesting dynamic, as it deals not only with legal matters per se, but is able to transcend the legal sphere and delve into social, economic and political aspects. Additionally, the use of soft law instruments in advancing social-justice issues should not be understated as it allows for humanitarian matters to be brought to the fore and for action, or at the very least, attention to be directed in relation to those matters. More importantly, soft law solutions change the political thinking on an issue, which can progressively be altered into hard law in the normal context.

The United Nations has spearheaded the enactment of legislation and the adoption of international environmental regulations that incline toward the dimension of soft law. Institutions of this nature provide the global community with a standing structure of organisation that controls permanent and ongoing political, economic and essential negotiations among the member states of the international community.[27] Moreover, the important role of non-governmental institutions offers an effective complement to the present intergovernmental framework by creating dynamic inter-state diplomacy and global public opinion. The importance of these institutions cannot be understated, as they bring about a global connection and for conversations about pertinent environmental issues. If matters are discussed in forums of this type, and resolutions are agreed upon, then easier soft implementation of these resolutions by participating states may occur on a domestic level, gradually addressing whatever issue is being targeted.

Typically, a benefit of soft international norms is that they can induce wide participation by parties[28] and provide developing countries a platform on which to engage on important environmental and developmental issues with developed countries. Developing states prefer soft law regulations because they seem friendly, especially when compared with the principles of hard

25 Li 2013 *Manchester Journal of International Economic Law* 362-364.
26 Palmer 1992 *AJIL* 269.
27 Abbot 2001 *ELM* 232.
28 Abbott and Snidal 2000 *International Organization* 421.

law. As stated by Palmer, environmental soft law needs to be aimed as far as possible toward the high end of the spectrum. It is a vital part of the continuous process of building norms.[29]

The reliance on soft law for environmental matters and concerns on a global scale is important. Soft laws can change behaviour and it can ensure that political pressure is used in order to get non-conforming states to abide by the global rules.[30] Soft laws are in essence negotiated treaties without the binding characteristics of treaties. They can be categorised as international obligations without the legal consequences for non-compliance, but they can still have be as persuasive in bringing about conforming behaviours as hard law would.[31] It must be noted that soft law dissenters cannot be forced into changing their behaviours or even into abiding by soft law at all, since it lacks the legal status associated with traditional hard law. However, there is at least an element of good faith commitment, and in many cases, a desire to influence state practice and an element of law-making intention and progressive development.[32] These non-binding instruments and commitments may be entered into precisely to reflect the will of the international community to resolve a pressing global problem over the objections of one or a few states while avoiding the doctrinal barrier of their lack of consent to be bound by the norm.[33] The influence of soft law policies is clear and the ability of soft law to at least highlight a problem should not be understated.

3.2 The SDGs as soft law

The SDGs have a close proximity to international law and at least some of the SDGs, especially SDG 6, have the potential to contribute to the development of international law. It is this interplay with international law that increases the normative influence of soft law instruments.[34] Indeed, it could be said that the SDGs are endowed with some form of normative value as they could be placed at the softest end in the "hard-to-soft" continuum. This is because the SDGs do not contain binding legal commitments to be achieved, and furthermore they present vague and aspirational targets instead of defining specific outcomes.[35] The issue here revolves around how the SDGs are actually interpreted. If viewed primarily on the softer scale, the legal impact becomes very weak, if anything at all. Reliance on law in the traditional sense would be problematic for global

29 Palmer 1992 *AJIL* 270.
30 Anton and Shelton *Environmental Protection and Human Rights* 63.
31 Boyle 1999 *ICLQ* 902-903.
32 Boyle 1999 *ICLQ* 902-903.
33 Anton and Shelton *Environmental Protection and Human Rights* 63.
34 Scholtz and Barnard "The Environment and the Sustainable Development Goals" 227.
35 Persson, Weitz and Nilsson 2016 *RECIEL* 59-60.

issues of the nature covered by the SDGs, as time, effort, consensus and cooperation are required – much of which is hard to agree upon in the current global context, even when it comes to matters of the environment and global human concern. The interests of parties and states should not be ignored either, as the self-interest of a state usually trumps the interests of the global community. Implementing soft law principles thus requires true consensus and co-operation, and a shift in mind-set towards the global or greater good.

It is important to understand that the *goals* are not legally binding in nature. The SDGs are not a negotiated treaty and therefore will be, at best, a form of soft law, as previously mentioned.[36] The goals carry significant weight and influence in the international spectrum. However, at best they can be classified only as principles of soft law. The issue that becomes evident is the governance of meeting the said targets within the goals. It is also argued that the SDGs do not amount to soft law norms at all because the document containing them is a political declaration, giving rise to political commitment, without the intention that subscribing to the goals should evolve into a legal commitment in international law.[37] This removes any form of legal attachment to the goals and in fact removes any form of legal commitment by participating states. Again, it then becomes a matter of finding consensus and cooperating on a political front, identifying all the issues present and trying to rectify the issues as a global community. Approaching the goals from this perspective removes them from the context where one needs to debate their efficacy as soft law and adds weight to the pressure actually to attempt to achieve the goals and standards, although they do not carry any legal force in the traditional sense.

Despite the non-binding character of the SDGs, it appears that in the adoption of the 2030 Agenda the international community was aware of the potential legal significance of this Declaration.[38] Indeed, where the Declaration states that "we reaffirm our commitment to international law and emphasise that the Agenda is to be implemented in a manner that is consistent with the rights and obligations of States under international law", it can be noted that the principles of international law were used as a basis for the composition of SDG 6 and the SDGs in general.[39] Since the targets are not legally binding, it can be argued that there is some sort of moral obligation involved in achieving the goals. However, countries and members must be morally inclined as well. The attempt to achieve the global goals could result in an endless "non-legal" gyre. The fact remains that not the lack of a legal consequence for non-performance automatically infers that

36 Miller-Dawkins 2014 https://cdn.odi.org/media/documents/9295.pdf.
37 French *Ethiopian Yearbook of International Law* 164-165.
38 McIntyre "International Water Law" 176.
39 McIntyre "International Water Law" 177.

there is no legal obligation, and this causes issues in relation to the achievement of the global goals. However, if the SDGs are soft law in nature, this would infer that there would be a normative legal consequence. The goals have at best soft law characteristics, which means that they should be regarded as legally relevant. One should never underestimate the power of the global collective force that exists when it comes to the recognition and delivery of basic human needs. It is ultimately through this awakening that the international community must at least recognise the plight at hand and not plead ignorance when the overall situation regarding the environment, development and water becomes dire.

4 SDG 6 and international water law linkages (*capita selecta*)

SDG 6, which deals with water, is unique in the sense that there are already various legally recognised domestic and international instruments dealing with water for human consumption and general usage and protection. Thus, an opportunity presents itself whereby the principles set out in SDG 6 may be recognised, developed and integrated with other established water law instruments and provisions.[40] This means that SDG 6 has the potential to bring together the current laws and policies on international freshwater and allow for some form of cohesion going forward, especially when trying to achieve the aim of access to clean and safe water for all, which is important to sustaining human, environmental and overall life on earth. The legal influence of established water law instruments automatically provides some form of legal force to SDG 6, if properly associated or attached. This in turn, would at least allow for some form of legal recognition, even if it is on the soft law spectrum.

However, due to the lack of reference by SDG 6 to any of the many international legal instruments on freshwater and sustainable water management, any reference drawn to them must be implicit rather than explicit.[41] SDG 6 has the potential to further extend the scope of international freshwater law and it has the ability to further realise and recognise the status of water as a human right. In order to achieve this, legal recognition must occur in addition to the political commitment, with some form of attachment of the SDG 6 ideals to domestic and international provisions on water. Thus, the reading-in of the goals, targets and aspirations of the SDGs may be a good start when implementing domestic water law, or even when comparing domestic provisions with international provisions. Thus would allow a form of legal legitimacy to form. Indeed, "the

40 Spijkers *et al* "Rules and Practices of International Law" 9.

41 Scholtz and Barnard "The Environment and the Sustainable Development Goals" 232.

SDGs will be elevated from purely political commitments to legally relevant obligations when they can be attached to the norms of international water law".[42]

The common purpose philosophy upon which the SDGs are based is vital to furthering various facets of international law and relations, not just in regard to water. The fact that the SDGs require co-operative measures in order to ensure their implementation and success is important, as it allows for more opportunity to expand international policy. This carries great weight in the sense that it shows the overall effect that the realisation of the SDGs could have on the international community. As previously mentioned, because of the soft law status of the SDGs no legal consequence would automatically follow on their non-realisation, which means that there is no obligation attached to them. The attachment of SDGs to their corresponding international law could go a long way toward ensuring the legitimacy and implementation of the SDGs as a whole, as well as toward achieving the actual goals and targets.

4.1 Similarities between SDG 6 and other international water instruments

4.1.1 The International Covenant on Economic, Social and Cultural Rights

The goals and targets of SDG 6 are reminiscent of various international instruments related to water. For instance, in terms of SDG 6.1, the *International Covenant on Economic, Social and Cultural Rights* (hereafter referred to as ICESCR), determines that the right to water is derived from the right to an adequate standard of living found in Article 11(1) of the ICESCR. Thus, the linkage between water, sanitation and human life is clearly evident, as water is the main source not only of human life but also of life in general for all species on the earth. A normal standard of living is dependent on having access to safe and clean drinking water fit for human consumption. Furthermore, it can be linked to the right to the highest attainable standard of physical and mental health, as well as the right to life and human dignity.[43] Similarly, the achievement of universal and equitable access to safe and affordable drinking water for all emphasises the global need to ensure access to water and sanitation, and to care for the water resources necessary for sustainable development upon which all countries depend.[44] In addition, the linkage between an adequate standard of living and universal and equitable access to water and sanitation is evident due to the vital importance of water for the sustenance of human life, growth and development.

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42 Spijkers 2016 *RECIEL* 39.
43 Spijkers *et al* "Rules and Practices of International Law" 11.
44 Spijkers *et al* "Rules and Practices of International Law" 4.

4.1.2 General Comment No 15

In terms of General Comment Number 15 (hereafter referred to as GC 15) of the UN Committee on Social, Cultural and Economic Rights,[45] the right to water is essential for securing an adequate standard of living, a statement which has been affirmed by the UN General Assembly and the Human Rights Council.[46] Also, GC 15 sets the criteria for the full enjoyment of the right to water by addressing certain facets relating to water. These facets include availability, quality and accessibility, which implies affordability, as well as physical access and information relating to water.[47] SDG 6, which focusses on access to water, quality, usage-efficiency, resource management and restoration, shares the same standards as GC 15. Thus, it is evident that SDG 6 gets its basis from established international standards and that it is aimed at extending these norms and principles to further the water agenda for the common good. The linkage between SDG 6 and GC 15 is important to note, as SDG 6 should be viewed as an extension and reiteration of the aims and objectives of GC 15. However, the normative content on the interpretation of the human right to water is dealt with in greater detail in GC 15 and SDG 6 should be viewed as an additional stepping-stone in this interpretation through the introduction of its relevant targets. Nevertheless, an acknowledgment of the relation will provide further legitimacy to the status of SDG 6 and the SDGs in general.

4.1.3 United Nations Watercourses Convention 1997

SDG target 6.1 is also supported by the core values inherent in international water resources law, which is the body of rules of international law that is primarily concerned with the utilisation and protection of shared international water resources largely codified in the 1997 *United Nations Watercourses Convention* (UNWC).[48]

One of the core aspects of the UNWC deals with vital human needs,[49] one of which is water for drinking and domestic purposes. This is indeed essential and it is stated that a shared watercourse to provide this access must be utilised for this purpose. Target 6.1 of SDG 6 would appear to correspond closely with this objective of the UNWC, as well as with the corresponding human need or "right" to water, mainly because of the fact

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45 CESCR *General Comment No 15: The Right to Water (Arts 11 and 12 of the Covenant)* UN Doc E/C.12/2002/11 (2003) para 3.

46 UNHRC *Resolution 15/9: Human Rights and Access to Safe Drinking Water and Sanitation* A/HRC/RES/15/9 (2010) para 3; *UNGA Resolution 68/157: The Human Right to Safe Drinking Water and Sanitation* UN Doc A/RES/68/157 (2013) para 2.

47 Article 3 of the CESCR *General Comment No 15: The Right to Water (Arts 11 and 12 of the Covenant)* UN Doc E/C.12/2002/11 (2003).

48 McIntyre "International Water Law" 182.

49 Article 10 of the *UN Convention on the Law of the Non-navigational Uses of International Watercourses* (1997).

that it calls for access to water for all. In determining the concept of vital human needs, the UN General Assembly Working Group stated that special attention is to be paid to providing sufficient water to sustain human life, including both drinking water and the water required for the production of food, in order to prevent starvation.[50] This is reflected in SDG 6, Target 6.1, which calls for such access for all human beings. In addition to this aspect, the International Law Association (ILA), in its *Report of the 71st Conference on International Water Law* (2004), afforded clear and formal priority to vital human needs, described water as an essential component for human survival, and defined this vital component as water used for immediate human survival, including drinking, cooking and sanitation.[51]

4.1.4 Additional international instruments

Additionally, it should be noted that the wording of SDG 6 bears similarities to that of other international instruments as well. For example, in Resolution 64/292 the United Nations General Assembly (UNGA) recognised access to safe and clean drinking water and sanitation as a human right and called upon states and international organisations to provide financial and technological capacity in order to provide for clean and safe water globally.[52] Furthermore, the UNGA in Resolution 70/169 affirmed the human right to safe water and sanitation as a component of the right to an adequate standard of living, and further recognised that safe water should be for everyone. In addition, SDG 6 was welcomed and states were urged to give due consideration to the targets as set in the goal.[53] Additionally, the UN Human Rights Council in Resolution 45/8 reaffirmed that the human right to safe drinking water included everyone without any discrimination and further recommended that states implement the internationally agreed SDGs and their targets, especially those of SDG 6, and make their implementation and realisation a priority.[54] The *UN Convention on the Protection and Use of Transboundary Watercourses and International Lakes* called for appropriate measures to be taken for the prevention, control and reduction of water pollution.[55]

Indeed, the SDGs could potentially influence the interpretation of international water instruments of the present and future. It is mentioned

50 Tanzi and Arcari *UN Convention on the Law of International Watercourses* 139.

51 Article 3(20) of the ILA *Report of the 71st Conference on International Water Law*.

52 UNGA *Resolution 64/292: The Human Right to Water and Sanitation* UN Doc A/RES/64/292 (2010).

53 UNGA *Resolution 70/169: The Human Rights to Safe Drinking Water and Sanitation* UN Doc A/RES/70/169 (2015).

54 UNHRC *Resolution 45/8: The Human Rights to Safe Drinking Water and Sanitation* UN Doc A/HRC/RES/45/8 (2020).

55 Article 2 of the *UN Convention on the Protection and Use of Transboundary Watercourses and International Lakes* (1992).

that the SDG process encourages the sustainable use of freshwater resources. Thus, it is recommended for all states to embrace a sustainable interpretation of the fundamental principles of water law. Many scholars have suggested that the sustainable use of water is part of the obligation to use water resources equitably and reasonably.[56] McIntyre, for example, refers to a legal regime of equitable and sustainable utilisation.[57] Wouters has proposed that, "given our present knowledge of the effects of economic development on the environment, it is extremely unlikely that a use, which endangers the long-term potential of renewable resources such as water, would today be considered reasonable."[58] Article 5 of the *Watercourses Convention* obliges states to use and develop an international watercourse equitably and reasonably, and "with a view to attaining optimal and sustainable utilisation thereof and benefits therefrom, taking into account the interests of the watercourse states concerned, consistent with adequate protection of the watercourse."[59] This provision is regarded as the bedrock of international water law.[60] Furthermore, the direct mentioning of SDG 6 in the aforementioned UNGA Resolution 70/169 and UN Human Rights Council Resolution 45/8 provides even greater legitimacy for the conscientious pursuit of the realisation of SDG 6 by all states.

Hence, it may be deduced that SDG 6 has targets that are founded upon international water principles. A significant influence of international water law and trends is evident in the composition of SDG 6 and the human rights elements of incorporating a right to water is indeed evident in the wording of the targets of SDG 6. Again, we come across a direct correlation between SDG 6 and a previous international water law convention. This correlation further enhances the status of global water policy, as it brings the agendas of previous commitments to the fore as well. SDG 6 truly has the potential to further international water law because greater urgency will follow from actually setting goals and targets that need to be met, which would allow for success in the achievement of the goals and targets. McIntyre suggests that the universal adoption of SDG 6 might do much to make this presumption of the priority to water among the requirements for human survival irrebuttable in any circumstances and its safeguarding even more of an essential condition in international water resource law.[61]

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56 Spijkers 2015 *Journal of Water Law* 122.
57 McIntyre *Environmental Protection of International Watercourses* 315.
58 Wouters and Rieu-Clarke 2001 *Journal of Water Law* 282.
59 Article 5 of the *UN Convention on the Law of the Non-navigational Uses of International Watercourses* (1997).
60 Spijkers 2015 *Journal of Water Law* 123.
61 McIntyre "International Water Law" 184.

5 Conclusion

This article has aimed to determine the legal status of SDG 6 by examining the principles of international law and by drawing comparisons with certain international law instruments and policies related to water and freshwater law. Furthermore, the article has aimed to shed light on the legitimacy of the SDGs from a legal perspective by identifying the situation of the SDGs in terms of other aspects of law. It is clear that the SDGs aim to uphold the provisions of previous international law treaties and that they aim to ensure the realisation and achievement of those provisions through the setting of targets. The aforementioned *capita selecta* show that the wording of SDG 6 has been based on or has been borrowed from previous international instruments pertaining to water. The attachment to and association of SDG 6 with prominent and established principles of international water law cannot be understated as it allows for a form of legitimacy that such soft law instruments require. It must be noted that the aims of the goals are geared towards ensuring the global good and ensuring that all human beings, in fact all life on earth, is protected, respected and sustained, with the natural resources cared for and responsibly accounted for.

SDG 6 has its principles well-rooted in international treaties, laws and obligations related to water, and this gives it the legitimacy that it deserves. SDG 6 aims for true water access and in essence further extends the global call and global need for universal and equitable access to the human need of water.

Indeed, the links with the international water law upon which SDG 6 is based reflect a growing recognition in general international water law of a human right to access to water. Thus, while the universal adoption of SDG 6 serves to enhance the legitimacy and significance of the increasingly firmly established paradigm of the human right to water in international water law, the primacy afforded to vital human needs in international water law serves to assist the realisation of SDG 6 itself.[62] An association or attachment of SDG 6 to existing water law standards and principles will go a long way toward enhancing the overall legal legitimacy of the goal and the willingness of all member states to do their utmost in order to actively and progressively achieve the aims and targets of the goal. Even though the aim of SDG 6 is admirable and has various moral and social connotations attached to them, these connotations have no legal force when it comes to actual implementation or even agreement to implement. However, this soft status should not be viewed as a deterrent.

With the potential still to have such a major impact in international water law and relations, the impact of SDG 6 on the international community cannot

62 McIntyre "International Water Law" 185.

and should not be ignored. SDG 6 is in line with the concept of sustainable development, as it calls for access to water for all human beings and it also calls for the conservation and management of scarce water resources. SDG 6 allows for the conservation and management of water which will allow for resources to be available not only to the current generation, but to future generations as well. Through its call for access, maintenance, the eradication of water-pollution and general water sustainability, SDG 6 furthers and promotes sustainable development and sustainable water resources management, and thus ensures that this resource can be properly used and conserved for all of humanity for generations to come. SDG 6 thus bolsters the current agenda of sustainable development and it bolsters the current precedents set out in international freshwater law, especially because of the fact that it is firmly based on those principles.

SDG 6 has been constructed in such a manner that it is in line with and attempts to reinforce the content of long-standing international water law instruments. It has drawn together the major issues plaguing water-resources management and has set targets in order to proactively address these long-standing issues. SDG 6 thus has the potential to be a core component of international water law and international water management, as it comprises of a variety of goals and targets that can only be for the betterment of international water law, water conservation and humanity at large. Hence, SDG 6 must be viewed as having some form of legal recognition, even if it is on a soft-law basis or even if it requires the reading-in of existing international and domestic water laws and policies. The extent of the influence of SDG 6 on the current global water agenda clearly warrants that it receive some form of legal recognition so that conventional legal force is given to the goals (with consequences for non-compliance).

Bibliography

Literature

Abbot 2001 *ELM*
Abbot C "Controlling Environmental Agency Discretion: A Public Law Perspective" 2001 *ELM* 232-238

Abbott and Snidal 2000 *International Organization*
Abbott KW and Snidal D "Hard and Soft Law in International Governance" 2000 *International Organization* 421-456

Anton and Shelton *Environmental Protection and Human Rights*
Anton DK and Shelton DL *Environmental Protection and Human Rights* (Cambridge University Press Cambridge 2011)

Boyle 1999 *ICLQ*
Boyle A "Some Reflections on the Relationship of Treaties and Soft Law" 1999 *ICLQ* 901-913

Brus "Soft Law in Public International Law"
Brus M "Soft Law in Public International Law: A Pragmatic or a Principled Choice? Comparing the Sustainable Development Goals and the Paris Agreement" in University of Groningen *Validity and Public Trust Conference* (17-18 December 2015 Groningen) 1-20

Dar and Khan 2011 *Tropical Medicine and International Health*
Dar OA and Khan MS "Millennium Development Goals and the Water Target: Details, Definitions and Debate" 2011 *Tropical Medicine and International Health* 540-544

French 2017 *Ethiopian Yearbook of International Law*
French D "The Global Goals: Formalism Foregone, Contested Legality and Re-Imaginings of International Law" 2017 *Ethiopian Yearbook of International Law* 151-178

Friedrich *International Environmental "Soft Law"*
Friedrich J *International Environmental "Soft Law"* (Springer Cham 2013)

ILA *Report of the 71st Conference on International Water Law*
International Law Association *Report of the 71st Conference on International Water Law (21 August 2004 Berlin)* (ILA London 2004)

Li 2013 *Manchester Journal of International Economic Law*
Li X "Soft Law-Making on Development: The Millennium Development Goals and Post-2015 Development Agenda" 2013 *Manchester Journal of International Economic Law* 362-381

McIntyre *Environmental Protection of International Watercourses*
McIntyre O *Environmental Protection of International Watercourses under International Law* (Routledge London 2007)

McIntyre "International Water Law"
McIntyre O "International Water Law and SDG 6: Mutually Reinforcing Paradigms" in French D and Kotze L (eds) *Sustainable Development Goals: Law, Theory and Implementation* (Edward Elgar Cheltenham 2018) 173-200

Palmer 2015 *Journal of Global Ethics*
Palmer E "The Sustainable Development Goals" 2015 *Journal of Global Ethics* 3-9

Palmer 1992 *AJIL*
Palmer G "New Ways to Make International Environmental Law" 1992 *AJIL* 259-283

Persson, Weitz and Nilsson 2016 *RECIEL*
Persson A, Weitz N and Nilsson M "Follow-up and Review of the Sustainable Development Goals: Alignment vs Internalization" 2016 *RECIEL* 59-68

Scholtz and Barnard "The Environment and the Sustainable Development Goals"
Scholtz W and Barnard M "The Environment and the Sustainable Development Goals: We Are on a Road to Nowhere" in French D and Kotze L (eds) *Sustainable Development Goals: Law, Theory and Implementation* (Edward Elgar Cheltenham 2018) 222-249

Shelton "Soft Law"
Shelton D "Soft Law" in Armstrong D (ed) *Routledge Handbook of International Law* (Routledge London 2008) 68-80

Spijkers 2015 *Journal of Water Law*
Spijkers O "The Sustainable Development Goals as Catalyst for the Sustainable Management of Water Resources" 2015 *Journal of Water Law* 115-125

Spijkers 2016 *RECIEL*
Spijkers O "The Cross-fertilization between the Sustainable Development Goals and International Water Law" 2016 *RECIEL* 39-49

Spijkers *et al* "Rules and Practices of International Law"
Spijkers O *et al* "Rules and Practices of International Law for the Sustainable Management of Fresh Water Resources Towards SDG 6 on Ensuring Water and Sanitation for All" in *The Role of Sustainable Natural Resources Management International Law Johannesburg Conference* (7-11 August 2016 Johannesburg) 4-11

Tanzi and Arcari *UN Convention on the Law of International Watercourses*
Tanzi A and Arcari M *The United Nations Convention on the Law of International Watercourses* (Kluwer Law International The Hague 2001)

Wouters and Rieu-Clarke 2001 *Journal of Water Law*
Wouters P and Rieu-Clarke A "The Role of International Water Law in Promoting Sustainable Development" 2001 *Journal of Water Law* 281-283

International instruments

CESCR *General Comment No 15: The Right to Water (Arts 11 and 12 of the Covenant)* UN Doc E/C.12/2002/11 (2003)

International Covenant on Economic, Social and Cultural Rights (1966)

Statute of the International Court of Justice (1946)

UN Convention on the Law of the Non-navigational Uses of International Watercourses (1997)

UN Convention on the Protection and Use of Transboundary Watercourses and International Lakes (1992)

UNGA *Resolution 64/292: The Human Right to Water and Sanitation* UN Doc A/RES/64/292 (2010)

UNGA *Resolution 66/288*: *The Future We Want* UN Doc A/RES/66/288 (2012)

UNGA *Resolution 68/157: The Human Right to Safe Drinking Water and Sanitation* UN Doc A/RES/68/157 (2013)

UNGA *Resolution 70/1*: *Transforming Our World: The 2030 Agenda for Sustainable Development Approach to Development* UN Doc A/RES/70/1 (2015)

UNGA *Resolution 70/169: The Human Rights to Safe Drinking Water and Sanitation* UN Doc A/RES/70/169 (2015)

UNHRC *Resolution 15/9: Human Rights and Access to Safe Drinking Water and Sanitation* A/HRC/RES/15/9 (2010)

UNHRC *Resolution 45/8: The Human Rights to Safe Drinking Water and Sanitation* UN Doc A/HRC/RES/45/8 (2020)

Internet sources

Miller-Dawkins 2014 https://cdn.odi.org/media/documents/9295.pdf
Miller-Dawkins M 2014 *Global Goals and International Agreements: Lessons for the Design of the Sustainable Development Goals* https://cdn.odi.org/media/documents/9295.pdf accessed 9 March 2024

WHO 2017 https://www.unwater.org/app/uploads/2017/05/Methodological-note-6a-and-6b_7-March-2017.pdf
World Health Organisation 2017 *Methodological Note: Proposed Indicator Framework for Monitoring SDG Targets on Drinking-Water, Sanitation, Hygiene and Wastewater* https://www.unwater.org/app/uploads/2017/05/Methodological-note-6a-and-6b_7-March-2017.pdf accessed 9 March 2024

Winkler and Roaf 2015 https://www.hhrjournal.org/2015/09/sdg-series-progress-on-water-sanitation-and-hygiene-through-sdg-6-only-if-the-focus-shifts-to-eliminating-inequalities/

Winkler I and Roaf V 2015 *SDG Series: Progress on Water, Sanitation and Hygiene Through SDG 6? Only If the Focus Shifts to Eliminating Inequalities* https://www.hhrjournal.org/2015/09/sdg-series-progress-on-water-sanitation-and-hygiene-through-sdg-6-only-if-the-focus-shifts-to-eliminating-inequalities/ accessed 21 February 2024

List of Abbreviations

AJIL	American Journal of International Law
CESCR	United Nations Committee on Economic, Social and Cultural Rights
ELM	Environmental Law and Management
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICJ	International Court of Justice
ICLQ	International and Comparative Law Quarterly
ILA	International Law Association
GC 15	General Comment Number 15
MDGs	Millennium Development Goals
RECIEL	Review of European, Comparative and International Environmental Law
SDGs	Sustainable Development Goals
UN	United Nations
UNGA	United Nations General Assembly
UNHRC	United Nations Human Rights Council
UNWC	United Nations Watercourses Convention
WHO	World Health Organisation