



A diverse and
sustainable world



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International Water Management: Water Law in a Transboundary Setting

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The challenge



*How to frame and institutionalize the rules
for transboundary water management?*

A dilemma?



- Political/
administrative
borders:
 - States
 - Provinces,
municipalities
 - Districts,
departments



- River basin
- Up stream, middle
stream, lower stream
- Micro basin

The way forward



- Need for cooperation between sharing States
- Need for effective institutional frameworks
 - National institutions only in charge of internal management
 - Adequate coordination among them
 - International institutions to be created for the purpose of managing the river basin

Importance of water law



- In theory: not absolutely necessary for transboundary water management
- In practice: emerging water law framework is key
 - Plays an important role at all its stages:
 - Motivation
 - Design
 - Implementation
 - Provides the backbone of framework for transboundary management
- Necessary spillover from international to national and local legal systems

Negotiating frameworks



- Key elements to have in mind when negotiating frameworks for transboundary water management
 - Vision: Define the objective & strategy of the frame
 - Steps to take: Regarding use of water resource & cooperation between States (obligations)
 - Procedures: How to implement the agreed steps (ensure compliance & enforcement, alternative mechanisms for dispute settlement, etc.)

Possible effective frames for transboundary water management



- Possible framework depends on political will of States to seek effective cooperation
- Binding / mandatory
 - Conventions, treaties, protocols, pacts
- Non binding / non mandatory (soft law)
 - Dialogues (political / scientific)
 - Declarations
 - Codes of good conduct
 - General guidelines for best practices

Different circumstances – different approaches



- Conventions
 - Traditional legal approach (command and control)
 - Long process of negotiation, adoption, ratification
 - Costly monitoring and enforcement
- Codes of conduct
 - Alternative governance mechanism (bottom up)
 - Easier process of adoption
 - More direct involvement of stakeholders helps monitoring and enforcement

Different circumstances – different approaches



- But not necessarily either binding or non binding approach
- Rather, both can complement each other
- Important role of third party mediators when negotiating processes are difficult
 - Role of IUCN as an honest broker