

ANALYSIS OF INTERNATIONAL LAWS IN CONNECTION WITH THE ISSUE OF WATER POLLUTION

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Abstract

Water law, and the management and preservation of its resources, are fundamental to all facets of human welfare. At the domestic and global levels, this is equally valid. Almost all forms of pollution and environmental damage are linked to water, which permeates every aspect of human activity. This observation is aptly demonstrated by the current hot-button issue of marine plastic pollution (MPP), which is closely related to the environmental management of large rivers, many of which are shared international watercourses, even though it addresses the widespread use and eventual buildup in the marine environment of a wide range of environmentally persistent synthetic materials. International water law and international marine environmental law both have a general obligation to prevent plastic-related marine pollution; however, the normative parameters of the due diligence standard of conduct that all States are expected to uphold in this regard are helpfully clarified by evolving practice under the latter framework and related subfields of international and transnational environmental law.

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Introduction

Pollution has been a serious threat to both human existence and the surrounding natural environment. Its influence is growing globally, transcending national and geographic boundaries. Of all the different types of pollution, water pollution covers a large area and is the main issue of conversation worldwide. The Latin word "pollutes" is where the term "pollution" of water originates. "Latus" means cleansed, and "Pol" indicates before. According to the Halsbury's Laws of England, water pollution is defined as the release of materials or energy into the aquatic environment by humans, either directly or indirectly, endangering aquatic ecosystems, aquatic life, human health, property, and other lawful uses of water. Water's mobility is totally destroyed by chemicals and toxic effluents released by companies and sewage systems. The water on Earth is made up of 97% salt and 3% fresh water. Key elements including hydrocarbons, nitrates, heavy metals, and chlorides can also have an impact on freshwater, including the edible ground water that covers a significant amount of it.

Laws, policies, guidelines, and regulations are primarily intended to prevent the spread of water pollution, limit environmental degradation, and create a worldwide equilibrium where the roles, characteristics, cultures, and customs of many nations coexist. Simply said, a "international watercourse" is "that portion which crosses or defines a boundary; or to the entire watershed or river basin, with its associated lakes, tributaries, groundwater systems, and connection waterways; wherever they are located." Both the UN Water Conference in Mar del Plata in 1977 and the Stockholm Conference on the Human Environment support the latter portion of the term.

The principle of equitable and reasonable utilization of internationally shared water resources was stated in the Convention on the Law of the Non-Navigational Uses of International Watercourses.

According to Article 6 of the Convention, the following conditions must be met in order to use an international watercourse in an equitable and reasonable manner:

- Geographical, hydrographic, hydrological, climatic, ecological, and other naturally occurring factors;
- the watercourse States' respective social and economic needs; the population that depends on each watercourse State;
- the impact of one watercourse State's use of its watercourses on other watercourse States;
- Existing and potential uses of the watercourse;
- The preservation, defense, advancement, and cost-effective utilization of the watercourse's water resources,
- Along with the expenses incurred in implementing such measures. The presence of comparable-value alternatives to a specific intended or current use.

Furthermore, water course States must ensure that all necessary precautions are taken when using an international watercourse on their soil. In situations where a proposed use of shared resources could seriously harm the rights and interests of the States, the States should cooperate with one another.

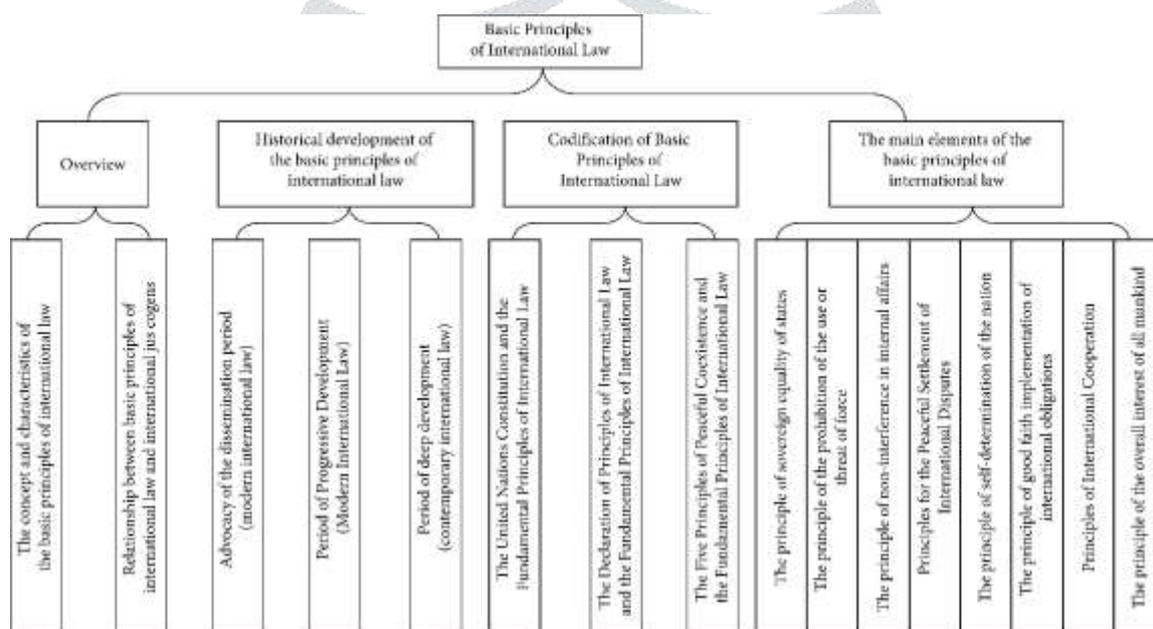


Figure 1. Basic structure of International Law

International legal scenario relating to Groundwater

The majority of international water treaties deal with surface water issues only; they do not address groundwater issues exclusively. Nonetheless, some water-related conventions address and discuss groundwater, albeit not exclusively. Common ground water resources are important, and this is acknowledged in the 1968 African Convention on the Conservation of Nature and Natural Resources. "Where surface or underground resources are shared by two or more of the Contracting States, the latter shall act in consultation, and if the need arises, set up inter-State Commissions to study and resolve problems arising from the joint use of these resources, and for the joint development and conservation thereof," reads the fifth article of the previously mentioned Convention. Furthermore, groundwater is included in the definition of trans boundary water in the 1992 ECE Helsinki Convention on the Protection and Use of Trans boundary Watercourses and International Lakes. The International Law Association's "Helsinki Rules" offer a helpful framework for talks regarding the countries' shared groundwater resources. At the 2002 Earth Summit, it was decided to lessen the effects of groundwater pollution in order to fulfill the Millennium Development Goal on safe drinking water. Guidelines for Enabling the Use of Groundwater Compatible with the Conservation of Wetlands were established by Resolution VIII.40 of the Conference of the Contracting Parties to the Convention on Wetlands.

International Legal Regime on Marine Waters

Evolution of legal framework

Oceans are now a means of establishing global connections due to the rise in international trade and nations' reliance on one another for a variety of goods and services. The international legal framework governing marine areas acknowledged oil pollution as a serious problem and started drafting agreements that addressed the issue exclusively. Subsequently, accords were reached regarding the proscription and supervision of ship dumping operations at sea. General principles and guidelines for the preservation of the marine environment only started to emerge with the growing realization that preventing marine pollution should be a matter of comprehensive legal obligation. In order to regulate the exploitation of marine resources, the issues surrounding the distribution of rights over these resources had to be addressed by international law. The states' sovereign right over the natural resources in their territorial seas served as the foundation for regulation and enforcement. Nonetheless, the idea that different marine life and mineral resources must be preserved has resulted in the development of a more complex international legal framework for marine conservation in recent years.

International Law and Marine Pollution

The operation of marine-related activities is the source of operational and unintentional pollution. According to this categorization of the nature of pollution, there are two main categories under which the legal system attempting to address it can be comprehended and examined. By using technological advancements and enhancing onshore facilities, international law aims to prevent pollution from maritime operations and eliminate the need for toxic discharges. The aforementioned goal must be kept in mind when interpreting the requirements and suggestions of numerous international conventions and standards. The following are some of the protections offered by the International Convention to control maritime operations and guarantee maritime safety: construction, equipment and seaworthiness of ships;

- manning of ships, labour conditions and the training of crews, taking into account the applicable international instruments;
- use of signals, the maintenance of communications and the prevention of collisions¹.

In addition to the aforementioned, international regulations acknowledged the pollution that results from the disposal of waste and other harmful materials into the ocean and implemented actions to address the issue. States are therefore required to take all necessary precautions to guarantee that dumping is not done without the consent of appropriate authorities and to prevent, minimize, and control pollution of the marine environment through dumping. Ensuring the conservation of diverse marine species, such as turtles, and safeguarding marine habitat are two major benefits of closely adhering to and overseeing the aforementioned administrative duties.

The International Convention for the Pollution of the Sea by Oil (OILPOL), which was signed in London in 1954, was the first comprehensive international regulation for preventing oil pollution from tankers operating at sea. The methods the Convention established to regulate operational discharges are noteworthy, even though MARPOL 1973/78 has since superseded it. The OILPOL called on the government to provide discharge facilities at the ports, defined prohibited areas and excluded coastal zones from oil discharges, attempted to limit the rate of discharge, and assisted in setting up construction and equipment standards for reducing volume of waste oil. But because none of the flag states signed the convention, their lack of interest, and the logistical challenges of gathering evidence meant that the

convention was not parties to the Convention, their insufficient interest coupled with practical problems of collecting evidence meant that the Convention was not particularly successful.

The 1973 International Convention for Prevention of Pollution from Ships (MARPOL) and OILPOL were largely comparable in that they both placed a heavy emphasis on technological means of preventing pollution. It is important to remember, though, that this Convention, in contrast to OILPOL, regulated other forms of ship-based pollution as well, such as toxic liquids, trash, etc., in addition to oil pollution. Small amounts of oil may only be released while traveling, fifty miles from a landmass, and not in designated areas. Seas that are enclosed or partially enclosed make up the specified special areas. Additionally, in accordance with the Convention, the flag state has two primary duties: a) the state is required to periodically inspect the vessels; and b) An International Oil Pollution Prevention Certificate needs to be issued by the State. Furthermore, ships that must possess a certificate may also be inspected by any party whose ports they are in.

The flag states, port states, and coastal states must actively cooperate with the aforementioned certification, inspection, and reporting scheme. It would be challenging for the flag State to successfully prosecute offenders without the port State's assistance in providing evidence. Thus, port states are allowed to inspect under MARPOL Article 6. Despite the aforementioned policies and procedures, the only way to prevent illicit discharges into the ocean is to have extremely high detection rates combined with ongoing monitoring and surveillance of marine vessels. Lastly, it should be mentioned that the Convention mandates that coastal States enforce its provisions against all vessels in the territorial sea; UNCLOS-III also recognizes this right, so long as there are reasonable grounds to believe that a violation has occurred.

The MARPOL Convention also realizing the need for co-operation amongst member States obligated the States to build adequate reception facilities at ports for the ships. Such reception facilities can be used by the ships for discharge of sewage waste, waste oil etc.

A few clauses from the 1958 Geneva Convention on the High Seas are also pertinent in the aforementioned situation. Out of the first United Nations Conference on the Law of the Sea, this was one of the four Geneva Conventions. According to Article 24 of the Convention, each State must create regulations to stop oil spills and the exploitation and exploration of the seabed and its subsoil. Furthermore, every State must take action to stop radioactive waste from being dumped into the ocean, keeping in mind any guidelines and standards that may be developed by relevant international organizations.

Notably, the aforementioned formulations were broadly worded, and the States were still granted a great deal of discretion. It implied that the only way to limit pollution was to follow the rule that the high seas must be exploited while having due consideration for the rights of others. The United Nations Convention on the Law of the Sea (UNCLOS-III) provisions make it abundantly clear that the legal obligation to conserve the marine environment has evolved since that time.

Comprehensive legal provisions for the preservation and protection of the marine environment are provided by the United Nations Convention on the Law of the Sea (UNCLOS-III), which was concluded in December 1982. The Convention outlines the general duty of all States to safeguard and maintain the marine environment and provides specific guidelines for preventing, reducing, and controlling pollution of the marine environment. In addition to preventing pollution from land-based sources, comprehensive measures have also been provided to prevent pollution from vessels, dumping, and activities on the sea bed that fall under national jurisdiction.

UNCLOS-III also introduced the idea of an Exclusive Economic Zone (EEZ) for the first time. For the purpose of investigating, using, protecting, and overseeing both living and non-living natural resources, the coastal state has

sovereign rights within the EEZ. In terms of operations pertaining to the zone's exploration and economic exploitation, the coastal state also possesses sovereign rights. The contracting State is empowered to take action to prevent marine pollution and guarantee better protection for marine species by the various provisions previously listed.

Mitigation and Compensation due to Oil Pollution

International law aims to reduce risk, give coastal States protective measures, and make it easier to obtain compensation in order to prevent unintentional pollution and minimize marine casualties. It is now widely acknowledged that customary law would be broken if pollution emergencies were not controlled within the jurisdiction of the affected State.

Mitigation of effects of Marine Pollution

According to the 1982 United Nations Convention on the Law of Sea, states must take all reasonable steps to guarantee that activities falling under their purview are carried out in a way that prevents pollution from harming neighboring states and their ecosystems. States must ensure that pollution resulting from events or actions falling under their purview stays inside the borders of the territories over which they have sovereign authority. The States are also obligated to refrain from transferring risks or harm or converting one form of pollution into another. Notably, the Convention stipulates that a State shall promptly notify other States it considers likely to be affected by such damage, as well as the appropriate international organizations, when it becomes aware of cases in which the marine environment has been damaged by pollution or is in imminent danger of being damaged. Additionally, states must work together to create and advance backup plans for handling pollution-related incidents in the marine environment. In order to prevent marine pollution, a well-thought-out integrated contingency plan may be essential.

Notable are also the terms of the 1969 International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties. The Convention stipulates that the parties may take any necessary action on the High Seas to prevent, mitigate, or eliminate a maritime casualty that poses a serious and immediate risk to their coastline and is likely to have serious and detrimental effects. According to the Convention, a "maritime casualty" is any ship collision, stranding, or other navigational incident that causes material damage to a ship or its cargo or poses an immediate threat of doing so. Furthermore, it is made explicit that the coastal states' actions under Article I of the Convention must be commensurate with the extent of the harm. The Conventions relating to civil liability and the establishment of an international fund for compensation for pollution damage assume significance in this regard. Fixing liability on the wrongdoer and securing compensation for the damages caused are crucial objectives for regulations in this area.

Determination of compensation due to pollution

Oil Pollution in the sea is dealt with exhaustively by the International Convention on Civil Liability for Oil Pollution Damage, concluded in 1969. Article-III of the Convention fixes liability on the ship owner for any pollution damage caused by oil which has escaped or been discharged from the ship as a result of any incident. The liability of the ship owner is a strict liability and not an absolute liability (Article III).

The International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971 (hereinafter referred to as the Fund Convention) established the International Oil Pollution Compensation Fund to compensate for pollution damage to the extent that the Civil Liability Convention's protections are insufficient. The additional financial burden that the Civil Liability Convention placed on ship owners is another goal of this convention. The Fund Convention's primary goal is to provide additional compensation to individuals who have suffered pollution-related losses, provided that they have been granted full and sufficient compensation for those losses under the Civil Liability Convention. It is important to remember in this context that the State and any of its

constituent sub-divisions are considered "persons." This Convention may be used by the State whose territorial habitat may have been harmed by a marine casualty to restore the harmed marine habitat. The Convention's overall result is that the ship owner, the owner of the cargo, and the oil companies share joint liability for the entire loss caused by pollution damage.

The obligations of countries are outlined in the Rio Declaration on Environment and Development and the Stockholm Declaration of the United Nations Conference on the Human Environment. As a result, the Rio Declaration requires States to work together to advance international law pertaining to liability and damages for negative environmental effects resulting from activities carried out within their borders or under their control. In this context, it is especially important to see if the harm to species found in their habitats in the territorial sea or the high seas could be covered by the law regarding liability and compensation for such damage. The conservation of marine resources would be significantly impacted by the creation of legislation along these lines.

Conclusions:

The deterioration of groundwater, rivers, lakes, and streams' quality leads to water pollution. Untreated industrial, municipal, and agricultural wastes and effluents are some of the causes of this. Pakistan's current water supply is erratic in addition to being limited. Climate change and pollution are major threats to availability. On the other hand, as a result of urbanization and population growth, water demand is rising quickly. Due to this imbalance, there is a severe water shortage throughout the nation. Pakistan possesses a strong institutional and national framework, but its capacity for implementation is rather limited. Protecting freshwater resources requires strict adherence to the law. The available water resources need to be protected immediately, or else these waters will turn into drains.

Disclosure statement

No potential conflict of interest was reported by the author(s).

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