

Alternative Approach to Objectively Define the 'Equitable' and 'No Significant Harm' Concepts of the UN Water Convention: The Case of the Nile Basin

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Abstract

The UN transboundary water convention stipulates two important concepts in its convention - 'the equitable utilization' and 'no significant harm' as a hallmark of governing the transboundary water courses among the water sharing states. These two terms remain subjective and have no clear objective definition established universally. Whether 'equitable' means 'equal sharing' of the water resources or 'deriving equal benefit' from the resources is not clear to riparian countries. In addition, the 'term 'no significant' or 'without appreciable harm' is also another unclear term that has no measurable universal meaning to water sharing states. These two terms remain controversial in riparian countries where there is skewed water use and the struggle for water justice is going on for several years. The Nile Basin is one of these basins where the water use is skewed and establishing objective criteria for equitable utilization of the resources without significant harm needs to be objectively worked out. This study outlines attempts two important concepts to objectively define these terms enshrined in the UN convention. The study outlines water resources as a human right issue and outlines procedures to objectively incorporate the concept into defining both terms of 'equitable' and 'no significant harm'. Finally, the study provides preliminary analysis of the water sharing outputs based on these established concepts to provide alternative conceptual framework to build into the case for the Nile Comprehensive Agreement.

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