

The Right to Water and Policies for Its Regulation as a Human Right

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Received: 20 January 2024 Accepted: 20 August 2025 Published: 26 March 2025

Abstract

Background and Theoretical Foundations: Water is a fundamental necessity for life, underpinning public health, social well-being, and sustainable development. Over the last decades, the international community has progressively recognized access to safe and sufficient water as a human right, formally acknowledged by the United Nations General Assembly in Resolution 64/292 (2010) and further elaborated in General Comment No. 15 of the Committee on Economic, Social and Cultural Rights. This right encompasses not only physical access to adequate water for personal and domestic uses but also its quality, affordability, and non-discrimination in distribution. The theoretical framework for understanding the right to water draws upon human rights law, environmental law, and principles of sustainable resource management. It also requires balancing individual rights with collective stewardship of a finite resource in the face of population growth, climate change, and competing sectoral demands.

Methodology: This study adopts a qualitative, comparative, and normative approach. Primary legal instruments, including international treaties, soft law instruments, and national constitutions, were analyzed alongside secondary literature on water governance and human rights. A doctrinal legal analysis was employed to interpret the scope and content of the water right. At the same time, a comparative policy review examined regulatory models from selected jurisdictions representing different water management traditions. Case studies from South Africa, Brazil, and Spain were used to illustrate diverse legal and institutional

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mechanisms. The research also integrates perspectives from development studies, public policy, and environmental economics to assess regulatory effectiveness.

Finding: The analysis reveals that, although the water right has been normatively affirmed, its implementation varies significantly across different legal systems. Effective realization depends on three interrelated factors: (1) constitutional or statutory entrenchment of the right, (2) robust regulatory institutions with clear mandates, and (3) adequate financial and technical capacity to manage supply and quality. Countries that embed the right to water within broader water resource management strategies tend to achieve more equitable and sustainable outcomes. Conversely, where water governance is fragmented or overly market-driven, disparities in access persist, especially for marginalized populations. Policy coherence, participatory decision-making, and transparent monitoring mechanisms emerge as critical drivers of success.

Conclusion: Recognizing the right to water as a human right is a necessary but insufficient step; its realization demands an integrated regulatory framework grounded in equity, sustainability, and accountability. States must align water policies with human rights obligations, invest in infrastructure, and ensure inclusive governance processes. As climate variability intensifies and water stress increases, the legal and policy architecture protecting water rights will be central to safeguarding health, livelihoods, and environmental integrity. International cooperation, knowledge-sharing, and innovative financing will be essential in bridging the gap between normative commitments and practical outcomes.

Keywords: Water, Water as a human right, United Nations General Comment 15, Policy, Human rights.

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Every person needs 20-50 liters of clean water per day to meet his daily water needs. Considering the statements of the World Health Organization, it is seen that more than 2.4 billion people in the world lack clean water resources for drinking (UNICEF/WHO 2004: 8, 12) and again to water for survival. It is seen that 1.8 billion people who have access to water do not have enough water for health and hygiene. (Herbst and Kistemann, 2007: 73; UNDP, 2006: 6; Topçu, 2008: 16) On the one hand, water demand increases due to the increasing population, urbanization and industrialization; on the other



hand, water resources are polluted unconsciously. (Topçu, 2008: 16) Based on all these, water, which is called “blue gold” is not an unlimited resource, and even water wars will occur in the coming years. All these water-related problems have brought about the reconsideration of some fundamental issues, and the right to water as a human right is one of the issues at the center of these discussions. (Topçu, 2009: 1) Since water is one of the essential elements of human life, it constitutes an inseparable part of the right to life; therefore, great efforts have been made recently to accept and regulate water as an independent right. (Aichele, 2007: 177)

So why is it important to recognize water as an independent right, and is it just a theoretical discussion? (Rudolf, 2007: 9) The acceptance of water as a right will bring about the acceptance of the subjects with obligations, that is, sanctions will be applied to those who violate the right to water. Again, since access to clean water will be a right, the conditions of those who are least served (such as children/women/refugees) will be improved and access to water will be provided. (Rudolf, 2007: 9) Access to water is actually a prerequisite for many human rights; in other words, it is indispensable (*conditio sine qua non*); because many basic rights of a person, such as education, health and life, who cannot easily access clean water, disappear.

In this paper, it is aimed to convey the studies on the right to water. For this reason, first the concept of right and its types will be explained and then the international conventions that directly or indirectly include the right to water will be mentioned. By emphasizing the General Comment No. 15 of the UN Committee on Economic, Social and Cultural Rights, which deals with the right to water in the broadest way, examples of countries that attach importance to the right to water through international agreements and conferences are explained, and recommendations are given on how the right to water can be regulated within the scope of new law studies. Despite the fact that the right to water is the subject of current debates, since comprehensive and consistent information on its content is not disclosed, in this study, it is aimed to reveal the content of the right with theoretical and practical studies on the international and national recognition of the right to water. The aforementioned study has been handled mostly with legal

grounds and legal dimension, and issues such as water privatization and HEPP have been excluded from the scope.

2 Rights and Obligations

A right is an interest protected by law and the benefit of this protection is left to the will of the individual. (Turhan, 2013: 361) Human rights are; these are universal rights that are believed to be innate, inviolable, inalienable and indispensable for every human being. (Çiçek, 2009: 185) The most important feature of human rights is that they are universal. In other words, the most important feature of human rights is that all people can enjoy them regardless of race, religion, language and gender, and everyone is equal in using these rights. (Çiçek, 2009: 186) Considering the historical development of human rights, it will be seen that they have passed through three stages. These are the philosophical dimension, the transition from theory to practice and the stage of universality. (Bobbio, 1998: 10)

The first stage in the formation of human rights is the philosophical dimension, and according to this, in accordance with the understanding of natural law, all human beings are born free and equal, which are not endowed by the state and cannot be disposed of by humans. However, it is not enough to accept that people are equal and free. In other words, it is not a reality that people are equal and free, but an ideal goal to be achieved by lawmakers. Thus, the powers of the states were limited to achieve this goal. (Bobbio, 1998: 10)

The second stage is the implementation of these fundamental rights from theory to practice, that is, the recognition of the demands and rights of individuals arising from human rights in a positive legal order and the protection of these rights by the states. (Bobbio, 1998: 12) However, at this stage, each state is limited to its own sovereignty, and human rights have not yet assumed a universal character. After the Second World War, the international validity of human rights was expressed. In other words, human rights are not seen as just a demand of a citizen against the state, they are equal and valid for all people. All states must abide by these rights. (Bobbio,



1998: 12) It means that human rights are universal; this means that they have the opportunity to preserve, develop and be recognized for their core parts, independent of culture and traditions. After the Second World War, human rights were further developed and diversified. When international agreements and declarations are taken into account, it will be seen that human rights are subject to various distinctions. (Koenig, 2005: 70)

By taking into account the situation of the individual against the state by Jellinek, rights are divided into positive, negative and active status rights. According to this distinction, which is called the classical classification, there is a negative-status right, if the action expected from the state for the realization of a right is not to interfere and not to prevent, and individuals can benefit from these rights without the state's contribution (for example, the right to life). (Turhan, 2013: 368) The rights that the individual needs the contribution and positive intervention of the state in order to use his rights are called rights with a positive status (such as health, education). Active status rights are the rights that enable individuals to participate in the formation and exercise of political power, such as voting and being elected. (Turhan, 2013: 368)

Another classification that takes into account the historical process of human rights and divides their rights into various generations was made by Karel Vasak. (Turhan, 2013: 369) According to this distinction, while first generation rights include personal freedoms and political rights, second generation rights are social and cultural rights that impose positive obligations on the state. (Turhan, 2013: 369) Third generation rights or solidarity rights are defined as environmental rights, peoples' rights or group rights recognized by international agreements, with the influence of the third world countries that were liberated from colonization after 1960. (Turhan, 2013: 369; Gözler, 2011: 517).

As a result of their rights being subject to such distinctions, some views argued that these rights are not all equal, and that human rights are limited to first generation rights (negative rights). The basis of this idea is that social rights bring positive obligations to states. While the negative rights and

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freedoms that exist in the state of nature in society are accepted for the existence of human beings (Bielefeldt and Frauke 2004: 5 et al.), economic and social rights depend on the financial power of the states and are seen as costly. For this reason, social rights have not been universally accepted. It has been argued that social rights depend on the financial power of the state, which economic and social rights will bring along the transfer of resources to some individuals and groups, and this may actually justify the use of force on other people and harm individual freedom. (Erdoğan, 2007: 59 etc.) It has also been argued that social rights are long-term, that it is difficult to formulate them fully, and that it is not possible for them to be sued based on this. (Windfuhr, 2000: 175)

It is rightly argued that there should not be a distinction between rights, and that all first, second and third generation rights and all rights included in the Universal Declaration of Human Rights and similar international documents should be evaluated within the scope of human rights. Accepting negative-status rights such as the right to life only as human rights and not giving due importance to other rights will bring problems. For example, unhealthy conditions such as malnutrition and lack of housing make it impossible to protect the right to life, which is already seen as a fundamental right; then, in order to protect fundamental rights, social rights should also be accepted as universal human rights. It is not true that only social rights impose financial obligations on the state, and the state can be expected to fulfill certain obligations in the realization of civil and political rights. For example; the state should mobilize the necessary means for a fair trial or for the abolition of torture; In this regard, the state should provide the necessary training to its personnel. It has been stated that it is a guarantee of benefiting from political rights and that human rights are an indivisible whole. (Yıldırım, 2015: 1137; Donnelly, 1995: 38-47; Gemalmaz, 2001: 537; Turhan, 2013: 372 et al.)

These debates are closely related to the right to water, as discussed below. Because the view that does not consider other generations' rights as fundamental rights other than the first generation will not see water as a



fundamental right either. For this reason, we have found it appropriate to explain first whether the right to water is accepted as a fundamental right.

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One view in the doctrine argues that water is not a human right. Therefore, this right is devoid of any positive foundation and is unenforceable. (Dennis and Stewart, 2004: 491 et al.) In addition, each state must have sufficient resources to talk about the right to water; however, not every state has enough resources. Moreover, what kind of an obligation this right brings and the demand for this obligation are also very problematic. Therefore, these criticisms directed to economic and social rights were also directed to the right to water. (Alexy, 1998:253 et al.)

Again, it was argued that personal and political rights were important and prioritized, and it was stated that social and economic rights were second or even unnecessary. (Erdoğan, 2004: 170) For this reason, although the right to water, which is a social right, seems to be a demand for the state, it has been argued that it is actually financed from obligations such as taxes and subsidies taken from citizens and this is unacceptable; because the individual is almost forced to help people whom he does not know and does not want to live within that society with this method. (Erdogan, 2004: 172, 173)

It is also opposed from the capitalist point of view that water is a right. Accordingly, the cause of water scarcity and the only way to solve this problem is the commercialization of water. (Shiva, 2002: 31) It has also been argued that recognizing the right to water will bring more troubles and therefore it would be better not to recognize this right. For example; if water is accepted as a human right; It will impose some burdens on the states, such as the equal distribution of water to all, and this may even drag the states into a water war. (Bakker, 2007: 438; Sav, 2007: 346 and 359; same author, 2007: 139-142) In that case, since the conditions in Trans boundary waters and the obligations of the state to provide water resources to everyone will bring along some economic, environmental and political dilemmas. It would be better not to accept the existence of this right. (Bakker, 2007: 438; Sav, 2007: 346 and 359; same author, 2007: 139-142)

It is also argued in the doctrine that the acceptance of water as a human right is far from overcoming the existing problems. According to the representatives of this view, the recognition of the right to food has not eliminated these problems and many people still die of hunger in our world. Therefore, fighting for the right to water, even the recognition of water in the constitutions will not solve the existing problems. (Sav, 2007: 346; same author, 2007:142; Bakker, 2007: 438) Again, supporters of this view stated that the inclusion of the right to water in the South African Constitution does not solve the water problem and inequalities. (Bakker, 2007: 438)

In addition, the creation and regulation of new rights (such as water, environment) has been criticized in the doctrine; because rights such as the right to water and the environment already constitute the content of the right to life, which is included in the category of civil and political rights, and thus these rights will be further secured. (Gemalmaz, 1987: 240)

4 Views on the Right to Water as a Right

In the doctrine, especially recently, it has been argued that water should be an independent right. According to the representatives of this view, water is a non-substitutable natural resource and water reserves are limited. Therefore, access to water is too important to be left to market conditions. Recognition of water as a right; In the event that the right to access water is secured and this right is blocked, it brings about a legal sanction for those who prevent it. (Yıldız, 2012: 21) It is important to recognize water as a right, to know the scope and content of this right, to apply to legal procedures in case of violation of rights, and to establish a number of non-governmental organizations to protect these rights. (UNDP, 2006: 7 et al.; Topçu, 2008: 17; Roaf, 2007: 195) In other words; If water is accepted as a right, lawsuits may be filed against the subjects limiting this right, as well as the intervention of the international community in water violations and the supervision of various organizations and states. (Topçu, 2008: 17; Roaf, 2007: 195)



In addition, the testing method developed by W. Nickel (Nickel, 2007: 73) on whether a right is a human right has also been applied to water by Grönwall. It has been argued that when the questions developed in accordance with this method are applied to water, it can be accepted as a human right. Because there is a threat about access to clean water and this threat will continue to exist in the future. (Grönwall, 2008: 206) Access to clean water; It is tied to many rights such as the right to health, the right to life, the right to education and non-discrimination, and the value it protects is extremely important. (Grönwall, 2008: 206). Universality, which is the most important criterion of human rights, also applies to access to water. It is obvious that all people, without any discrimination, need water. Access to water cannot be achieved with weaker measures, and the problem is not only access to water. As the World Health Organization states, the goal is access to quality water. The right to access water brings some burdens, but this also applies to the negative rights mentioned above. The burden of access to water is also acceptable. (Grönwall, 2008: 209) Finally, access to water is an enforceable right in the vast majority of countries. Therefore, it has been stated that there is no obstacle to the acceptance of water as a human right. (Grönwall, 2008: 209)

Again, according to the representatives of this view, it is unacceptable to argue that there is no need for an independent right to water. Associating the right to water with other rights (such as life, health) and not seeing it as an independent right is narrowing this right, which is unacceptable. (Cahill, 2005: 395 et al.; Rudolf, 2007: 26 et al.) For example; Access to sufficient and qualified water is extremely important for a healthy life, where the right to health and the right to access clean and sufficient water intersect. But the scope of the right to water is even broader. The fact that certain groups (such as minorities, refugees) have less access to water is not related to the right to health, but is directly related to the right to water. Therefore, including the right to water in the content of the right to health or life is nothing but restricting this right. (Cahill, 2005: 395 et al.; Rudolf, 2007: 26 et al.; for the right to housing, see İnce, Kanlı and Eryiğit, 2017: 24)

It has also been criticized that if water is handled under the title of political and civil rights, for example, within the scope of the right to life, it will be more secure. According to the representatives of this view; The state has obligations such as respecting economic and social rights, protecting the right and fulfilling the requirements. (Algan, 2007: 83; Rudolf, 2007: 29 vd.) The right to life is a right that takes its place in legal texts, that no one who is protected by law can be arbitrarily deprived of his right to life. However, this form of regulation of the right to life shows that this right will be interpreted narrowly and even that the right to water will not come out of this narrow interpretation. It has been argued that even if water is a prerequisite for the right to life, the right to water, which is a social right, cannot be removed from the right to life. (McCaffrey, 1992: 10 et al.; Rudolf, 2007: 32 etc.) It has been stated that if the right to water is evaluated within the framework of the right to life, only in cases where access to water is deliberately and arbitrarily prevented, liability will arise and this will provide a very narrow protection. (Şirin, 2010: 130; Rudolf, 2007: 32) Even the broad interpretation of the right to life by the courts, such as the European Court of Human Rights, does not provide adequate protection. It has been stated that both rights are in different categories and that the right to life, which is a first generation right, does not include the right to water. (Şirin, 2010: 131, Williams, 2007: 476 et al.)

Recognition of the right to water serves to protect the rights of the disadvantaged in various aspects. (Topçu, 2008: 17) Because, considering the data of the World Health Organization, the right to education of many children – unfortunately mostly girls – is interrupted due to the limited access to clean water and the distance from the water. Again, women who are in contact with water more often get sick because these waters are not hygienic enough, and their health rights and even their right to life are violated. (15 Nr. General Comment, n. 160; Hardberger, 2005: 340-342; Topçu, 2008: 17; same author, 2009: 102; UNDP, 2006: 16) Many women are abducted or raped while reaching for water. (Topçu, 2009: 123; Lohse, 2005: 53 Rudolf, 2007: 21)



If water is commercialized and limited water resources are left to profit-seeking individuals or institutions, the poorest in society will be affected the most. However, the importance of defining water as a human right is emphasized and everyone's access to water is guaranteed by the public. (Topçu, 2008: 18) Accepting water as a right will lead to the fact that the resources are limited and the idea of privatizing these water resources to be used effectively will not be accepted. (Şirin, 2010:137 et al.; Topçu, 2009: 102) As a matter of fact, in the Cochabamba incident, it was observed that even the public's use of rain water was prevented after the privatization of water, and what negative consequences this had. (Şirin, 2010:137 et al.; Beisheim, 2007: 109 et al.; Spieß, 2007: 66, Yılmaz, 2009: 12 et al.) In addition, the idea that water use will increase if it is considered as a right and free of charge is also not found to be true; because it has been argued that providing a certain amount of water free of charge, which is the basic need of people, will also prevent wastage of water in use, charging for uses exceeding this limit. (Şirin, 2010:137 et al.)

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Neither the 1948 Universal Declaration of Human Rights (UDHR) nor the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR) or the International Covenant on Civil and Political Rights (ICCPR) explicitly recognized a separate right to water. Nonetheless, scholars have argued that, given the intrinsic connection between water and other fundamental entitlements—such as the rights to life and health—drafters who had fully anticipated the centrality of water might have incorporated an explicit right to water into those instruments (Williams, 2007, p. 475; McCaffrey, 1992, p. 1). Article 25 of the UDHR, which affirms the right to “food, clothing, housing and medical care for the health and well-being of himself and his family,” has been interpreted to imply access to water, since these other rights cannot be fully enjoyed without reliable access to water (Universal Declaration of Human Rights, 1948, art. 25; Rosemann, 2005, p. 4; COHRE, 2004, p. 30). From this perspective, the right to water is derived from, and necessary to realize, the UDHR guarantees (Salman, 2004, p. 22; McCaffrey, 1992, p. 7). Critics further note that although the UDHR

addresses social and economic rights such as work and association, its omission of an explicit water right is striking given water's foundational importance (Gleick, 1999, p. 491; Şirin, 2010, p. 129).

Article 11 of the ICESCR recognizes the right to an adequate standard of living, including “adequate nutrition, clothing, shelter and the continuous improvement of living conditions” (ICESCR, 1966, art. 11). Commentators emphasize that the enumeration in Article 11 is not exhaustive (i.e., not a *numerus clausus*) and that water is essential to an adequate standard of living (Aichele, 2007, p. 180; Rudolf, 2007, p. 24; Topçu, 2008, p. 19). The right to food, as elaborated under Article 11, has led some authors to describe water as “liquid food,” underscoring the intimate link between water and food security (Kanalán, 2015, p. 101). Moreover, ICESCR Article 1(2) affirms that peoples shall not be deprived of their natural wealth and resources, reinforcing water's centrality as a crucial public resource (Rudolf, 2007, p. 24; Topçu, 2008, p. 20).

International humanitarian law also addresses water in the context of armed conflict. The Third Geneva Convention (relative to prisoners of war) and the Fourth Geneva Convention (relative to protection of civilian persons) impose obligations on parties to ensure prisoners' and civilians' access to drinking water and sanitation facilities, including during transfer or displacement (Third Geneva Convention, 1949, arts. 20, 26, 29, 46; Fourth Geneva Convention, 1949, arts. 85, 89, 127; Kanalán, 2015, p. 102). Additional Protocol I (arts. 54) and Additional Protocol II (arts. 5, 14) prohibit attacks on, or the rendering unusable of, water installations indispensable to civilian survival (Topçu, 2009, p. 20; Şirin, 2010, p. 112; Kanalán, 2015, p. 102). Scholars note that such protections reflect the priority afforded to water both in wartime and peacetime (Topçu, 2009, p. 20 *et seq.*; Şirin, 2010, p. 112).

Post-war and environmental conferences progressively foregrounded water. The 1972 Stockholm Declaration recognized that the world's natural resources, including water, should be preserved for future generations, situating water within the broader right to a healthy environment rather than



as a freestanding right (Stockholm Declaration, 1972, princ. 2; Topçu, 2009, p. 22; Şirin, 2010, p. 113).

The 1977 Mar del Plata Conference marked the first explicit international reference to water as a right, establishing a decade-long action plan to extend adequate water services to underserved urban and rural areas (Mar del Plata Action Plan, 1977; Rudolf, 2007, p. 16; Hardberger, 2005, p. 346).

Subsequent instruments and conferences continued to address water in various ways. The 1979 Convention on the Elimination of Discrimination against Women (CEDAW) explicitly includes access to “drinking water” among elements of adequate living standards, highlighting the gendered impacts of deficient water supply—such as lost educational and economic opportunities and exposure to violence during water collection (CEDAW, 1979, art. 14(2)(h); Topçu, 2009, p. 123; Lohse, 2005, p. 53; Rudolf, 2007, p. 21). Article 24(2)(c) of the Convention on the Rights of the Child (CRC) links the child’s right to health with provision of “clean drinking-water,” obliging States to combat disease and malnutrition through adequate water services within primary health care (CRC, 1989, art. 24(2)(c); Topçu, 2008, p. 21; Lohse, 2005, p. 57).

The Dublin Statement (1992) represented an important shift by recognizing water’s economic value while also asserting that “access to safe water and sanitation at an affordable price is essential to all people” (Dublin Statement, 1992, princ. 4; Rudolf, 2007, p. 17). This dual framing—water as both an economic good and a social right—provoked debate: some commentators praised the statement’s realism, while others criticized it for privileging market logics and thereby undermining claims to a universal right to free access (Klaphake & Scheumann, 2001, p. 6; Laskowski, 2010, p. 67; Biswas, 2004, p. 83; Şirin, 2010, p. 116).

The 1992 Rio Earth Summit affirmed the social value of freshwater resources and included commitments to preserve freshwater supply and quality (Agenda 21, ch. 18; Hohenwarter, 2014, p. 51; Topçu, 2009, p. 139). Subsequent declarations and protocols—the Amsterdam Declaration (1992), the Programme of Action of the 1994 International Conference on

Population and Development, the 2000 Hague Ministerial Declaration on Water Security, and the 1999 London Protocol on Water and Health—further reiterated the necessity of equitable access to safe water, particularly for socially disadvantaged groups (Topçu, 2008, p. 23; Şirin, 2010, pp. 118–119).

At the international policy level, the Millennium Summit (2000) and the subsequent Millennium Development Goals underscored the centrality of safe water for reducing poverty, improving health, and achieving sustainable development (UN Millennium Declaration, 2000; Topçu, 2008, p. 23; Şirin, 2010, p. 119). The 2002 World Summit on Sustainable Development in Johannesburg reiterated water targets in its implementation plan, though critics argued that the summit fell short of explicitly recognizing water as a human right and remained influenced by the Dublin framing (Rudolf, 2007, p. 18).

A decisive normative advance occurred with General Comment No. 15 of the UN Committee on Economic, Social and Cultural Rights (CESCR, 2002), which articulated the right to water as “the right of everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses” (CESCR, 2002, para. 2). The Committee distilled the right into three core elements—availability, quality (safety), and accessibility—and elaborated state obligations to respect, protect and fulfill the right to water (CESCR, 2002, paras. 3, 12a–c, 56). The Committee specifies that water must be sufficient and continuous for personal and domestic uses (including drinking, food preparation, and hygiene) and that quantitative needs should be assessed in light of environmental conditions and WHO guidance (CESCR, 2002, para. 12a; Topçu, 2008, p. 37; Şirin, 2010, p. 133). WHO benchmarks indicate a basic requirement of approximately 20 liters per person per day, with some estimates extending up to 50 liters depending on context (Topçu, 2008, p. 37; Şirin, 2010, p. 133).

The CESCR also emphasized the multidimensional nature of accessibility, identifying four dimensions: physical accessibility, economic accessibility (affordability), non-discrimination, and access to information (CESCR,



2002, para. 12c). Physical accessibility implies proximity of water sources to homes, schools, and workplaces; WHO guidance suggests that water collection should not exceed 30 minutes round trip or roughly 1 km in distance, with intermediate thresholds defining “medium” and “optimal” service levels (CESCR, 2002, para. 56; Şirin, 2010, p. 135; Topçu, 2008, p. 36). Economic accessibility requires that water costs not impede the enjoyment of other internationally guaranteed rights; this dimension fuels an ongoing debate over commodification versus public provisioning of water services (Şirin, 2010, pp. 135–137; Topçu, 2009, pp. 220–225; Russ, 2005, p. 16; Salman, 2004, p. 71).

Non-discrimination is central: water and related services must be available to all, particularly vulnerable and marginalized groups—including women, children, minorities, indigenous peoples, refugees, asylum seekers, internally displaced persons, migrant workers, prisoners and detainees—without discrimination (CESCR, 2002, paras. 12c(iii), 16, 37(h)). The Committee further underscored the importance of information rights in water governance, including the rights to seek, receive and impart information on water-related issues (CESCR, 2002, paras. 12c(iv), 13, 37).

General Comment No. 15 also clarifies duties and actors: the right to water belongs to everyone, including future generations, and obligations principally rest with States, who must respect, protect and fulfill the right (CESCR, 2002, paras. 3, 13, 16; Şirin, 2010, p. 146). The Committee recognizes that private actors and non-state entities may also be responsible for violations, and it assigns complementary responsibilities to international organizations and financial institutions—naming bodies such as WHO, UNICEF, UN-Habitat, ILO, UNEP, the Red Cross/Red Crescent, and even lending institutions like the World Bank—with respect to policy, assistance and financing (CESCR, 2002, paras. 36, 56–60).

Finally, global policy fora—including successive World Water Forums (Marrakech, The Hague, Kyoto, Mexico City, Istanbul)—and the UN General Assembly’s recognition of the human right to water and sanitation (Resolution 64/292, 2010) have gradually consolidated international

consensus. Notably, the 2009–2010 process culminated in widespread state support: on 28 July 2010, a UN resolution recognizing access to safe and clean drinking water and sanitation as a human right was adopted with broad backing, despite a number of abstentions (Şirin, 2011, p. 62).

6 Conclusion

The recognition of the right to water as a human right represents one of the most significant normative developments in contemporary human rights discourse. Water is not only a physical necessity for sustaining human life but also a foundational prerequisite for the enjoyment of other rights, including the right to health, food, adequate housing, and a healthy environment. By affirming this right in United Nations General Assembly Resolution 64/292 (2010) and through the interpretive guidance of General Comment No. 15 of the Committee on Economic, Social and Cultural Rights, the international community has set a legal and moral benchmark for states and other actors. However, the journey from normative recognition to practical realization remains fraught with legal, institutional, environmental, and socio-economic challenges.

From a legal standpoint, the constitutional or statutory entrenchment of the right to water is an important first step. Jurisdictions such as South Africa, Ecuador, and Bolivia have incorporated this right explicitly in their constitutions, offering a binding framework for its enforcement. Yet, constitutional recognition alone is insufficient without complementary legislation, regulations, and administrative structures that clearly define the obligations of public authorities and establish mechanisms for accountability. The comparative evidence examined in this study indicates that where water governance is well-coordinated, transparent, and participatory, progress toward universal and equitable access is tangible. In contrast, fragmented regulatory frameworks, overlapping mandates, and the absence of robust monitoring systems hinder effective implementation, even where the right is formally acknowledged.



Institutional capacity is another critical determinant. Regulatory authorities require not only legal mandates but also financial resources, technical expertise, and operational independence to enforce standards of water quality, ensure equitable distribution, and respond to emerging challenges such as contamination or drought. Without these enabling conditions, even the most progressive legal provisions risk remaining aspirational. Furthermore, the integration of water policy within broader sustainable development and climate adaptation strategies is essential. The accelerating impacts of climate change—ranging from prolonged droughts to extreme flooding—are reshaping the geography of water availability, exacerbating inequalities, and intensifying competition between agricultural, industrial, and domestic uses. Effective water governance must therefore be adaptive, science-based, and grounded in principles of intergenerational equity.

Social equity and inclusion remain central to the realization of the right to water. The groups most likely to suffer from inadequate access—such as rural communities, informal settlement dwellers, women, indigenous peoples, and refugees—are often excluded from decision-making processes. Empowering these communities through participatory governance not only enhances democratic legitimacy but also improves the relevance and sustainability of water policies. Evidence from countries that have institutionalized community-based water management, such as parts of Brazil and India, shows that local engagement can lead to more responsive service delivery, better maintenance of infrastructure, and greater resilience to environmental stress.

Another dimension is the role of economic policy in shaping water access. While cost recovery and efficiency are important for sustainable water services, over-reliance on market-driven models risks pricing vulnerable populations out of essential access. A human rights-based approach to water regulation requires that affordability be treated as a non-negotiable component, with targeted subsidies, progressive tariff structures, or cross-subsidization mechanisms ensuring that the poor are not disproportionately burdened.

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At the same time, water pricing can be used strategically to discourage waste, encourage conservation, and fund infrastructure investments, provided that safeguards for minimum essential access are in place.

International cooperation also plays a decisive role. Transboundary water resources—rivers, lakes, and aquifers shared between nations—demand collaborative governance arrangements grounded in international law. The UN Watercourses Convention (1997) and the UNECE Water Convention (1992) provide legal frameworks for equitable and reasonable use, prevention of harm, and information-sharing. In regions where such frameworks are operational, joint management has improved both water security and diplomatic relations. Similarly, international development assistance, technology transfer, and capacity-building initiatives can help low-income countries bridge gaps in infrastructure and expertise, accelerating progress toward the realization of the right to water.

In conclusion, the right to water is a multidimensional right that cannot be addressed solely through legal codification. It requires a coherent and integrated policy framework that brings together legal entrenchment, effective institutions, inclusive governance, sustainable financing, and climate-resilient management practices. States must not only align their domestic policies with their international obligations but also create an enabling environment in which civil society, the private sector, and local communities can contribute to the shared goal of universal and equitable access.

The urgency of this task cannot be overstated. As global population growth, urbanization, and climate change intensify the pressures on freshwater resources, failure to act decisively risks deepening existing inequalities, undermining human dignity, and destabilizing communities. Conversely, the effective realization of the right to water offers transformative potential: it can improve public health, promote social stability, foster economic productivity, and strengthen environmental stewardship. The path forward will demand sustained political will, robust international partnerships, and a steadfast commitment to equity and



sustainability. If these conditions are met, the right to water can move from a noble aspiration to a lived reality for all.

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