

Freshwater Dispute Resolution in Canada: What Happens when the Water Runs Out?



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Overview



- Freshwater and Transboundary Freshwater Disputes (TFDs)
- International water law
- Freshwater in Canada

Freshwater and TFDs

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- Freshwater is vital, increasingly scarce, and unevenly distributed
- Transboundary disputes over freshwater
 - No 'Water War' in 4500 years, **BUT**
 - Over 150 water-related conflicts have been recorded between 1900-2010, and
 - 60% of international river basins lack cooperative management frameworks
- As a result, TFDs are likely to arise with increasing frequency in the future
- The role of international law in the resolution of TFDs?

International Water Law

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- Core principles:
 - Equitable and reasonable utilization ('ERU')
 - No significant harm ('NSH')
 - Duty to cooperate
- Currently the prevailing approach is NSH < ERU, and treating duty to cooperate as purely procedural
- But there remains considerable confusion regarding the practical application of these principles
- No clear guidance in international instruments and judicial decisions
- As a result, states might be reluctant to rely on these legal principles for the resolution of TFDs

Freshwater in Canada



- Canada has access to as much as 20% of the world's surface freshwater
- However, the amount of available freshwater in Canada is only 6.5% of the world's available water stock and most water contained in lakes is non-renewable
- Problematic both in big Canadian population centres and in many northern communities
- These communities tend to rely on a single, small shallow lake reservoirs or seasonal replenishment systems for their freshwater, which may not always be sustainable
- How are these freshwater resources regulated in Canada and how would future disputes be resolved? What are the applicable legal principles and how do different relevant areas of law interact to govern their use? Can lessons be drawn from international law?

Thank you!



Questions?