

## PAPER DETAILS

TITLE: SUSTAINABLE UTILIZATION OF INTERNATIONAL WATERCOURSES: A LEGAL  
OVERVIEW

AUTHORS: Mete Erdem

PAGES: 41-64

ORIGINAL PDF URL: <https://dergipark.org.tr/tr/download/article-file/99700>

**MHB Yıl 12 Sayı 1-2 199**

irrigation have dramatically  
nite and constant (3). Cons  
deplete the water quantity  
the water quality (4). Wat  
unecological development,  
and leads to the loss of "a  
to resolve environmental p  
that not only impair the qu  
tinued existence. This pap  
stantive rule through which



proposition of "environment v  
1971 UN Founex Seminar, wh  
tempt to clarify the links betwe  
were, in fact, compatible (8). Y  
of environment in order to rec  
pression in the term, "sustainab  
ed definition of sustainable de  
(9), because "it comes to mean  
concerned" (10), there still rem  
identify its basic elements whic  
studied in international politica



assets declines over time (14). Sustainability, a preservation, enables the their depletion or degradation.

In the early 1970s employed the term, "sustainability" influence of the very 1968 Washington Conference where the approach to (17). More notably, deve

agement by which the balance (22). Glaeser points out that the development that relies for the most of all the basic needs of the population are identified as basic

An ecology-oriented approach to Conservation Strategy, which focuses development through the conservation of natural resources, conservation and development, to ensure the survival and well-being of the environment and the



vide sustainability in the  
resources and their explo

Unlike the World  
vironment and Developm  
mon Future, as "develop  
the ability of future gener  
plicitly embodies the cor  
Environmental limits are



within any one country and beyond more, sustainable development for future generations an inheritance of quality inherited (39).

## **THE DEFINITION OF**

The term, "international law" is a problematic because it deals with

states whose intention was to  
within their territory (42)  
including international water-  
proach" in conformity with  
in defining international  
ternational watercourse"  
virtue of their physical re-  
nus, parts of which are sit-

Firstly, "internatio-



wide range of internationally s  
recognition of their economic f  
far the status of international m  
dressed in the political context  
or traversing more than one sta  
to which they are geographical  
ly within the territory of one s  
other hand, "international wate  
that includes not only internat  
within the territory of one state



It follows that there is a watercourse belonging to

A "drainage basin including the surface water (57). By its very nature, unit (58). The physical in basin to be considered as a unit of international law. Long work has fostered the geographical concept on

In comparison with the "international watercourses" Commission consistently resisted inclusion of the physical port of an international watercourse (6). The states to rely generally on the ground for the foundation of limited territorial sovereignty sources within its territory (6). The approach was to put a strong emphasis on land areas within the watercourse, the holistic approach (and the



concerning the dispute w  
by the USA in its territor  
and exclusive jurisdiction  
river within its territory.  
right to use the whole ext  
any adverse effect on the  
ry (69). Apart from the U  
practice and in theory (70  
deed, even the USA was  
(72). It still is not surpris  
doctrine in state practice



son that its application practical  
ing corresponding obligations (

Either theory takes into  
ison to the others but neither of  
sponse to this inequity, the the  
forward to reconcile these extre  
national law. In its 1966 Helsin  
lated the theory which dictates  
reasonable and equitable share  
age basin" (79). The gist of equ  
not equal apportionment, but ra  
ing to the social and economic

of shared natural resources and the legal implications in state practice throughout the Draft Articles have given rise to obligations in practice (87). Yet this theory of sources are to be environmental, which requires consistency with the allocation of the

The community as a result of their interdependence of drainage basins



## SUBSTANTIVE RULE

Since the establishment of shared fresh water resources has been based on their physical interdependencies. An observation of this fact implies accompanied by procedural international customary law, by absence of a global arrangement. states, there is decisive authority "reasonable utilisation" as a general principle. It is undeniable that there is enormous



to "utilise an international  
will be determined by taking  
each individual case, given  
international watercourse  
correlative obligation not

Moreover, the ILC  
of the harmless use of term  
non laedas', as well as the  
tion not to cause apprecia  
principle of equitable and

On the contrary, the ILC, in its Helsinki rules of 1966 (109), proposed three alternative solutions to the inconsistency between the requirement of "appreciable harm to the environment" and the prevention of the deprivation of an equitable share of the benefits of the exploitation of the common heritage of mankind. However, he failed to convince

One would expect that the obligation to prevent, reduce, and compensate for damage in a special form of that of no app



More importantly, the environmental unity of international law and preserve the ecosystem refers to article 192 of the 1982 Convention, which contains a particular general obligation to protect the environment and a specific obligation to take all measures to prevent, reduce and control pollution in article 23 of the Draft Convention on the Law of the Sea Convention, which states that the protection of the marine environment

Although "the env

tendency of socioeconomic development of watercourse basins is  
follows from this that physical sustenance to natural and environment  
decrease over time (124). Otherwise  
of the resources (125). Hence,  
approach to the replenishable use  
sustainable development -if not

Although in the 1960's,  
nature conservation and wildlife  
among the main objectives of li



tain, or restore the optimum  
(132).

In the ILC's Draft  
seeks to attain "optimal u  
table utilisation (133), a  
tional and optimal utilis  
(134). Nevertheless, the  
demonstrates that optima  
tion, but reinforces the ic  
sation, which aims at the

to restore populations of harvested  
the living resources. The objective is  
sustainable yield, in other words  
are not in excess of sustainable  
serves to conserve the living  
"limiting" mechanism for conservation.  
The United Nations Convention on the Law of the  
Sea Convention aims to achieve  
food of the world's expanding  
generations (140).

Notwithstanding the trend  
sustainable development as a



precautionary measures in have potentially severe co sociates with environmen en, and also with the pro change (145). Yet it is stil tional law (146).

Finally, it is notew environment recognises the ne resources in harmony with towards which it takes an

established towards the recognition of the exploitation of renewable natural resources in political economics. However, the inherent ambiguous normative character of the concept that sustainable utilisation is

(ii) An "international instrument" which confines the application of the concept to the covered areas only. The exclusion of transboundary watercourse basins is inconsistent with draft article 20 which expresses the concept of ecosystems of international