

Impact case study (REF3b)

<p>Institution: University of Dundee</p>
<p>Unit of Assessment: 20 Law</p>
<p>Title of case study: Enhancing Shared Knowledge on the Law Governing International Watercourses: The Contribution of the UN Watercourses Convention</p>
<p>1. Summary of the impact</p> <p>Research conducted by Rieu-Clarke and Wouters has deepened knowledge and understanding of the role of international law in contributing to the peaceful management of the world's transboundary water resources amongst a range of stakeholders, including policy makers. The impact is manifested in invitations to high-level policy forums and engagement with policy makers at numerous training events. Additionally, several governments have ratified the UN Watercourses Convention (UNWC), in part due to their research, and their work has contributed to the imminent entry into force of the Convention.</p> <p>2. Underpinning research</p> <p>Dr Alistair Rieu-Clarke is a Reader in International Law who has been employed in the UoA since 2004. Prof Patricia Wouters has worked here since 1996.</p> <p>Only 158 of the world's 276 major transboundary watercourses (shared between over 170 states) have specific treaty arrangements in place. Many of these instruments are inadequate to meet contemporary challenges because they lack clear rules and institutional mechanisms to ensure the peaceful, equitable and reasonable use of shared water resources. In the absence of specific treaty arrangements, states must rely on general principles of customary international law. However, misperceptions and misinterpretations over the precise normative content of these principles limit their effectiveness.</p> <p>Wouters' and Rieu-Clarke's research has revealed the importance of the UNWC's provisions in supplementing insufficient treaty practice. The Convention clarifies and strengthens the principles of customary law in this field. However, although it was adopted in 1997, the Convention has not yet entered into force and this has compromised peaceful transboundary water development and management around the world. Making the legal and policy case for its entry into force based on a solid research evidence base - as the authors of this case study have done - therefore becomes crucial.</p> <p>The authors' research has increased knowledge and understanding of the law pertaining to the use and protection of international watercourses and concluded that the UNWC should be adopted and implemented. Their considerable body of research (more than 70 publications) has sourced and analysed through legal analytical frameworks: (i) watercourse treaties from around the world; (ii) rules of customary law and state practice from around the world; (iii) the work of international and regional intergovernmental organisations, expert bodies and leading publicists; and (iv) the decisions of courts and tribunals.</p> <p>The primary underpinning research includes Wouters' doctoral thesis (1997, the basis for the 1996 <i>Natural Resources Journal</i> article) and Rieu-Clarke's doctoral thesis, published as a monograph (2005). These works have been supplemented by numerous publications in peer-reviewed journals (included in RAE 2003 and RAE 2008), research project reports and international presentations.</p> <p>Analysing more deeply the applicable laws in this field provided the foundations by which Wouters (2000 & 2009) and Rieu-Clarke (2008 & 2009) were able to advance their research on the UNWC. Wouters (2000) surveyed international conflicts over water, and assessed how both the function and content of the UNWC could help address those conflicts. By framing the global water crisis as a security issue, Wouters, Vinogradov (also in this UoA) and Magsig (2009) were then able to</p>

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broaden out that analysis and make the case that international law in general, and the UNWC in particular, could play an important role in fostering global 'water security'.

Rieu-Clarke and Loures (2009) took this research further with their analysis of three important questions (i) why the UNWC, many years after its adoption, had not yet entered into force; (ii) what the potential benefits were of it entering into force; (iii) what action was needed to ensure its entry into force within the foreseeable future? This research was a springboard for a collection of research outputs and outreach, including work by Rieu-Clarke (2008) examining the European context and a series of international case studies and regional conferences (detailed below).

3. References to the research

- 1996 - Wouters, P., "An Assessment of Recent Developments in International Watercourse Law Through the Prism of the Substantive Rules Governing Use Allocation", 36 *Natural Resources Journal*, pp. 417-439.
- 2000 - Wouters, P., "The Legal Response to Water Conflicts: The UN Watercourses Convention and Beyond", 42 *German Yearbook of International Law* 293.
- 2005 - Rieu-Clarke, A.S., *International Law and Sustainable Development – Lessons from the Law of International Watercourses* (IWA Publishing).
- 2008 - Rieu-Clarke, A.S., "The Role and Relevance of the UN Convention on the Law of the Non-navigational Uses of International Watercourses to the EU and Its Member States," 78 *British Yearbook of International Law* 389. DOI:10.1093/bybil/78.1.389
- 2009 -- Rieu-Clarke, A.S., "Still Not In Force: Should States Support the 1997 UN Watercourses Convention?" 18 *Review of European Community and International Environmental Law* 185 (with F. Loures). DOI:10.1111/j.1467-9388.2009.00640.x
- 2009 - Wouters, P., "Water Security, Hydrosolidarity, and International Law: A River runs through it ..." 19 *Yearbook of International Environmental Law*, pp. 97–34 (with S. Vinogradov and B. Magsig). DOI:10.1093/yiel/19.1.97

4. Details of the impact

This research has deepened knowledge and understanding of the important role of international law in contributing to the peaceful management of the world's transboundary water resources amongst a range of stakeholders, including policy makers within governments across the world, and international organisations.

Engagement in global policy dialogues:

The authors have been invited to present their research at a number of high level global policy meetings, including at the triennial World Water Forums (Hague 2003; Kyoto 2006; Istanbul 2009; Marseille 2012) and Stockholm World Water Weeks (over the past 15 years). Other selected examples include:

Wouters was invited to present her Water Security work (2009) at a number of high level meetings, including:

- (i) a High Level Panel on Water Security organised by the Inter-Action Council (comprising former heads of States and co-chaired by Rt. Hon. Jean Chrétien, former Prime Minister of Canada, H.E. Dr. Franz Vranitzky, former Chancellor of Austria and Gen. Olusegun Obasanjo, former President of Nigeria) (2011) (see section 5: 1);
- (ii) UK Commission on National Security in the 21st Century (co-chaired by Lord Ashdown and Lord Robertson), commissioned an ESRC-funded policy brief on Water Security (2009) (see section 5: 2);
- (iii) UN Water Security High Level Panel Experts Meeting (UN, New York, 2013);
- (iv) World Economic Forum, Global Agenda Council on Water Security (Dubai, 2010) (see section 5: 4).

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Rieu-Clarke was invited to present his research to:

- (i) an invitation only meeting of European States to discuss how the UNWC could be further promoted (2013), (see section 5: 7,8); and
- (ii) a High Level Panel on Global Water Governance, held at the 6th World Water Forum (2012 Marseille), (see section 5: 7,8).

Rieu-Clarke and Loures also co-convened the first global symposium on the legal and policy dimensions of the UNWC, attracting more than 100 of the world's leading thinkers and key stakeholders on this topic (Dundee, 2012). The event resulted in several important publications and significant global outreach (see section 5: 7).

Targeted training events for policy-makers:

The authors have led numerous training events around the world (Asia; Africa; Latin America; Europe), where they have discussed their research with policy-makers.

Details of targeted training events:

- They convened more than 10 international water law workshops/conferences/think-tank meetings in Dundee attracting more than a 1,000 international delegates, including an annual workshop that has attracted scholarship funding from the Global Water Partnership (GWP), the world's largest international network on water (see section 5: 7);
- They co-convened with WWF a series of UNWC national workshops (Cambodia, Ethiopia, Tanzania and Vietnam; regional workshops in East Africa (11 Nile Countries), SE Asia (6 Mekong Countries) and West Africa (16 Countries), bringing together many key stakeholders, including government officials from various ministries (finance, environment, trade, foreign affairs, energy, etc), Ambassadors, parliamentarians, civil society groups and academics to discuss research findings related to the UNWC (see section 5: 7,8,9,10).

Policy-oriented training materials have supported these activities, such as *The UN Watercourses Convention – User's Guide*, and various policy briefs, e.g. Loures, Rieu-Clarke and Vercambre, *Everything you need to know about the watercourses convention*: http://www.unwater.org/downloads/wwf_un_watercourses_brochure_for_web_1.pdf (see section 5: 3,5).

Influencing the entry into force of the UNWC:

The research has influenced global and national policy making with particular impact on supporting the entry into force of the UNWC, illustrated by the following examples:

At the regional and national level:

- In Africa and Asia the workshops noted above have triggered ratifications of the UNWC by Guinea Bissau and Nigeria (2010), Burkina Faso (2011), Benin and Chad (2012), and Niger (2013). Other States have committed to initiate the ratification process, including all nine countries of the Niger River Basin, Vietnam and Tanzania (see section 5: 7,9,10);
- In Europe, Rieu-Clarke's research (2008) was used by WWF to support their European campaign, leading to ratifications by Spain (2009), Greece (2010), France (2011), Denmark (2012), Italy (2012), Luxembourg (2012) and the UK (2013). More EU States have agreed to come on board; the European Parliament adopted a resolution calling on the Commission and Member States to do so. Rieu-Clarke was commissioned by the Department of International Development to report on how UK ratification would support their water policy (see section 5: 8).

The fact that 16 countries have ratified the UNWC in the last five years and a significant number of

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ratifications are expected in the foreseeable future - enough to secure the Convention's entry into force - is testament to the impact of this research (section 5:7). A further endorsement of the research is witnessed by the award of £210,000 from the Norwegian Ministry of Foreign Affairs (2010) and a consultancy contract worth £11,500 from the UK Department for International Development (2010) to Rieu-Clarke to continue his research and advice related to the UNWC (see section 5: 6).

5. Sources to corroborate the impact

Rieu-Clarke's and Wouters' research has been referred to in many policy-oriented statements, briefs and other materials, including:

1. Inter-Action Council Final Communiqué (29th Annual Plenary Meeting, 29-31 May 2011, Québec City, Canada) <http://www.interactioncouncil.org/final-communiqu-42> - called for the UN to recognise the global water crisis as a security issue and also for the ratification of the Watercourses Convention;
2. UN Water Analytical Policy Brief (2013) "Water Security & the Global Water Agenda", http://www.unwater.org/downloads/watersecurity_analyticalbrief.pdf ;
3. Global Water Partnership TEC Background paper: "International Law – Facilitating Transboundary Water Cooperation" (2013) <http://www.gwp.org/en/ToolBox/PUBLICATIONS/Background-papers/> ;
4. World Economic Forum: Water Security – Water-Food-Energy-Climate Nexus http://www3.weforum.org/docs/WEF_WI_WaterSecurity_WaterFoodEnergyClimateNexus_2011.pdf (chapter on Hydro-solidarity and National Security);
5. UN Watercourses Convention User's Guide (2012). The Guide, which draws heavily on all of the research by Rieu-Clarke and Wouters, has been described by one reviewer as, "an indispensable tool for all those engaged in making sense of the provisions of the UN Watercourses Convention", and "a great source book for water law students and water law professionals" (see <http://db.tt/uU0yQYMj> for further testimonials). A website accompanying the Guide received 1,000 hits in the first month of its launch;
6. International Architecture for Transboundary Water Management (2010) - http://www.wwf.org.uk/wwf_articles.cfm?unewsid=5091 . UK Department for International Development commissioned report, co-authored by Rieu-Clarke, assessing *inter alia* the benefits of the Watercourses Convention.

Numerous government officials, representatives of international organisations, and other policy-makers can testify to the general impact that this work has had in raising awareness and deepening knowledge and understanding of the value of the UNWC. A representative survey of opinion may be garnered from the following experts:

7. Senior Program Officer, International Law and Policy, Freshwater Program, WWF. Responsible for promoting the UNWC amongst governments as part of WWF's mission, he can testify as to how this research was used to convince governments from across the world to ratify the Convention, as well as shaping WWF's own policy;
8. European Policy Advisor, WWF – as above – can testify that this research has formed the basis for promoting ratification amongst EU states;
9. Director, Transboundary Rivers Directorate, Ministry of Water, Tanzania. Responsible for the development and implementation of Tanzania's water policy related to transboundary waters, and now promoting transboundary cooperation at a regional level through an inter-governmental organisation, the Director can testify that this research has raised awareness of the UNWC in Tanzania and across the Nile Region;
10. Senior Programme Officer, Vietnamese National Mekong Committee, Ministry of Natural Resources and Energy. Responsible for co-ordinating the accession process for the UNWC in Viet Nam, this officer can testify to the influence of this research in initiating a formal consultation process pertaining to the UNWC.