

CONTENTS

<i>List of Abbreviations</i>	xiii
<i>Table of Cases and Other Materials</i>	xv
<i>Table of Treaties and Other Instruments</i>	xxiii

Chapter 1.

General Introduction	1
1.1. Research questions	3
1.2. Methodology	4
1.3. Structure of the study	6

Chapter 2.

Emergence, Definition and Core Content of the Human Right to Water	7
2.1. Introduction	7
2.2. Emergence of the human right to water	8
2.3. Definition and core content of the human right to water	17
2.3.1. Elements of the Right to Water	19
2.3.1.1. Availability	19
2.3.1.2. Quality and acceptability	22
2.3.1.3. Accessibility	25
2.3.1.3.1. Information accessibility	25
2.3.1.3.2. Physical accessibility	25
2.3.1.3.3. Affordability	27
2.4. State's obligations concerning the human right to water	29
2.4.1. Typology of human rights obligations at national level	29
2.4.1.1. Obligation to respect	31
2.4.1.2. Obligation to protect	32
2.4.1.3. Obligation to fulfil	36
2.4.1.4. Core obligations	38
2.5. Conclusions	40

Chapter 3.

Recognition of the Human Right to Water at the International Level	43
3.1. Introduction	43
3.2. Recognition of the right to water	44

3.2.1.	Implicit recognition of the right to water	44
3.2.1.1.	Universal Declaration of Human Rights (1948)	44
3.2.1.2.	International Covenant on Civil and Political Rights (1966)	46
3.2.1.3.	International Covenant on Economic, Social and Cultural Rights (1966)	48
3.2.2.	Explicit recognition of the right to water	54
3.2.2.1.	Convention on the Elimination of All Forms of Discrimination against Women (1979)	55
3.2.2.2.	Convention on the Rights of the Child (1989)	58
3.2.2.3.	Convention on the Rights of Persons with Disabilities (2006)	60
3.2.2.4.	Reports, guidelines, and studies on the right to water within the UN bodies	65
3.2.2.5.	UN General Assembly Resolutions	69
3.2.3.	Interaction between soft law and hard law instruments	72
3.3.	Implementation of the right to water in international human rights law	73
3.3.1.	Reporting under universal human rights conventions	74
3.3.1.1.	Reporting under the International Covenant on Civil and Political Rights	77
3.3.1.1.1.	Functioning	77
3.3.1.1.2.	Practice	78
3.3.1.2.	Reporting under the International Covenant on Economic, Social and Cultural Rights	84
3.3.1.2.1.	Functioning	84
3.3.1.2.2.	Practice	86
3.3.1.3.	Reporting under the Convention on the Elimination of All Forms of Discrimination against Women	94
3.3.1.3.1.	Functioning	94
3.3.1.3.2.	Practice	94
3.3.1.4.	Reporting under the Convention on the Rights of the Child	99
3.3.1.4.1.	Functioning	99
3.3.1.4.2.	Practice	100
3.3.1.5.	Reporting under the Convention on the Rights of Persons with Disabilities	105
3.3.1.5.1.	Functioning	105
3.3.1.5.2.	Practice	105
3.3.2.	Contentious cases under universal human rights conventions . .	109
3.3.2.1.	Individual communications under the International Covenant on Civil and Political Rights	111

3.3.2.2. Individual communications under the Covenant on Economic, Social and Cultural Rights	113
3.3.2.3. Individual communications under the Convention on the Elimination of All Forms of Discrimination against Women	114
3.3.2.4. Individual communications under the Convention on the Rights of Persons with Disabilities	114
3.4. Independent right to water in customary international law?	115
3.5. Conclusions.	125

Chapter 4.

Recognition of the Human Right to Water at the Regional Level 127

4.1. Introduction	127
4.2. European human rights system and UNECE	130
4.2.1. Recognition of the right to water at the European level in regional declarations, statements, resolutions and action plans.	131
4.2.1.1. Council of Europe	131
4.2.1.2. United Nations Economic Commission for Europe	134
4.2.2. Recognition of the right to water in conventions adopted at the European level.	136
4.2.2.1. European Convention on Human Rights.	137
4.2.2.2. European Social Charter (Revised)	137
4.2.2.3. The European Convention on the Prevention of Torture and Inhuman and Degrading Treatment or Punishment	139
4.2.2.4. Protocol on Water and Health to the 1992 Convention on the Protection and Use of Transboundary Watercourses and International Lakes	140
4.3. Inter-American human rights system	142
4.3.1. Recognition of the right to water in regional declarations, statements, resolutions and action plans.	146
4.3.2. Recognition of the right to water in conventions adopted under the Inter-American system.	148
4.4. African human rights system	149
4.4.1. Recognition of the right to water in regional declarations, statements, resolutions and action plans.	151
4.4.2. Recognition of the right to water in conventions adopted under the African system.	152
4.4.2.1. African Charter on Human and Peoples' Rights	153

4.4.2.2.	Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.	153
4.4.2.3.	African Charter on the Rights and Welfare of the Child	153
4.5.	Implementation of the right to water in regional human rights law	154
4.5.1.	Contentious procedures under regional human rights instruments	155
4.5.1.1.	European human rights system	155
4.5.1.1.1.	Cruel inhumane or degrading treatment	155
4.5.1.1.2.	Right to respect for private and family life . . .	158
4.5.1.1.3.	Right to fair trial (right to property)	163
4.5.1.1.4.	Right to housing	164
4.5.1.2.	Inter-American human rights system.	168
4.5.1.2.1.	Cruel inhuman or degrading treatment	168
4.5.1.2.2.	Right to life.	175
4.5.1.3.	African human rights system.	182
4.5.1.3.1.	Right to dignity (cruel, inhuman or degrading treatment)	183
4.5.1.3.2.	Right to health.	184
4.5.1.3.3.	Right to a healthy environment	187
4.5.1.3.4.	Right to development	188
4.6.	Independent right to water in regional customary law?	190
4.7.	Conclusions.	195

Chapter 5.

Recognition of the Human Right to Water at the Domestic Level:

a Case Study Approach 199

5.1.	Introduction	199
5.2.	Recognition of the human right to water in national legal systems	201
5.2.1.	Argentina	201
5.2.1.1.	Recognition of the right to water	203
5.2.1.2.	Mechanisms to protect the right to water.	206
5.2.2.	Chile	207
5.2.2.1.	Recognition of the right to water	213
5.2.2.2.	Mechanisms to protect the right to water.	215
5.2.3.	Colombia.	218
5.2.3.1.	Recognition of the right to water	220
5.2.3.2.	Mechanisms to protect the right to water.	223
5.2.4.	Bolivia	226
5.2.4.1.	Cochabamba and the water war.	230
5.2.4.2.	Recognition of the right to water	234
5.2.4.3.	Mechanisms to protect the right to water.	236

5.3. Implementation of the right to water at domestic level 239

5.3.1. Contentious cases in domestic courts 240

5.3.1.1. Argentina 241

5.3.1.1.1. Access to water 241

5.3.1.1.2. Availability and disconnection of water services 244

5.3.1.1.3. Economic access 248

5.3.1.1.4. Water quality 252

5.3.1.1.5. Public participation 254

5.3.1.2. Chile 255

5.3.1.2.1. Access to water 255

5.3.1.2.2. Availability and disconnection of water service. 257

5.3.1.2.3. Economic access 259

5.3.1.2.4. Water quality 261

5.3.1.3. Colombia 262

5.3.1.3.1. Access to water 262

5.3.1.3.2. Availability and disconnection of water services. 263

5.3.1.3.3. Economic access 266

5.3.1.3.4. Water quality 269

5.3.1.4. Bolivia. 270

5.3.1.4.1. Access to water 270

5.3.1.4.2. Availability and disconnection of drinking water services 271

5.3.1.4.3. Economic access 274

5.3.1.4.4. Water quality 275

5.4. Independent right at the domestic level? 275

5.5. Conclusions. 278

Chapter 6.

Extraterritorial Application of the Human Right to Water in a Transboundary Watercourse Context 283

6.1. Introduction 283

6.2. Typology of human rights obligations at the international level 284

6.2.1. Legal basis for the international human rights obligations of the economic, social and cultural rights. 285

6.2.1.1. The UN Charter 286

6.2.1.2. Universal Declaration on Human Rights 288

6.2.1.3. International Covenant on Economic, Social and Cultural Rights 289

6.2.2.	Authoritative interpretation of the CESCR concerning international obligations	293
6.2.2.1.	International obligation to respect	295
6.2.2.2.	International obligation to protect	296
6.2.2.3.	International obligation to fulfil	297
6.3.	The human right to water in a transboundary watercourse context....	299
6.3.1.	Extraterritorial causes that impact the human right to water ...	300
6.3.2.	International water law as the legal framework for cooperation in the management and use of transboundary watercourses.....	302
6.3.2.1.	Principle of equitable and reasonable utilisation of waters	302
6.3.2.2.	The no significant harm rule	307
6.3.2.3.	The obligation to cooperate.....	311
6.3.3.	Are international obligations on the human right to water conflicting with the principles of international water law?	312
6.3.4.	Remedies.....	323
6.3.4.1.	Mechanisms used by states.....	323
6.3.4.1.1.	Inter-state mechanisms in international water law.....	323
6.3.4.1.2.	Inter-state mechanisms in human rights law	325
6.3.4.2.	Actions initiated by individuals against foreign states	331
6.3.4.2.1.	Individual complaints under international water law.....	331
6.3.4.2.2.	Individual complaints under human rights law	335
6.4.	Conclusions.....	337
 Chapter 7.		
	General Conclusions	341
7.1	Recognition of the human right to water under human rights law.....	341
7.2.	Extraterritorial application of the human right to water and its relationship with international water law	348
7.3.	Overall conclusion.....	353
	 <i>Bibliography</i>	 <i>355</i>
	<i>Index.....</i>	<i>377</i>