

A MANIFESTO FOR THE FRESHWATER RULE OF LAW

A CALL TO ACTION:

The purpose of this Manifesto is to call attention to and inspire action to achieve equitable, efficient and sustainable management of freshwater resources, through domestic legislation that reflects the freshwater rule of law principles set out below. These principles are intended to be read together and to guide the review and, where necessary, the development or revision of domestic legislation governing freshwater resources to give effect to the freshwater rule of law.

This Manifesto emphasizes the central role of legislation as a foundational pillar of the enabling environment for achieving the freshwater rule of law. Domestic freshwater-related legislation, including regulations, comprises both freshwater legislation and legislation governing sectors that have an interdependency with, an impact on or are impacted by freshwater resources.

The freshwater rule of law calls for domestic legislation implemented by governmental and other institutions to be held accountable by all stakeholders, leading to a culture of compliance that embraces environmental and social values.

PRINCIPLES

Principle 1. Integration and harmonization of domestic legislation

Domestic legislation should be integrated within the water sector and harmonized across water-relevant sectors. Legislation should reflect, in a coherent manner, the complex web of interactions within the hydrological cycle between freshwater, watershed ecosystems, and the multiple uses of freshwater that sustain life, human health, wellbeing, and economic and social development.

Principle 2. Water is a public resource

Freshwater is a public resource. The State acts as custodian of a nation's freshwater in the public interest of people and the environment through the implementation and enforcement of integrated and harmonized domestic legislation. Such legislation should recognize the diverse values of freshwater, account for the human right to water, and provide for the equitable, efficient, and sustainable allocation, use, management, conservation, and development of freshwater resources.

Principle 3. Clarity and coordination of institutional roles and responsibilities

Domestic legislation should clearly define and promote coordination across the roles and responsibilities of the institutions involved in the administration, implementation, and enforcement of freshwater and freshwater-related legislation at all appropriate levels of governance.

Principle 4. Recognition and protection of all legitimate water tenure rights

Domestic legislation should recognize and provide coherent, non-discriminatory, and accountable legal and administrative mechanisms to recognize, protect, and give effect to all legitimate water

tenure arrangements. This should include Indigenous and customary tenure arrangements, as well as other legitimate arrangements not currently protected by legislation.

Principle 5. Managing uncertainty

Domestic legislation should balance the need for legal certainty with the flexibility necessary to promote resilience in the face of changing availability, quality, health of, and demands on, freshwater resources and ecosystems. This should include effective mechanisms to ensure adaptive, inclusive, and accountable decision-making.

Principle 6. Data for evidenced based decision-making

Decision-making pursuant to domestic legislation should be evidence-based and informed by the best available data. Such data should be credible, reliable, relevant, and practicable and should be publicly available.

Principle 7. Gender equality

Domestic legislation should be gender responsive, prohibit discrimination on the basis of gender, and provide for the clear recognition and protection of the rights of women concerning, at a minimum, freshwater access, use, and decision-making.

Principle 8. Protection of healthy freshwater ecosystems

Domestic legislation should protect the ecological integrity of freshwater ecosystems to strengthen their resilience and sustain water availability, biodiversity, and environmental health.

Principle 9. Procedural rights

Domestic legislation should include legally enforceable mechanisms for ensuring equitable and meaningful inclusion of all concerned stakeholders in freshwater decision-making. At a minimum, this includes the rights of access to information, meaningful opportunities to participate in decision-making, and access to justice.

Principle 10. Access to justice

Domestic legislation should include mechanisms to ensure fair, transparent, expeditious and reliable access to effective administrative and judicial remedies, enforcement mechanisms, and alternative dispute resolution mechanisms.

Principle 11. Compliance and enforcement

Domestic legislation should include legal and institutional mechanisms to ensure effective and fair enforcement of its provisions.

Principle 12. International obligations

Domestic legislation should be aligned with international freshwater and freshwater-related obligations to ensure their effective implementation.