

MANIFESTO ON THE FRESHWATER RULE OF LAW

STEFANO BURCHI

MICHAEL HANTKE-DOMAS

ZAKI SHUBBER

ROBYN STEIN

JESSICA TROELL



WCEL
WORLD COMMISSION ON ENVIRONMENTAL LAW
COMMISSION MONDIALE DE DROIT DE L'ENVIRONNEMENT
COMISION MUNDIAL DE DERECHO AMBIENTAL



Drivers

- Failure to integrate/ensure coherence and inclusivity in planning and decision-making
- Lack of distributional justice/alignment with human rights
- Harming the environment
- Failure to facilitate meaningful adaptation/resilience to climate change and uncertainty

Scope of the Manifesto Principles

The Manifesto seeks to respond to these challenges through 12 principles guiding legislation and regulation for:

- Governance
- Rights and Equity
- Effective Implementation
- Ecological and Global Dimensions

Why the Freshwater Rule of Law

The *Freshwater Rule of Law* requires that national water and water-related legislation:

- Applies universally and equally to all, including government
- Provides clear, accessible, predictable, and coherent rules
- Upholds fundamental rights and ensures due process
- Establishes legitimate governance mechanisms and fosters effective implementation

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 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 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 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 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 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.

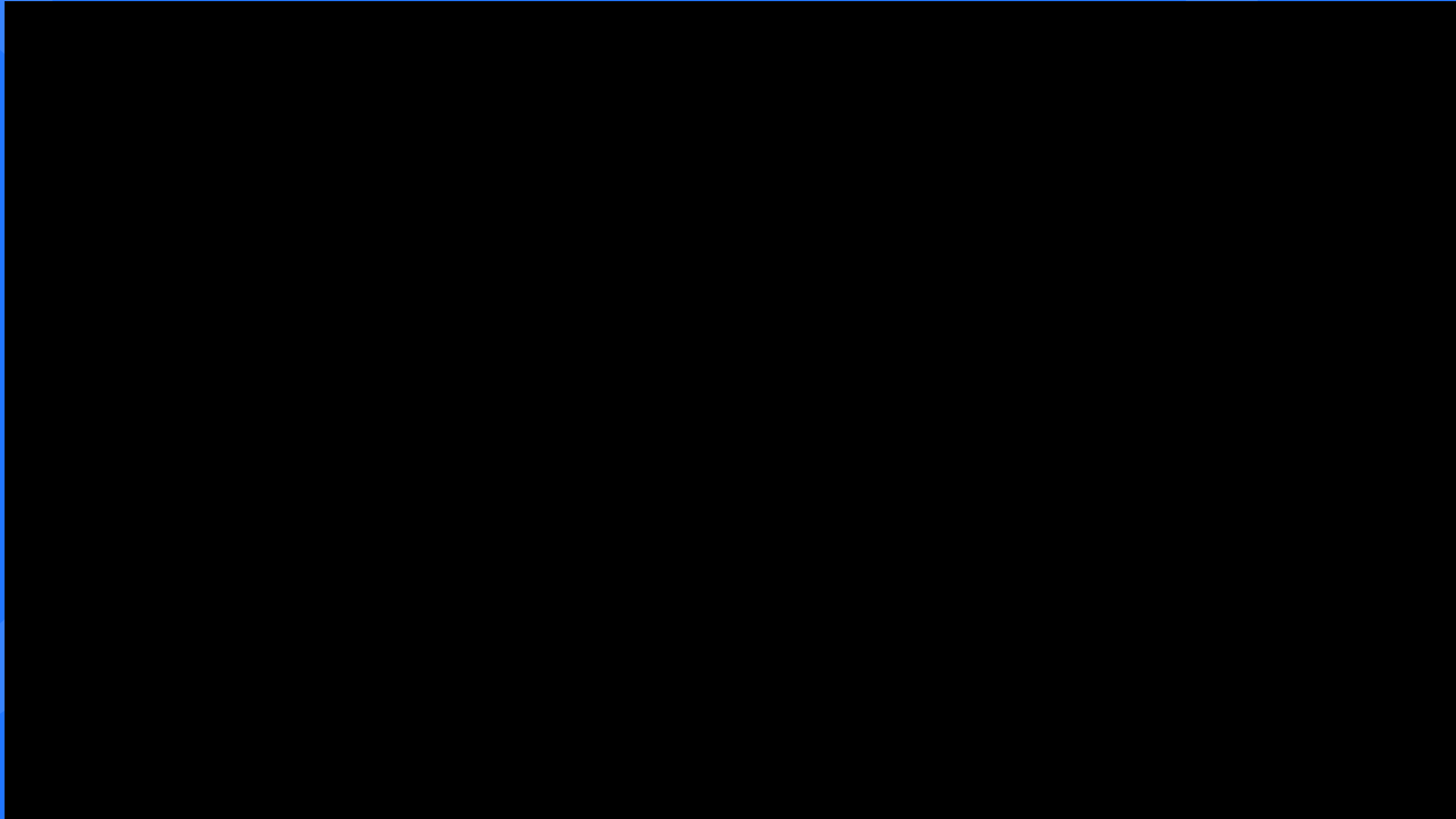
Principle 10. Access to justice

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.

Presentation by Michael Hantke-Domas:



Video available online here:
<https://youtu.be/yItZUc01I5Y>

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 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 12. International obligations

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

Next steps

- A consultative process aimed to disseminate and debate the principles
- Development of a suite of indicators/criteria for the assessment of legislation on the basis of the Manifesto
- Building on evidence-based good practices, development of tools and approaches to innovative legal solutions to identified issues
- Assisting countries to apply the Manifesto principles



Access to the Manifesto

IUCN WCEL website:
Water and Wetlands Law
Specialist Group



Thank you for your attention

For comments or clarification, contact us @

stefano.burchi@gmail.com

mike@hantke.cl

zshubber@gmail.com

rstein@icon.co.za

troell@eli.org