

# SCELG

STRATHCLYDE CENTRE FOR  
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## POLICY BRIEF

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### Good Transboundary Water Governance and the 2015 Sustainable Development Goals

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Example of a transboundary watercourse:  
The Danube, shared by 18 different  
nations.

The 2015 United Nations Sustainable Development Goals (SDGs) will shape the major challenges and key priorities for developed and developing countries for the years to come. In this context, it is very important that the SDGs encompass good transboundary water governance, which is crucial for sustainable development. In fact, there are an estimated 276 freshwater lake and river basins worldwide, and 145 nations which have territory within these international basins. Additionally, there are 608 transboundary aquifers, a number which is continually increasing. The management of these watercourses and aquifers will have critical impacts on the achievement of numerous other SDGs including (inter alia), poverty eradication (Goal 1), sustainable agriculture (Goal 2), health and well-being (Goal 3), energy security (Goal 7), resilience to climate change (Goal 13), and healthy ecosystems (Goal 15). This widespread influence demands a deliberate approach to integrate good transboundary water governance into the post 2015-agenda.

From a legal perspective, good transboundary governance includes a variety of substantive and procedural obligations present both in the UN Watercourses Convention (UNWC), and in the UN International Law Commission Draft Articles on the Law of Transboundary Aquifers. Substantive obligations promote cooperation and sustainability, whereas procedural obligations promote transparency, predictability and accountability. In assessing whether the SDGs encompass transboundary water governance, two goals in particular should be considered.

The first of these is Goal 6, or the “Water Goal” dedicated to ensuring “the availability and sustainable management of water and sanitation for all.” The 8 targets are ambitious, ranging from achieving equitable access to drinking water, to (6.1) to protecting and restoring water-related ecosystems (6.b). While these targets do relate to some of the basic substantive obligations (equitable and reasonable utilisation, and the duty to protect and conserve ecosystems), there is no reference to the procedural obligations necessary for their practical implementation. Target 6.5 is the only one that explicitly mentions transboundary governance, stating “by 2030 implement integrated water resources management at all levels, including through

transboundary cooperation as appropriate". This is an important acknowledgement of the specific regard which must be given to transboundary water governance.

The second goal which must be evaluated when considering transboundary water governance is Goal 16. This goal promotes "peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels." Goal 16 expresses some of the procedural obligations necessary to promote effective administration of the SDGs. There are several targets which are relevant to transboundary water governance. Target 16.3 establishes the need to "promote the rule of law at the national and international levels, and ensure equal access to justice for all". This is especially relevant because "access to justice" allows individuals to respond to development decisions or violations of legal obligations which may occur in the management of a transboundary watercourse or aquifer.

Another important target is 16.6 which is to "develop effective, accountable and transparent institutions at all levels". Public participation is also a key procedural obligation within transboundary water governance, and is referred to by target 16.7: "ensure responsive, inclusive participatory and representative decision-making at all levels." This means that development decisions which would affect a transboundary water source, such as the building of a hydropower dam, should undergo a comprehensive impact assessment study.

This should be read together with target 16.10, which is to "ensure public access to information and protect fundamental freedoms in accordance with...international agreements". What this means is that, as in the case of the hydropower dam, information on planned measures would be entirely accessible to the public, allowing all affected parties to understand them and respond to them as needed. Considering the numerous links to procedural obligations in its targets, Goal 16 is intrinsically important to the implementation of all SDGs.

A preliminary review of the isolated SDGs reveals very little in the way of promotion of good transboundary water governance. Goal 6 seems to address governance only vaguely, and with no specific reference to procedural obligations. However, a more in depth analysis shows that elements of good transboundary water governance can be found in many goals and targets which refer to water, and especially in Goal 16, which focuses on governance and the rule of law. Whatever happens in the final moments of the SDG negotiations in New York in September 2015, it is important that this cross-cutting interpretation of the SDGs is not lost. Only through such a holistic interpretation of the SDGs will good transboundary governance find a place in the post-2015 agenda.

*"By 2030 implement integrated water resources management at all levels, including through transboundary cooperation as appropriate" - Target 6.5*

*"Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels." - Goal 16*



Stung Russey Chrum hydropower dam in Cambodia, built by the Chinese Government and affecting Cambodia, China, Laos, Thailand and Vietnam

## Strathclyde Centre for Environmental Law and Governance

Based at the Law School, the Strathclyde Centre for Environmental Law and Governance operates as a centre of academic excellence in environmental law and governance. The goal of the Centre is to foster multidisciplinary and policy relevant research in International, European and national (both Scottish and English) environmental law and governance.

The Strathclyde Centre for Environmental Law and Governance is also a hub for excellence in PhD and postgraduate teaching programmes in environmental law and governance within the Law School. It hosts a Visiting Researcher Programme and welcomes consultancy collaborations with public and private policy makers and stakeholders.

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### Mallory Orme

Mallory Orme holds a B.A. in International Relations with a concentration in International Policy from American University in Washington, DC. She is now enrolled in the LLM in International Law and Sustainable Development at the University of Strathclyde. Having grown up on her family's working ranch in Arizona, Mallory was educated at an early age about the challenges of adapting to unpredictable water resources, and the importance of holistic agriculture. This summer, she will be working with Oxfam in Cambodia, researching the transboundary governance of the Mekong River and how local communities can have an impact of development decisions in the region. She plans to use this research to write her Master's dissertation in the fall, before pursuing a legal career in the water sector of international development.

### Francesco Sindico

Francesco Sindico is a Reader in International Environmental Law at the University of Strathclyde, Glasgow, Law School where he also acts as Director of the Strathclyde Centre for Environmental Law and Governance and Programme Director of the LLM in Climate Change Law and Policy. His work in the field of International Water Law focuses mainly on the management of Transboundary Aquifers (TBA), but he also works on water and human rights, water and international trade, and international water governance. Dr Sindico collaborates with UNESCO-IHP (International Hydrological Programme) and, in particular with the ISARM (International Shared Aquifers Resource Management) Programme hosted by UNESCO-IHP. He has also served as a member of the Legal Experts Group to the Groundwater Governance project and as a member of the Legal Experts Group advising AMCOW (African Ministerial Council on Water) in the development of the statutes of its Groundwater Commission. Dr Sindico is also an Expert – International Environment, Energy & Natural Resources Law at the London Centre for International Law and Practice.

### Zoe Cuthbert

Zoë Cuthbert recently graduated in Geography from the University of Glasgow and is now enrolled in the LLM in International Law and Sustainable Development. A passionate geographer, her background ranges from spatially mapping environmental changes using Geographical Information Systems (GIS), to looking at economic development and the global economy. During her undergraduate degree Zoë spent time in Uganda, working with a grassroots NGO in rural communities towards improving sanitation and access to clean water. This experience helped to develop her interests in water governance and sustainable development. She is currently undertaking an internship in Sri Lanka, working with a local NGO, towards improving water access and management to some of the poorest communities in the North West District.

### Julie Gibson

Julie is a law graduate from the University of Aberdeen, currently enrolled in the International Law and Sustainable Development LLM at the University of Strathclyde. Her specific areas of interest lie within the role of law in international development and poverty alleviation; having worked voluntarily within the sector in Kenya, Bangladesh, and China. This summer she is undertaking a field dissertation, examining how land reform can aid land grabbing and poverty alleviation, in Zambia. Julie has developed a keen interest in sustainable development and climate change law and policy. After completing her masters she hopes to pursue a career in law and policy within the field of international development.

### Renice Bostic

Since 2005, Renice has assisted in the public relations and implementation of development and humanitarian activities of NGOs in the Caribbean, the US and most recently in Scotland; particularly in education, poverty alleviation and coastal protection. She has worked within the communications sector in her home country Barbados, and holds a B.A in Communication Studies and International Relations from the University of the West Indies. As an LLM student in International Law and Sustainable Development, her research focuses on mainstreaming climate change adaptation within land planning legislation and sustainable development policies in Barbados.

#### Past Policy Brief Papers:

1. C Murdoch, Rights Based Approach to Conservation: Can legal trade provide the protection endangered species require? SCELG Policy Brief, No 1/2015
2. M Orme, F Sindico, Z Cuthbert, J Gibson, R Bostic, Good Transboundary Water Governance and the 2015 Sustainable Development Goals, SCELG Policy Brief, No 2/2015