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Implications of Chile v. Bolivia for Transboundary Wetlands

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I. INTRODUCTION

The recent ruling by the International Court of Justice (ICJ) on *Chile v. Bolivia* has implications that extend beyond the Silala River to the Bolivian *bofedales* and to wetlands globally. Indeed, wetlands featured prominently in this decades-long transboundary water dispute. This Essay explores how the ICJ's use of the customary international water law principles of equitable and reasonable use and no significant harm have implications for transboundary wetlands. In particular, the Court's ruling: (1) can be interpreted as defining "international waters" broadly to include systems of surface and groundwater (such as wetlands); (2) reinforces the obligation of shared watercourse states to the principles of equitable and reasonable use and no significant harm; and (3) demonstrates that states may protect and rehabilitate their wetlands in accordance with international water law.[1] Ultimately, this dispute, which arose in a basin considered to be one of the most hydropolitically vulnerable

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1 *See infra* Part III.

in the world,[2] may offer important insights as climate change and unilateralism threaten regional stability.

There are a few key aspects of the dispute that require elaboration. Bolivia and Chile disagreed over whether the Silala River was indeed transboundary.[3] As a result, the two states also disagreed about whether the waters are subject to customary international water law—in particular, the principles of equitable and reasonable use, prior notification, and no significant harm.[4] After decades of bilateral disputes over the Silala, Chile submitted the case to the ICJ, requesting that the Court recognize the Silala River as an international watercourse subject to customary international law.[5] Chile argued that each state is entitled to an equitable and reasonable use of the Silala's waters, and that Bolivia had breached the obligation to inform Chile, under customary law, of its intention to alter river flow.[6] In response, Bolivia argued that the Silala was a national river with wetlands that were artificially canalized to divert water to Chile—and thus, in the absence of the canals, the river would be wholly in Bolivia.[7] In this latter position, Bolivia would be able to alter the river's flow according to its own national priorities without regard to Chile. The points of dispute raise questions on the treatment of wetlands under international water law, a key concern given the importance of wetlands globally.

Wetlands provide numerous benefits to society: water purification, floodwater storage, habitat for wildlife, and provision of resources such as timber and food, to name a few.[8] Despite this, wetlands are lost at a rate three times higher than that of natural forests: 87% of the world's wetlands have been lost since 1700.[9] Wetlands have historically been lost to expansion of agriculture, housing, and industry. Where wetlands remain intact, they often receive tremendous pollution from nearby development.[10] In transboundary basins, it is especially important for states to manage their wetland resources cooperatively. The next sections discuss

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[2] U.N. ENV'T PROGRAMME, HYDROPOLITICAL VULNERABILITY AND RESILIENCE ALONG INTERNATIONAL WATERS: LATIN AMERICA AND THE CARIBBEAN 65 (2007), https://www.unep.org/resources/report/hydropolitical-vulnerability-and-resilience-along-international-waters-latin [https://perma.cc/9VN4-K4CD].

[3] Application Instituting Proceedings, Dispute Over Status and Use of Waters of Silala (Chile v. Bol.) ¶¶ 3–4 (June 6, 2016), https://www.icj-cij.org/sites/default/files/case-related/162/162-20160606-APP-01-00-EN.pdf [https://perma.cc/5ZKM-5G8X].

[4] Dispute Over Status and Use of Waters of Silala (Chile v. Bol.), Judgment, 2022 I.C.J. 5, ¶¶ 50–53 (Dec. 1).

[5] Application Instituting Proceedings, *supra* note 3, ¶ 4.

[6] *Id.* ¶ 50(b)–(c), (e).

[7] Counter-Memorial of the Plurinational State of Bolivia, Dispute Over Status and Use of Waters of Silala (Chile v. Bol.) ¶ 20 (Sept. 3, 2018), https://www.icj-cij.org/sites/default/files/case-related/162/162-20180903-WRI-01-00-EN.pdf [https://perma.cc/RE2U-CMBZ].

[8] RAMSAR CONVENTION SECRETARIAT, GLOBAL WETLAND OUTLOOK: STATE OF THE WORLD'S WETLANDS AND THEIR SERVICES TO PEOPLE 11 (Nigel Dudley ed., 2018), https://www.ramsar.org/sites/default/files/documents/library/gwo_e.pdf [https://perma.cc/XJ2A-E7K2].

[9] *Id.* at 19–20.

[10] *Id.* at 54.

how principles of international water law can guide shared wetland resource management as demonstrated by *Chile v. Bolivia*.

II. WETLANDS AND INTERNATIONAL LAW

Wetlands are protected by the 1971 Convention on Wetlands of International Importance Especially as Waterfowl Habitat (Ramsar Convention), an international treaty which guides the conservation of wetland resources.[11] Article 1.1 of the Ramsar Convention defines wetlands as "areas of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six metres."[12] The Ramsar Convention broadens the scope of this definition in Article 2.1, which states that wetlands protected as Ramsar Sites[13] "may incorporate riparian and coastal zones adjacent to the wetlands, and islands or bodies of marine water deeper than six metres at low tide lying within the wetlands."[14] Thus, the area surrounding wetlands is integrated into the protections of the Ramsar Convention.

The Ramsar Convention provides an international legal framework for wetland conservation that currently protects approximately 250 million hectares of wetlands, amounting to about 15% of wetlands globally.[15] Designation of a wetland as a Ramsar Site recognizes its significance to humanity and aims to preserve its ecological character. Wetlands can be designated as individual or transboundary Ramsar Sites. Individual Ramsar Sites are unilaterally designated by one country (regardless of whether the wetland itself is international).[16] The Ramsar Convention defines Transboundary Ramsar Sites as those where "an ecologically coherent wetland extends across national borders and the Ramsar Site authorities on both or all sides of the border have formally agreed to collaborate in its management, and have notified the Secretariat of this intent."[17] This transboundary protection mechanism is significant because wetlands, similar to other ecosystems, do not adhere to political boundaries. Approximately 60% of the world's freshwaters are transboundary in nature, meaning that they cross international borders.[18]

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[11] Convention on Wetlands of International Importance Especially as Waterfowl Habitat, Feb. 2, 1971, T.I.A.S. No. 1084 [hereinafter Ramsar Convention].

[12] *Id.* art. 1.1.

[13] Ramsar Sites are areas designated to be of international importance through the Ramsar Convention.

[14] Ramsar Convention, *supra* note 11, art. 2.1.

[15] *See* RAMSAR CONVENTION SECRETARIAT, *supra* note 8, at 7, 57.

[16] *See* Ramsar Convention, *supra* note 11, art. 2.

[17] RAMSAR CONVENTION SECRETARIAT, THE RAMSAR CONVENTION MANUAL: A GUIDE TO THE CONVENTION ON WETLANDS (RAMSAR, IRAN, 1971) (6th ed. 2013), https://www.ramsar.org/sites/default/files/documents/library/manual6-2013-e.pdf [https://perma.cc/F39J-VPF5].

[18] UN WATER, TRANSBOUNDARY WATERS: SHARING BENEFITS, SHARING RESPONSIBILITIES 1 (2008), https://www.unwater.org/sites/default/files/app/uploads/2017/05/UNW_TRANSBOUNDARY.pdf [https://perma.cc/AP7V-US6V].

Additionally, 300 Ramsar Sites are located within international river basins and are thus part of transboundary dynamics.[19]

A. Defining International Wetlands

Wetlands can be transboundary in a variety of ways. The most obvious type is a wetland whose surface extends across national borders. An example of this is the Hamoun Wetlands, which extend between Iran and Afghanistan.[20] Other wetlands are hydrologically connected to rivers[21] that cross national borders. Endorheic wetlands are fed by a river that flows into a terminal wetland.[22] Thus, endorheic wetlands that are fed by transboundary rivers could be considered transboundary. One example is the Okavango Delta, fed by the Okavango River.[23] The Okavango River originates in Angola, crosses through Namibia, and ends in the Okavango Delta in Botswana. Other wetlands are connected to a transboundary groundwater source. The United Nations Educational, Scientific and Cultural Organization (UNESCO) classifies six categories of wetlands that depend on groundwater: groundwater flow-through area; recharge area; discharge area, open; discharge area, closed (saline and non-saline); hidden wetland; and variable area.[24]

Thus, we identify three "types" of transboundary wetlands: (1) wetlands situated within international river basins; (2) wetlands that physically extend across political boundaries; and (3) wetlands that are fed by or drain to transboundary groundwaters. The next section details how international water law is applicable to international wetlands.

B. International Water Law: Treaties & Key Principles

One key international water convention is the 1997 United Nations Convention on the Law of Non-Navigational Uses of International Watercourses (UNWC). In addition, the 2008 International Law Commission Draft Articles on Transboundary Aquifers is under development.[25] The UNWC defines "international

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[19] Zoe Hoffman Rosenblum & Susanne Schmeier, *Global Wetland Governance: Introducing the Transboundary Wetlands Database*, Sept. 30, 2022, at 5, https://www.mdpi.com/2073-4441/14/19/3077 [https://perma.cc/CN78-MHFB].

[20] Saeideh Maleki et al., *Human and Climate Effects on the Hamun Wetlands*, 11 WEATHER, CLIMATE, & SOC'Y 609, 610 (2019).

[21] *See generally* Scott G. Leibowitz et al., *Connectivity of Streams and Wetlands to Downstream Waters: An Integrated Systems Framework*, 54 J. AM. WATER RES. ASS'N 298 (2018).

[22] Lars Ramberg & Piotr Wolski, *Growing Islands and Sinking Solutes: Processes Maintaining the Endorheic Okavango Delta as a Freshwater System*, 196 PLANT ECOLOGY 215 (2008).

[23] *Id.*

[24] UNESCO, MANAGEMENT AND PROTECTION OF MEDITERRANEAN GROUNDWATER-RELATED COASTAL WETLANDS AND THEIR SERVICES 8 (2019), https://www.researchgate.net/publication/338449633_Management_and_Protection_of_Mediterranean_Groundwater-Related_Coastal_Wetlands_and_their_Services [https://perma.cc/H47Q-6JSP].

[25] Convention on the Law of the Non-Navigational Uses of International Watercourses art. XXX, *opened for signature* May 21, 1997, 2999 U.N.T.S. 77 [hereinafter UNWC]; Int'l L. Ass'n Rep. of the Fifty-Second Conf., *Helsinki Rules on the Uses of Water of International Rivers*, 484 (Aug. 1966); Int'l L. Ass'n Rep. of the Seventy-First Conf., *The Berlin Rules on Water Resources*, 337 (2004); Ramsar Convention, *supra* note 11; *Draft Articles on the Law of Transboundary Aquifers*, [2008] 2

watercourse" as "a system of surface waters and groundwaters constituting by virtue of their physical relationship a unitary whole and normally flowing into a common terminus . . . parts of which are situated in different states."[26] This Convention, to a large extent, codifies customary law and hosts a number of principles from international environmental law and related philosophies. This section focuses on two overarching principles of international water law: equitable and reasonable use, and no significant harm. These two principles were referenced in the ICJ's decision in *Chile v. Bolivia* as principles of customary international water law.[27]

The principle of equitable and reasonable use aims to ensure that states sharing a water resource have a right to use it.[28] In shared basins, this principle ensures that states use shared waters equitably. According to the UNWC, riparian states should "participate in the use, development and protection of an international watercourse in an equitable and reasonable manner . . . ."[29] This principle is further clarified to include both the right to use the watercourse and the responsibility to cooperate over development and protection of the watercourse. This principle suggests that all riparian states have a legal right to use, and responsibility to protect, transboundary waters.

The UNWC obligates that the use of a shared watercourse by any riparian state not cause significant harm to any other riparian state.[30] This principle complements the right to use the watercourse by requiring states to consider their impact on other riparian states, and has been featured in previous cases before the ICJ. For instance, the ICJ emphasized transboundary environmental protection in both the 1997 *Gabčikovo–Nagymaros* case and the 2010 *Pulp Mills* case.[31] Consideration of watershed-scale impacts prevents conflicts that could otherwise arise from riparian states harming the ability of other states to use a shared watercourse. Adherence to the principle of no significant harm fosters a sense of cooperation over transboundary water resources.

C. Applying International Water Law to Wetlands

Principles of international water law are integral to the protection of transboundary water resources. Prior to the recent ICJ ruling, there are numerous examples of using international water law principles to conserve transboundary wetlands. The Ramsar Convention recognizes that wetland conservation "can be ensured by combining far-sighted national policies with co-ordinated international

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Y.B. Int'l L. Comm'n 19, U.N. Doc. A/CN.4/SER.A/2008/Add.1.

[26] UNWC, *supra* note 25, art. 2.C.

[27] *See id.* ¶¶ 61–63, 77, 80.

[28] *See* UNWC, *supra* note 25, art. 5.

[29] *Id.*

[30] *Id.* art. 7.

[31] *See generally* Gabčíkovo-Nagymaros Project (Hung./Slovk.), Judgment, 1997 I.C.J. 7 (Sept. 25); Gabčíkovo-Nagymaros Project (Hung./Slovk.), Judgment, 1997 I.C.J. 7 (Sept. 25).

action."[32] The Ramsar Convention provides an opportunity for states to apply the principles of international water law to protect transboundary wetlands.[33]

The principle of equitable and reasonable use is featured in many joint management plans and thus already applies to many transboundary wetlands. For example, the principle is included in the Nile Basin Initiative's Wetland Management Strategy. As part of this comprehensive, basin-wide strategy, states are advised to design wetland management plans that can "ensure equitable utilization and conservation by defining rules and regulations."[34] Equitable use of wetlands also promotes a sense of cooperation by ensuring all riparian states have access to the resource. Some states adopt their own wetland policies to further strengthen these laws at the national level. For example, Uganda, one of the upstream states of the Nile River Basin, has a national wetland policy in place.[35] While this policy is not an international arrangement, and is thereby limited in its application to transboundary wetlands, it demonstrates Uganda's commitment to conserving wetland resources. Uganda's policy states: "wetland resources shall be utilised in a sustainable manner compatible with the continued presence of wetlands . . . ."[36] Including the principle of equitable and reasonable use in national law may make a state more likely to consider this principle when dealing with transboundary resources.

The principle of no significant harm has also been applied to shared wetland resources. The Himalayan Wetlands Conservation Initiative prioritizes stakeholder involvement in cooperative efforts to conserve wetland functions for mutual benefit.[37] Ensuring shared benefits from transboundary resources is an effective means of building cooperation between co-riparian states. By involving stakeholders in wetland conservation, riparian states work together to achieve the goals of the initiative. Thus, the principle of no significant harm also promotes a sense of cooperation over transboundary wetlands.

The Ramsar Convention provides a legal framework for joint management of transboundary wetland resources. Article 5 of the Ramsar Convention calls for consultation between riparian states about planned actions for the shared resource.[38] Article 5 has elements of the principles of equitable and reasonable use and no significant harm, as riparian states are expected to discuss future activities to occur on the shared wetland prior to taking action. The Ramsar Convention

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[32] Ramsar Convention, *supra* note 11, pmbl.

[33] Jing Lee, *The Governance of Wetland Ecosystems and the Promotion of Transboundary Water Cooperation – Opportunities Presented by the Ramsar Convention*, 40 WATER INT'L 33, 39–43 (2015).

[34] NILE BASIN INITIATIVE, WETLAND MANAGEMENT STRATEGY 4.3 (2013), http://ikp.nilebasin.org/sites/default/files/43_NBI_Wetland%20Management%20Strategy_1.pdf https://perma.cc/SP2D-KLSM].

[35] *See generally* National Environment (Wetlands, River Banks and Lake Shores Management) Regulations (2000) (Uganda).

[36] *Id.* pt. 2, para. 5(a).

[37] *See generally* Guangchun Lei, *Review of the Himalayan Wetlands Conservation Initiative*, Asia Regional Meeting in preparation for Ramsar COP9 (2005).

[38] Ramsar Convention, *supra* note 11, art. 5.

incorporates principles of international water law to facilitate sustainable sharing of transboundary wetland resources. Cooperation is inherent in the overarching principles of international law, as it is impossible to share a resource without a sense of cooperation.

Principles of international water law can provide a legal framework to promote sustainable cooperative management of shared wetland resources. Many national and international wetland policies incorporate the principles of equitable and reasonable use and no significant harm. The next section explores the two principles through the lens of the ICJ decision in *Chile v. Bolivia*.

III. CHILE V. BOLIVIA AND INTERNATIONAL WETLANDS

Wetlands were central to the arguments and testimonies in Chile v. Bolivia. High altitude wetlands fed by groundwater springs form the headwaters of the Silala River in the Bolivian Andes.[39] These wetlands, called bofedales, are a unique wetland system in the Bolivian Andes.[40] In the 1920s, an extensive network of canals were built to convey water to Chile.[41] The canalization greatly decreased the amount of water in the bofedales, effectively draining them.[42] In 1990, recognizing the degradation of the wetlands, Bolivia designated the Los Lípez Ramsar Site, an expanse of groundwater-fed wetlands covering over 1.4 million hectares.[43] This section demonstrates how principles of international water law operated in *Chile v. Bolivia*, including how the ICJ treated them in the context of wetlands, and what it means for Bolivia and Chile as well as wetlands globally.

A. ICJ Treatment of Wetlands

Beginning around 1999, Bolivia pointed to the canals as evidence of an artificial cross-border flow of the Silala River, asserting that it was not a transboundary watercourse.[44] In contrast, Chile argued that the Silala was transboundary.[45] Scientific studies commissioned for the ICJ case demonstrated that the Silala River would cross the border into Chile regardless of the canals, and thus is indeed

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[39] B.M. Mulligan & G.E. Eckstein, *The Silala/Siloli Watershed: Dispute Over the Most Vulnerable Basin in South America*, 27 WATER RES. DEV. 595, 595–96 (2011).

[40] Francisco Squeo et al., *Bofedales: High Altitude Peatlands of the Central Andes*, 79 REVISTA CHILENA DE HISTORIA NATURAL 245 (2006).

[41] Dispute Over Status and Use of Waters of Silala (Chile v. Bol.), Judgment, 2022 I.C.J. 5, ¶ 29 (Dec. 1) (noting that Chile and Bolivia disagreed over the purpose of the canals); *see also* Counter-Memorial of the Plurinational State of Bolivia, *supra* note 7, at 49–51.

[42] RAMSAR CONVENTION SECRETARIAT, REPORT RAMSAR ADVISORY MISSION NO. 84: LOS LIPEZ RAMSAR SITE, BOLIVIA 39 (2018), https://www.informea.org/en/ramsar-advisory-mission-report-84-bolivia-2018 [https://perma.cc/V7A3-BMQV].

[43] The Ramsar Site was initially designated by Bolivia in 1990 as Laguna Colorada, and then expanded in 2009. *Los Lípez,* RAMSAR SITES INFO. SERV. (Jan. 1, 2009), https://rsis.ramsar.org/ris/489 [https://perma.cc/M6RT-8S8W].

[44] Counter-Memorial of the Plurinational State of Bolivia, *supra* note 7, ¶ 27.

[45] Chile v. Bol., 2022 I.C.J. ¶ 41.

an international river.[46] As the *bofedales* were central to Bolivia's argument that the Silala was not an international watercourse, the ICJ's verdict that customary international law applies to all waters of the Silala implies that it also applies to the wetlands.[47]

The ICJ decided that Bolivia and Chile are in agreement that the Silala River and all of its waters are an international watercourse subject to customary water law. If the *bofedales*, which are wholly in Bolivia, are included in this definition of international watercourse, then the case implies that the three types of transboundary wetlands defined in this Essay—those that extend across an international border, those that are situated within an international river basin, and those that are fed by or drain into transboundary groundwater—may also be subject to international water law. The Court further stated that the countries agree the waters of the Silala River are subject to the principles of equitable and reasonable use and no significant harm.[48] The scientific studies conducted during the case determined that Bolivia's plan to dismantle the canals to restore the *bofedales* would not cause significant harm to Chile.[49] The next section discusses the implicit impacts of these findings for wetlands globally.

B. Implications for Wetlands Globally

The Ramsar Convention is the global instrument specifically developed to preserve wetlands. Beyond the Ramsar Convention, *Chile v. Bolivia* demonstrates that wetlands connected to international waters are also subject to international water law; in particular, the principles of equitable and reasonable use and no significant harm. The case therefore has implications for international wetlands more broadly.

Bolivia and Chile are not signatories to international water conventions, such as the 1997 UNWC.[50] Thus, the ICJ ruled on the basis of customary international water law—including the principles of equitable and reasonable use and no significant harm. *Chile v. Bolivia* confirms these principles of customary law, as well as a broader definition of international waters, regardless of whether countries are party to international water conventions.[51] This implies that an upstream country may rehabilitate its wetlands, but must do so without reducing flows in a way that affects downstream countries to an extent that would compromise equitable and reasonable use and/or lead to significant harm. This may be relevant to many

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[46] *See* Written Statement of the Experts of the Republic of Chile, Dispute Over Status and Use of Waters of Silala (Chile v. Bol.) (Jan. 14, 2022), https://www.icj-cij.org/sites/default/files/case-related/162/162-20220114-OTH-01-00-EN.pdf [https://perma.cc/TX7B-ZBGR]; Summary of DHI's Scientific Findings, Dispute Over Status and Use of Waters of Silala (Chile v. Bol.) (Oct. 1, 2022), https://www.icj-cij.org/public/files/case-related/162/162-20220110-OTH-01-00-EN.pdf[https://perma.cc/HKK7-MSXX].

[47] *See* Chile v. Bol., 2022 I.C.J. ¶ 59.

[48] *See id.* ¶¶ 61–64, 77, 80.

[49] *See id.*

[50] *Id.* ¶ 54.

[51] *See id.*

threatened wetlands within international river basins, including those in the Tigris-Euphrates and Nile basins, for example.

Although the ICJ has now addressed a handful of water disputes,[52] the decision in *Chile v. Bolivia* was the first in which wetlands featured prominently and in which harm was mentioned in deciding the case. Principles of international water law guide states to better conserve and sustainably utilize their shared water resources. Adoption of water laws will become increasingly important to ensure community well-being and resilience in uncertain times. Wetlands situated within international river basins similarly can benefit from the application of international water law principles.

One aspect largely missing from the ICJ decision was the duty to cooperate. The Ramsar Convention fosters cooperation by calling for states to promote data exchange, training, and consultation of co-riparian states in the case of transboundary wetlands.[53] The duty to cooperate is also a central principle in international water law.[54] When used with the principles of equitable and reasonable use and no significant harm, the duty to cooperate helps guide riparian states to work together to manage transboundary resources. The ICJ could have emphasized joint protection of water resources by drawing on the duty to cooperate.

International water law must extend beyond rivers to lakes, groundwaters, wetlands, and any other connected ecosystems. As Hamner and Wolf posit, "One who ignores the watershed as the fundamental planning unit—where the quality and quantity of surface and groundwater are all interrelated—also ignores hydrologic reality."[55] It is imperative that our legal regimes better reflect the hydrologic connectivity of water resources. The 1997 UNWC, for example, includes surface and groundwaters in its definition of international watercourses.[56]

IV. CONCLUSION

In conclusion, *Chile v. Bolivia* exemplifies that transboundary wetlands are subject to international water law, and furthermore, that under customary international law, states can exercise sovereignty to restore wetlands within their territory with or without the consent of their neighbors. International wetlands include wetlands that extend across country borders, wetlands situated within an international river basin, and wetlands that are fed by, or drain into, transboundary groundwaters or aquifers. Principles of international water law, as well as the Ramsar

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[52] *See International Court of Justice – International Water Law Cases*, INT'L WATER L. PROJECT, https://www.internationalwaterlaw.org/cases/icj.html [https://perma.cc/XB3D-EQUG] (last visited June 11, 2023).

[53] Ramsar Convention, *supra* note 11, arts. 4, 5.

[54] *See* UNWC, *supra* note 25, art. 8.

[55] Jesse H. Hamner & Aaron T. Wolf, *Patterns in International Water Resource Treaties: The Transboundary Freshwater Dispute Database*, 9 COLO. J. INT'L ENV'T. L. & POL'Y 157, 160 (1997).

[56] UNWC, *supra* note 25, art. 2.

Convention, provide essential guidance for states to sustainably manage shared wetland resources.

International water conventions are expressions of customary law. Regardless of whether states have ratified the 1997 UNWC or others, states are obligated by principles of equitable and reasonable use and no significant harm. Neither Chile nor Bolivia have ratified the 1997 UNWC, yet the ICJ decided the case based on these two principles. Thus, other non-signatories to international water conventions could expect the same principles to apply to their shared surface and groundwaters.

Wetlands are threatened globally, with degradation continuing despite knowledge of their many benefits. While there are roughly 300 transboundary wetlands in the world, only 22—less than 10%—are officially recognized as transboundary Ramsar Sites. As states come to recognize the value of wetlands, transboundary wetland agreements could become an important arrangement for fostering cooperation and sharing the burdens and benefits of development. *Chile v. Bolivia* reinforces that states may protect and rehabilitate their wetlands so long as doing so does not cause significant harm to a shared basin state. Similarly, shared basin states should ensure their actions do not significantly harm international wetlands. International water law provides a foundation on which strong transboundary water agreements can be built and include protections for wetlands.