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## Joseph W. Dellapenna and Joyeeta Gupta, eds., The Evolution of the Law and Politics of Water

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Joseph W. Dellapenna and Joyeeta Gupta, eds., *The Evolution of the Law and Politics of Water*

west will have to live within its limited water budget, and that water markets will ease competition allowing western states to thrive in an era of scarcity; however, they urge action now, before crises govern water management.

It is important to realize that neither the editors nor the authors appear to have revised this volume or its paperback edition. Therefore, it does not provide the most up-to-date information. Nevertheless, *Water and Arid Lands of the Western United States* remains a valuable source that makes a broadly-supported case for the shift away from development to management and conservation approaches to the Western water resource – a shift that is still relevant today. Laypersons with an interest in water-law will benefit from the volume's detailed histories (both legal and anthropological) as well as from its geographic and topical scope. The source also continues to serve practitioners interested in a comprehensive reference volume.

*Sarah Felsen*

**Joseph W. Dellapenna and Joyeeta Gupta, Eds., *The Evolution of the Law and Politics of Water*, Springer Science + Business Media B.V. (2008); 413 pp; \$169.00; ISBN 978-1-4020-9866-6; hardcover.**

Co-editors Joseph W. Dellapenna and Joyeeta Gupta collaborated with over twenty contributors from around the world to present a well-organized overview of global trends in water law and policy. Joseph Dellapenna is a professor of law at Villanova University in Pennsylvania, and Joyeeta Gupta is a professor of climate change law and policy at the Vrije Universiteit Amsterdam and of water law and policy at the UNESCO-IHE institute for Water Education in Delft. The editors organized this book into five distinct parts with a total of twenty-three chapters; the reader may conveniently examine each part or chapter separately or successively. Conceptually, the book is organized by case studies or thematic chapters to focus on water law as it discusses the evolving characteristics of national as well as supranational and regional water law and politics across the globe; the body of customary international law as well as current trends in international water law; and challenges for the twenty-first century. Many of the authors weave in a wealth of relevant historical information to enable a distinctive exploration of the interrelation between culture, religion, government, and law in water governance and management.

*The Evolution of the Law and Politics of Water* focuses on key research questions including: (1) How has water law and policy evolved through the centuries? (2) What were the motivating factors that led to changes in legal and social practices? (3) Why is it that after 5,000 years of governing the water resource, we do not appear to be closer to understanding and addressing water governance? (4) What are the current challenges facing governance today? (5) What is the role of water law in the evolving structure of water governance in the twenty-first century? The editors address these complex questions by

examining the evolution of law and policy processes at various levels of governance and management, from local communities to the global scale. Through this collaboration, the editors aspire to contribute to the general understanding of the Global Water System Project, which focuses on governance and the global water system, as well as how societies adapt to water challenges. The editors also aim to examine issues such as architecture, agency, adaptability, accountability, and access and allocation of water by exploring how governance and management systems have dealt with the human right to water, the allocation of scarce water between countries, water quality issues, and the shifting of responsibilities over time between social actors at different levels of governance.

The book begins in Part I with a reflection on past historical approaches. Itzhak Kornfeld presents a 5,000 year history of Mesopotamia water law and explains that today's water law can learn from its non-confrontational dispute resolution system. He also notes that we seem to have made no progress in water allocation as irrigation use still accounts for some 80% of water resources. Thomas Naff discusses the evolution of Islamic law (*sharia*) over the last 2,000 years and shows how Islamic evolutionary precepts and modern western law compete in shaping today's water law in Islamic countries. Richard Laster et al., explains the Jewish tradition of the community owned the water and that those living closer to it had more rights than those living further away.

Part II presents nine comprehensive chapters that trace the evolution of national water law and politics in different parts of the world: Brazil, South Africa, East Africa (focusing on Kenya), Israel, Russia, India, Australia, and the United States. Each chapter systematically includes the individual author's insight into the historical foundation of the subject nation's water laws, including governance and management systems, as well as that author's forecast as to what is required next, given the current climate, for that nation's water laws and systems to continue to evolve and address current and future challenges. Two of the chapters in this part focus on United States water law. In one chapter, Dellapenna describes the three different water allocation systems that developed in the various states over three centuries, and concludes that although another society cannot simply transplant the American solutions because of differences in cultural and legal traditions, the American experience can provide lessons in the consequences of adopting certain legal structures.

Next, Part III presents five chapters focusing on evolving supranational and regional legal regimes: European Community Water Policy, Southern Africa, the Jordan Basin, the North American Great Lakes, and the Rio de la Plata Basin. Following the same basic format as Part II, the various authors present the relevant water laws and frameworks within their geographic areas of focus, by providing a historical backdrop as well as the cultural, political, religious, geographic, or economic context in which the legal frameworks developed and continue to operate.

Part IV looks at current trends in international water law. This part presents an evaluation of the judgments of court decisions in an effort to understand the direction of the law. Lilian Del Castillo-Laborde discusses the precedents that emerge with respect to the general principles of watercourses law, water management, navigation, and water boundaries. Maria Manuela Farrajota then develops a theory of water cooperation by looking at how state practice in the area of “water management” gives the term both substantive and procedural content. John Razzaque goes on to explore how public participation has become a key feature of modern day governance in the area of water law. Joseph Dellapenna then examines both the role of water as an economic good and the role of markets and pricing in the governance of water.

In Part V, the book ends with a successful attempt by the editors to bring together all the different strands of discussion in order to answer some of the key research questions identified in the book. With the aid of tables and figures, the editors summarize the factors leading to different water laws worldwide, the forces leading to convergence in water law, and the types and sources of key water law principles. The editors link water to a large number of challenges facing humans in the twenty-first century. In particular, they note that water is closely associated with health, food and agriculture, industry and energy, and ecosystems. The editors surmise that the emerging global climate disruption will dramatically alter the availability and reliability of water resources. The editors conclude that identifying and resolving these challenges is as much a problem for water lawyers as it is for hydrologists, engineers, and economists. Their proposed solutions include a need for the water law community to open up to other disciplines and enable cross-disciplinary fertilization to make water governance more successful; a need for institutional change in recognition of the growing importance of water knowledge (both natural science and social science) to making successful water law and policy; and a need for legal scholars to collaboratively develop new instruments, such as global multilateral treaties that adopt principles of fairness, to cope with these multiple challenges.

*Meghana Shah*

**Steven Solomon, *Water: The Epic Struggle for Wealth, Power, and Civilization*, Harper Collins, New York (2010); 596 pp; \$27.99; ISBN 978-0-06-054830-8; hardcover.**

*Water: The Epic Struggle for Wealth, Power, and Civilization* deals with the role of water in human history and provides an account of the challenges various societies face as a result of limited freshwater supplies and burgeoning populations. According to Solomon, water is “[e]arth’s most potent agent of change,” and he assigns it a leading role in the development of human civilization. The book’s overarching thesis is that, throughout history, leading civilizations were those with