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Elli Louka, Water Law & Policy: Governance Without Frontiers

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Elli Louka, *Water Law & Policy: Governance Without Frontiers*

for a systematic public consultation program that opens the door for public debate about important water governance decisions. Cosgrove points to a similar successful process adopted by Quebec in 1978 for sustainable development. When the decision-makers take into account the values and voices of citizens, the author argues, the public will see water as more than merely something given to us by water providers.

Water Ethics concludes with a section titled *Ethical Aspects of Unforeseen and Extreme Events Management: Floods and Droughts*. The first chapter, *Water Disasters and Ethics*, by Janos J. Bogardi from the Institute for Environment and Human Security at United Nations University in Germany, discusses whether we have comprehensive and common ethics to deal with water disasters. The author concludes that ethics do play a role in disasters, but usually on a subconscious level. A coherent water ethics is almost nonexistent, and therefore researchers should focus on developing a guide to water ethics in the face of extreme water events. The book concludes with *Identifying Actions to Reduce Drought Impacts* by Enrique Cabrera from Polytechnic University of Valencia, Spain, and José Roldán from the University of Córdoba, Spain. The authors highlight the importance of putting a drought plan into place that includes both proactive and reactive measures. The authors assert that in the face of drought, improvisation will only be detrimental and having a plan in place is the key to ultimately helping affected areas.

Water Ethics: Marcelino Botín Water Forum 2007 includes nineteen papers covering eight topics on water ethics. The authors provide insight from all over the world, giving specific examples of the important role that ethics can and do have in water management, development, infrastructure, and use. Overall, *Water Ethics* gives an in-depth look into the need for a comprehensive ethics code for the world's water.

Tracy Taylor

Elli Louka, *Water Law & Policy: Governance Without Frontiers*, Oxford University Press, New York (2008); 462 pp; \$85.00; ISBN 978-0-19-537413-1; hardcover.

Elli Louka's *Water Law & Policy: Governance Without Frontiers* focuses on the problem managing water. Because water in many instances crosses state borders, Louka asks the questions: can governments manage water based on national borders, and, if not, is water management without frontiers possible? In answering these questions, Louka analyzes the European Union's Water Framework Directive ("WFD") and its application of Integrated Water Resource Management ("IWRM"). Louka believes that IWRM may be the political answer to managing shared water sources between states. In her analysis of the European Union's management of water, she hopes to provide an example of effective water management for the rest of the world.

Louka divided *Water Law & Policy* into six different parts and entitled part one *The Making of Water Policy*. In chapter one, *Water Governance*, Louka focuses on the many problems mismanagement of water has caused and what it will take to find solutions to all of these problems. Some of the problems that exist throughout the world include uneven water distribution, pollution, salinization, droughts, and floods. When attempting to manage water, the governing body must take all of these problems into account and attempt to find a solution. With a solution, however, even more problems seem to arise. Water governance consists of governments, private and social groups, and even individual citizens who participate in the management of water. Because water is so important, everyone must be involved in the management of water in order to find a real solution to the countless problems.

Louka focuses on the basics of IWRM in chapter two, *Principles of Water Management*. Integrated Water Resource Management coordinates the management of water, land, and related resources in an attempt to maximize the economic and social welfare of those involved. Basically, one cannot make an effective decision on water management without taking into account the effects that decision will have on land management and other related resources. Some of the keys to successful IWRM include cooperation between states, cross-border legislation that mandates IWRM implementation, inclusion of local governments and individual citizens, clear roles for institutions and apportionment of responsibility for those involved, and adequate funding. Some of the problems that usually arise include institutional fragmentation, weaknesses in national institutions, and feeble international arrangements. As a result, there is a need for interagency officials, a market based price for water to make use more efficient, and stable local governments.

In chapter three, *The Making of the European Union*, Louka explains how the European Union is structured and how the different branches work together in implementing its policies. Various countries in Europe created the European Union in an effort to avoid future wars and in order for Europe to develop economically. The idea was that economic cooperation would lead to cooperation in other sectors.

Next, in chapter four, *Water Management in the European Union*, Louka writes about the European Union's implementation of the WFD. Although IWRM is not explicitly a part of the WFD, it is implied in the Directive. The WFD sets the framework for legislative action and establishes the basis of a coherent water policy for the European Union. It establishes institutional mechanisms that will guarantee the accomplishment of qualitative goals such as control of hazardous waste disposal, the emission of greenhouse gases, and release of chemical substances into the water. The WFD plans its institutions around the river basin district. Member states are to identify river basins, coastal water, and ground water in their territory and assign them to river basin districts. States do not need to create new administrative units, but can use existing institutions to coordinate the management of river basin

districts. Also, the WFD mandates that states establish international river basin districts, facilitating the deepening of cooperation between member states. Further, the WFD pushes member states to cooperate with nonmember states. Once the states create these districts, the WFD leaves the states with some flexibility in coming up with their water management plans. The WFD provides guidance documents, a series of deadlines to keep the districts accountable, and mandates that the plans include measures for the reduction of pollution, maps of their waters, an economic analysis of water use, and a summary of how the district has included the public and stakeholders in its decision-making process. The problem is the many exceptions built into the WFD. For example, if other wider environmental goals are adversely affected, the WFD does not apply. All exceptions must be included in the districts plan and make public. Other problems include the lack of public participation and problems arising from the management of other sectors such as agriculture based on national borders.

In chapter five, *Implementing Water Management*, Louka focuses on the implementation of the WFD as a planning instrument that focuses on a common implementation strategy. It leaves states with the latitude to decide what institutions would implement the WFD and provides guidance and support rather than punishment. The WFD created a Common Implementation Strategy in order for member states to share information and to develop guidance on technical issues. The strategy was to avoid duplication of effort and minimize the risk of poor application of the directive. The guidance documents, along with formal and informal networks among policy makers and experts regarding the implementation, were supposed to create a consistent and harmonized methodology of implementing the directive in an attempt to avoid *a la carte* implementation. In testing the implementation strategy, pilots found that the guidance documents were too general and gave limited operational value. Three different countries using the same guidance documents all came up with different methods and different results. Also, the public was not involved as the implementation became very technical, and states only gave stakeholders observer status. As a result, the Commission concluded that there needed to be less paper work and more information sharing. As of 2007, member states created 110 river basin districts, most with significant differences due to the administrative structure of the states and existing institutional frameworks of water management.

The last chapter of part one, chapter six, *Coordination Policies and Politics*, speaks to the difficulties in coordination of policies and politics. WFD has led to increased coordination because it represents very diverse stakeholders who cross state boundaries. The WFD focuses on regional policy in the cooperation among member states and the coordination among actors at the sub-national level. Some of the problems that arise from the hopes of coordination and cooperation between local governments and the European Union include the lack of involvement of local government in the policy decisions, while the

local governments have most of the responsibility to implement the European Union's policy initiatives. One solution is involving local governments in the decision-making process. Also, the European Union can aid the local governments in their implementation by providing funding. All of the industries involved in water management also add to the problem of coordinating the implementation of the WFD. Most industries believe that with the increase in regulations, they will become less competitive. Clearly, this vast management program creates many problems; however, Louka wonders how bad it would be without the attempted management of water across state boundaries.

Part two of *Water Law & Policy, National Institutions for Water Management*, focuses on the management of water by national institutions. Chapter seven, *Designing Effective Organizations*, focuses on the components that lead to a successful organization. Louka emphasizes that there is no clear blue print for institutional success. However, effective evaluation of an examination includes leadership, nature of formal and informal networks built with in an organization, and the rapport between an organization and its clientele. Informal networks refer to the culture of the organization, where formal networks refer to the organizational structure, the rules of procedure, the mission, and the goals of the organization. A successful organization strikes a balance between the two networks. Louka also acknowledges the difficulties imposed on a democratic organization or agency. In a democracy, organizations have extra burdens put on them. For example, they have the additional responsibilities of putting the public on notice, participating in the legislative process, creating accountability, and other political constraints. A successful organization does not have all the answers, but is one that learns from its mistakes and continues to work for a better solution.

In chapter eight, *Centralization/Decentralization Dilemmas*, Louka explains the differences between centralization and decentralization in terms of government organizations and the different effects either will have in the successful implementation of the organizations' goals. In regards to the WFD, depending on governmental level, there will be both centralization and decentralization. At the central government level, there must be decentralization. The central government must delegate some of its authority to the river basin districts. Also, at the local level there must be centralization. The local directorates or river basin authorities must work together with other countries that share the same water source. In order to do this effectively, for example, the local governments must give some of their power to international river basin districts that will have power to make decisions regarding the shared water source.

Louka, in chapter nine, *How to Predict Success in Water Management*, focuses on the implementation of the WFD and how the success of the implementation process may be measured based on the different organizational structure of different countries. The first step of WFD implementation is to involve the local governments. Member states must focus on Europeanization, a process that establishes

institutions that will have the authority to implement the directives of the WFD at the river basin level. The European Union sets the policy and member states must embrace it and create local administration to implement the policy. One of the factors in determining success is whether the member states already have administrative organizations in place to implement the directives. If not, implementation may take longer and, initially, not be seen as a success. Other factors to look at include the administrative capacity of the state, the political capacity of the state, and the number of veto players involved in the administrative process. Veto players may include water-users who do not want to lose their rights or other administrations that do not want to lose their power. One solution is to make the whole process transparent to the public, exposing the grounds for the veto players' objections.

In chapter ten, *Models of Water Policy*, Louka introduces and explains the different models of water policy and what kind of institutional leadership is necessary for the successful implementation of the WFD. Because the WFD crosses different administrative sectors, cross-sector coordination, or interministerial committees, it is the best form of institutional leadership. An interministerial committee would be comprised of leaders from the environmental, agricultural, and other interested administrations. If only the Ministry of the Environment were in control for example, then fragmentation and lack of cooperation may stifle one of the main goals of the WFD, which is the harmonious management of water across Europe. Additionally, because Ministries of Environment are often relatively new, they may not have the capacity to implement across borders as effectively as an interministerial committee would.

The four models of water policy include the hydrological model, the administrative model, the collaboration model, and the river basin model. The hydrological model is based on the hydrological unit, and the administrative model utilizes water management entrusted to administrative authorities within their jurisdiction; neither works within the WFD. The collaboration model, where various authorities work together to implement water policy, does work in WFD implementation. Also, the river basin model, using one river basin authority per river basin district, is the preferred model used in WFD implementation. In both the collaboration and the river basin models, different institutions at different levels must work together to successfully manage water.

In chapter eleven, *Case Studies*, Louka evaluates several European states' attempts at implementing the WFD. The states include the Czech Republic, Slovakia, Slovenia, the Netherlands, Hungary, Romania, Bulgaria, and Greece. Louka highlights the history of water management in each state, the administrations that have the responsibility of managing water, steps that have been taken to implement the WFD, the problems and successes of each state in their implementation of the WFD, and suggestions for states to achieve future success of WFD implementation.

Next, chapter twelve, *Information as the Foundation of the Democratic State*, begins Part III, *Expressions of Democracy*. In this

chapter, Louka explains the importance of the free flow of information in a democratic society. Information is the key to public participation, which is the key to a democratic society. Today, most democratic countries have freedom of information acts. In determining the success of a country's ability to make information available to the public, some key factors include the government's susceptibility to corruption and the level of education in a civil society. The WFD mandates the distribution of information to the public so that it may participate in its implementation.

In chapter thirteen, *The Participation of the Public: Towards Effective Rules in Water Management?* Louka contrasts the participation of the public and stakeholders in the implementation of the WFD. For the public, states have not systematically pursued participation. The public believes it does not have a stake in the decisions behind water management; one of the reasons for this is that water management is usually not at the forefront of political debate or an important election issue. Stakeholders, on the other hand, continuously participate and provide their knowledge to those who have the power to implement the WFD. The problem with avid participation by stakeholders is that they are looking out for their best interests, whereas, the implementation of the WFD is supposed to be in pursuit of the public good. One solution is transparency and motivating the public to engage in the dialogue.

Next, in chapter fourteen, *Public Participation and the Strengthening of the Democratic State*, the author continues to focus on the lack of public participation and the problems that arise when special interests flood the decision-making process. When special interests are involved, the public has a tendency to see the government as prone to the special interests needs and not the public good. Further, there is a problem when special interests can manipulate and placate the public, but getting the public involved is problematic. Some solutions are creating transparency, using the internet to make information more available, and organizing neighborhood assemblies to involve the public at the local level.

In chapter fifteen, *Public Participation in Practice*, Louka explains how the Netherlands and the United Kingdom have attempted to involve the public and stakeholders in the implementation process of the WFD. In the Netherlands, for years the public has been involved at the local level with the Water Boards. Communities created the Water Boards to solve problems of flooding and equitable distribution of water. The community elects the members of the Water Boards and the public pays taxes to provide a budget to implement their policies. In the United Kingdom, the government implemented the Ribble Pilot Project in order to test the implementation of the WFD at the local level. In its implementation, the government invited the public and stakeholders to a forum where they could share their ideas before the government implemented the WFD. Stakeholders actively participated, whereas public participation was lacking.

Next, in Part IV, *International Institutions for Water Management*,

Louka explores the implementation of the WFD at the international level. Chapter sixteen, *Instruments for Transboundary Water Management*, focuses on what was already in place in Europe before the European Union enacted the WFD. First, the European Union implemented the 1992 UNECE Helsinki Convention on the Protection and Use of Transboundary Watercourses and International Lakes. Under this convention, European states were encouraged to cooperate in addressing water quality. The European Union created international groups to monitor, research, develop, and exchange information in regards to water pollution. Second, the European Union convened the Convention on the Non-Navigational Uses of International Watercourses to coordinate international water quantity and quality management. The convention mandated member states share water equitably and promise to not significantly harm shared water. If one country wanted to implement a program concerning the use of its shared waterways, it had to share its plans and notify and consult with the effected countries.

Next, in chapter seventeen, *Nineteen Countries One River: Trade-Offs in the Management of the Danube River*, chapter eighteen, *Institutional Congestion in the Management of the Rhine River*, chapter nineteen, *Institutional Building in the Scheldt and Meuse Rivers*, chapter twenty, *The Future of the Elbe River Regime*, and chapter twenty-one, *Tepid Institutional Development in Southeast Europe*, Louka explains how the European countries that share rivers have worked together in the shared management of these rivers. All involved countries have struggled with the management of the rivers, especially with the management of the navigation, hydropower generation, prevention of flooding, and the solution to the problems of pollution of these shared rivers. Among all of these problems, governments must contrast the need for navigation, transportation, and renewable energy against environmental goals, the need to prevent flooding, and the equitable distribution of water. In each case, Louka explains what governments have done to solve and balance these issues, examines what problems continue to exist, and provides the different management techniques the many different involved countries have used.

Chapter twenty-two, *Participation of Stakeholders in International Water Commissions*, starts Part V, *International Governance Mechanisms*. This chapter highlights public participation and information sharing. Louka looks at the management of the Danube, Rhine, Scheldt, and Meuse Rivers as examples. One of the problems that arise with public participation is a lack of an ownership interest. Also, stakeholders resist public participation because they want more influence, and they want their interests heard over the public's interests. In every case, each country has attempted to include the public, and most have placed information on websites. Governments have also circulated newsletters and brochures to share information with the public.

In chapter twenty-three, *International Water Authorities and the*

Role of Secretariats, Louka explains the importance of secretariats in the administration of the WFD. A secretariat's role is to formulate the logistics of the WFD implementation, set agendas of meetings, provide documentation to interested parties, and facilitate communication between interested parties. Because they have the power to set the agendas of the meetings, secretariats can also set the direction of the implementation process, as they know all the state actors and are usually experienced policy makers. In order to be successful and respected, secretariats must appear impartial and objective. The involved state actors must be able to respect them so that all the involved parties communicate effectively, aiding the management effort. Because so many parties are involved on the international level, international cooperation is crucial, and secretariats coordinate that cooperation.

Finally, chapter twenty-four, *Sketches from National and Transnational Experience*, and chapter twenty-five, *Towards a Future Water Policy*, begin Part VI, *Anticipating the Future*, and conclude Louka's analysis of the WFD. In her concluding chapters, Louka contrasts the Australian Murray-Darling Commission's implementation of the IWRM with that of the European Union's. One of the similarities includes the problem of state autonomy. In both instances, states do not want to freely give up their power to control and manage their water sources. However, the European Union may be more successful because they have more power to enforce their management apparatus and can provide more incentives. Overall, member states have implemented the WFD with caution. Most states have not created new agencies to manage their waters, but instead, reoriented existing agencies to implement the WFD. There has been some success in coordination at all levels, but member states still need to do more. The key is participation and information sharing.

Louka effectively explains what the WFD is and what goals it hopes to accomplish in its implementation. Also, she highlights the problems that have arisen or may arise, addresses how countries correct the problems, and proposes what countries should do in the future to make the implementation process a success. Those interested in water management at all levels of governance, especially at the international level, should read this book.

Steve Brander