



Essential Readings in Environmental Law
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FRESH WATER MANAGEMENT AND ENVIRONMENTAL LAW
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OVERVIEW OF KEY SCHOLARSHIPS

Fresh water governance and policy

1. Fisher, D., *The Law and Governance of Water Resources: The Challenge of Sustainability* (Edward Elgar Publishing, 2009)
2. Gunawansa, A. and L. Bhullar (eds), *Water Governance: An Evaluation of Alternative Architectures* (Edward Elgar Publishing, 2013)
3. Louka E., *Water Law and Policy: Governance Without Frontiers* (Oxford University Press, 2008)

Fresh water and human rights

4. I. T. Winkler, *The Human Right to Water: Significance, Legal Status and Implications for Water Allocation* (Hart Publishing, 2012)

Fresh water and economic law

5. Brown Weiss E., L. Boisson de Chazournes and N. Bernasconi-Osterwalder, *Freshwater and International Economic Law* (Oxford University Press, 2005)

Transnational fresh water law

6. Leb, C., *Cooperation in the Law of Transboundary Water Resources* (Cambridge University Press, 2013)
7. Priscoli, J.D. and A. T. Wolf, *Managing and Transforming Water Conflicts* (Cambridge University Press, 2009)

Fresh water management in selected jurisdictions

8. Bosselmann, K. and V.Tava (eds), *Water Rights and Sustainability* (New Zealand Centre for Environmental Law, 2011)
9. Christian-Smith, J. and P. H. Gleick, *A Twenty-First Century US Water Policy* (Oxford University Press, 2012)
10. Cullet, P. and S. Koonan, *Water Law in India: An Introduction to Legal Instruments* (Oxford University Press, 2011)
11. Gardner, A., R. Bartlett and J. Gray, *Water Resources Law* (LexisNexis, 2009)

Fresh water governance and policy

1. **D. Fisher's** book, *The Law and Governance of Water Resources: The Challenge of Sustainability*, focuses on the law and legal doctrine within the

wider policy context of water resources and analyses the concept of sustainability. It considers the legal arrangements for managing water resources, and explores their relevance for contemporary society; how the norms of current international and national legal regimes are responding; and how legal rights and duties should be structured so as to achieve sustainability in the future. Overall, the book emphasizes the need for a coherent set of legal arrangements in order to achieve the sustainable use of water resources.

2. In *Water Governance: An Evaluation of Alternative Architectures* **A. Gunawansa** and **L. Bhullar** explore urban water governance challenges in different jurisdictions and emphasizes the need for some form of government participation in water supply, whether as a service provider or as a regulator or as a policy maker. It provides a clear focus on the design or “architecture” of governance systems, with specific perspectives on the range of policy and institutional frameworks deployed in different jurisdictions. By analyzing the design of governance systems in context, the book provides useful insights about the advantages and disadvantages of publicly run, privatized, and public–private partnership managed water facilities.
3. **E. Louka**’s book, *Water Law and Policy: Governance Without Frontiers* provides an overall understanding of the development and evolution of water policy and management in the European Union; it examines water management, and the difficulties and policy dilemmas involved in creating integrated water management institutions; and concentrates on institutional development, norms and guiding principles, implementation strategies, and public participation mechanisms at the local level, EU level, and globally.

Fresh water and human rights

4. **I. T. Winkler**’s *The Human Right to Water: Significance, Legal Status and Implications for Water Allocation* clarifies the legal status and meaning of the right to water (based on the recognition of this right by the UN General Assembly and Human Rights Council in 2010) through a detailed analysis of its legal foundations, legal nature, normative content and corresponding obligations imposed on states by international law. In particular, it examines water allocation in the context of established human rights (which require access to water to give effect to them), their intersection with the newly recognized right to water, and the political tensions and societal preferences that drive this aspect of fresh water law. The book concludes that the newly recognized right to water has the potential to empower people and communities to hold governments to account in terms of their obligations to address inequality and alleviate poverty by ensuring that water allocation is prioritized to meet basic needs.

Fresh water and economic law

5. **E. Brown Weiss**, **L. Boisson de Chazournes** and **N. Bernasconi-Osterwalder** address the key interdisciplinary issues that increasingly confront policy makers, tribunals, arbitration bodies and other institutions in their book titled *Freshwater and International Economic Law*. It focuses primarily on law, but also includes perspectives from economics, political science and other disciplines. It examines a range of issues, including,

government decision-making; the implications of foreign investment regarding pollution control; international trade and subsidies pertaining to embedded water exports; the impact of liberal economic policies on human rights and water supply; and procedural rights to participate in decisions about abstraction, allocation, and water quality standards. Overall, it provides an excellent multi-disciplinary perspective on the intersection of ecological, economic, social and cultural issues that are entwined in fresh water management, and the design of legal frameworks to address water allocation and quality.

Transnational fresh water law

6. **C. Leb's *Cooperation in the Law of Transboundary Water Resources*** examines the role of climate change, population growth, and increasing water demand as drivers of trans-boundary water disputes. It also analyses potential solutions, including enhancing adaptive capacity, improving the quality of water resources management, and reducing potential conflict risk between riparian states. Overall, it emphasizes the need for greater international cooperation and provides an analysis of the duty to cooperate and the related rights and obligations. It highlights the inter-linkages between this duty and the principles of equitable and reasonable utilization and the prevention of trans-boundary harm. In arriving at this broad conclusion, the book also emphasizes the complementary intersection between international water law, climate change and human rights.
7. **J. D. Priscoli and A. T. Wolf's book titled, *Managing and Transforming Water Conflicts***, investigates the dynamics of water conflict and conflict resolution, from the local to the international. Against the background context of competition for water access in cross-boundary situations (economic, legal, political or cultural), it explores the links between three facets of conflict management and transformation: ADR, public participation, and institutional capacity.

Fresh water management in selected jurisdictions

8. **K. Bosselmann and V. Tava in *Water Rights and Sustainability*** look at water in lakes and rivers, the coastal marine environment, and in the sewage stream. It provides a critical scholarly analysis of property rights in relation to water, and possible market approaches to this common resource. It addresses the range of regulatory and economic instruments that are available to sustainably manage water resources, and the potential assertion of native title to water.
9. The book by **J. Christian-Smith and P. H. Gleick**, titled *A Twenty-First Century US Water Policy*, analyses and evaluates the current US policy regarding freshwater availability; water usage in agriculture, municipalities, tribal settlements, and energy production; legal frameworks; environmental justice movements; and data on water quality and climate change. Overall, it proposes a new and coherent federal water policy that has the capacity to address regional disparities across the USA arising from droughts, flooding, changes in the local climate, and the tensions that can sometimes arise from apparently uncoordinated regulatory frameworks at federal, state and local

level.

10. **P. Cullet** and **S. Koonan**'s *Water Law in India: An Introduction to Legal Instruments* discuss the policy framework for the use of water in India. It covers a wide range of issues such as centre-state relations; management, appropriation, and control of water; irrigation; sanitation; drinking water; ground water; pollution; and water-dependent activities (e.g. power generation and fisheries). The book also explores water-related environmental and health concerns; and examines the importance of various conflict resolution processes for deciding water-related disputes. Overall, the book is a welcome and insightful addition to the legal literature on fresh water law in general, and fills a scholarship gap by providing timely and comprehensive analysis of the complexity of Indian fresh water regulatory framework at federal, state and local levels.

11. **A. Gardner, R. Bartlett** and **J Gray**'s *Water Resources Law* analyses the comprehensive reform of the fresh water legal regime in Australia at federal, state and municipal levels over the past 20 years. It examines these reforms against the background context of competing needs for human consumptive use of water, and the need to sustain ecosystems. A particular focus of the book, that will provide insights for fresh water reform in other jurisdictions, is the analysis of the framework providing national oversight of water resources management in the Murray-Darling basin.

FURTHER READINGS AND RESEARCH SOURCES

Websites

The International Water Association (IWA) www.iwahq.org

Specialist journals

The journal of Water Law (LawText Publishing)

Representative scholarly literature

Brown Weiss, E., "The Coming Water Crisis: A Common Concern of Humankind" *Transnational Environmental Law* 1:1 (2012) 153

Fisher, D. E., *Water Law* (Law Book Company 2000)

Fisher, D.E., "A jurisprudential model for sustainable water resources governance" *The journal of Water Law* Volume 23 (2012) 143

Godden, L., (ed) "Institutional Transitions and Water Law Governance" Special Issue *The journal of Water Law* Volume 22 (2011) 51-132

Ruru, J., (ed) "Contemporary Indigenous People's Legal Rights to Water in the Americas and Australasia" Special Issue *The journal of Water Law* Volume 20 (2009) 219-292