

## **PRESENTAZIONE DEL VOLUME**

(a cura dell'autore o del curatore)

### **Informazioni generali**

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### **Informazioni sul volume**

Freshwater management is a highly relevant topic of international debate. The increase in water demand caused by population growth and industrial development has rendered hydrologic challenges more complex. Not all water uses compete with each other and many can be satisfied simultaneously, such as the development of infrastructure that generates hydropower and that provides water for food production (irrigation) and flow regulation for navigation. Yet, consumptive water demands that utilize or transform water in a way so that it can no longer be applied to other uses stand in direct competition with each other, such as in cases where biodiversity and individuals have to make space for large infrastructure projects. Such changes to the hydrologic balance that result from human use eventually require new methods and solutions to counter their negative medium- to long-term effects. These challenges are further compounded by the impacts of climate change on the global water cycle requiring new adaptation strategies still. Human interventions in the water flow frequently produce also

transboundary impacts. These international effects and the consumptive nature of certain water uses make agreements between States on the utilization of shared water resources necessary.

In this context, international law helps shape the water use relations among States and between States and individuals and other non-State actors. It provides a regulatory framework to address water challenges, such as the promotion of equitable access to drinking water, the mitigation and prevention of environmental degradation, consumptive economic uses and the prevention and settlement of water-related disputes. It provides principles and norms for the sustainable development and protection of this vital resource. The development of new agreements at the basin level, the codification efforts at the universal and regional level and the increasing case law of courts and tribunals dealing with water resources reveal a wind of change in the relationship between freshwater and international law.

These recent trends have been captured in an edited volume following an international conference organized by the Platform for International Water Law of the University of Geneva in July 2011. This event brought together leading experts and practitioners working on a wide range of issues related to water resources management. Invited speakers and other authorities in the field of international water law contributed to the present volume.

The volume takes a comprehensive approach discussing new legal developments through the breadth and synergies of a multidisciplinary analysis. It highlights the way international law interacts with water management through its different, yet interlinked, areas, including human rights law, environmental law, trade law and water law.

The volume speaks to the key challenges that pose themselves to water managers and lawyers alike. These challenges result from specific needs of the societies and from the vital and transcendent nature of water. The four parts of the volume address (1) water as a vital resource for States and individuals; (2) the promotion of water cooperation through universal, regional and local regimes; (3) water as a shared natural resource; (4) prevention and settlement of water related disputes.

### **Water as a vital resource for States and individuals**

Water rights are a matter in which primarily human rights law but also other areas of international law intervene in order to address both community needs and local practices,

seeking to assure access to adequate quantity and quality of water for individuals or groups of individuals and establishing specific rights in that respect. Yet, the issue of access to water and water rights also include more general aspects related to decision-making processes. Regarding the right to water, for example, the concerned individuals and groups must be able to participate in decision-making processes and should be given access to information on water, water services and the environment held by public authorities or third parties. Recent water agreements include aspects related to the right to water, public participation as well as access to information.

### **The promotion of water cooperation through universal, regional and local regimes**

Bilateral, regional and universal frameworks interact and address transboundary water challenges in a comprehensive manner. The agreements, concluded at different levels, may nurture each other and provide mutual feedback with respect to the content of their norms. In this dynamic process of interaction and cooperation, legal frameworks contribute to integrated approaches in addressing water management challenges. They work towards the equitable use of water and equitable sharing of the benefits that derive from it. The UNECE legal framework is a valuable example of transboundary water cooperation. The adoption of a series of complementing legal instruments accounts for the strength and integrated approach of the UNECE legal framework on water. This framework is characterized by a series of regional conventions that are directly or indirectly related to water management, on the one hand, and by a dynamic system of instruments adopted under the “umbrella” of the 1992 UNECE Water Convention, on the other hand.

### **Water as a shared natural resource**

There are challenges that relate to water in its natural and economic environment. Over the last decades, international instruments have increasingly been employed as tools to establish a balance between human needs for economic development and environmental needs. Water as a natural resource is at issue in the interaction of different areas of international law, more specifically at the crossroads of international water law, environmental law as well as trade law. The concept of “virtual water” illustrates the intersection between water law and trade law. Through trade in finalized products and agricultural produce, water can be transferred from water-rich to water-poor regions. Water-poor States can “acquire water resources” by leasing or buying farmland elsewhere. These investments, which are also referred to as land-grabs, often

follow commercial objectives involving private investors that seek to increase agricultural production for trade on the world market.

### **Prevention and settlement of water related disputes**

International law has an important role in the avoidance and settlement of water disputes that may emerge due to unilateral (rather than joint) uses of transboundary water resources. States resort to a variety of dispute settlement mechanisms to solve water disputes; they include diplomatic and judicial mechanisms. Both methods have proven effective in settling water disputes and in assisting in re-establishing cooperation on transboundary water resources among the concerned parties. The fact-finding capacities of international tribunals and courts should be enhanced through more frequent involvement of scientific experts, in particular where technical and scientific questions concerning natural resources management are at issue. A multidisciplinary approach and the inclusion of scientific experts throughout the process of law-making and implementation are essential in order to address the hydrologic, socioeconomic and environmental challenges of water resources management in an integrated manner.

As highlighted in the various contributions in the present volume, international law already responds to multiple issues that require attention such as the access to drinking water, the prevention and settlement of water disputes as well as the promotion of sustainable development. International law has responded to challenges in the past and is suitably dynamic to prepare for the challenges of the future.

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