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BOOK REVIEW

ABSTRACTION AND USE OF WATER: A Comparison of Legal Regimes,
by Ludwik A. Teclaff. New York: United Nations, 1972. Pp. 254.

The United Nations, to advance its undertaking to aid developing countries which seek realization of their potential through water resources development, commissioned Professor Teclaff to compile this catalog of "basic tools of [water] management, planning and administration." The distinguished Librarian and Professor of International Law at Fordham University has digested and correlated the water laws of 57 countries to this end. Even this does not tell the full story, for the description of the law of a number of federated republics includes the variations in several of their states. The resulting compendium is a very good one. It is accurate and concise, and even better, interesting. Likenesses in the laws are brought together and differences are contrasted. Although the treatment is very general, this is not a defect, since the book is not designed for practicing lawyers but is deliberately descriptive and non-technical. Both law maker and scholar now have a tremendous fund of information available for reference that was formerly locked away in foreign libraries or foreign languages.

The author divides water law into topics, and under each subdivision compares and contrasts the rules by which the subject is governed in various countries. The first chapter gives thumbnail sketches of different methods of acquiring rights to surface water, which Teclaff categorizes into systems of riparian rights, prior appropriation and administrative disposition. The second gives a number of examples of legal rules for groundwater. Later chapters break up the subject into the topics of hierarchies of uses, persons who may acquire rights, procedural requirements, rights of access, quantity of water, and scope and exercise of water rights, and add a treatment of water supply organizations and payment for water supplied.

Yet there is one disappointment. Perhaps because of the limits of Professor Teclaff's terms of reference, perhaps be-

cause of the particular form of comparative law methodology he has chosen, the book is not a satisfactory vehicle for learning the law of water resource allocation in other countries. The picture one gets is not so much panoramic as kaleidoscopic. Our eyes never rest upon a single country or a single system, to get the whole view. Some glimpses of some systems are given in the first chapter, but even there to a degree, and to an extreme in later chapters, bits and pieces of every variety of law are juxtaposed. A single paragraph on a particular point may state the rules of half a dozen jurisdictions. Successive paragraphs may deal with Chile, South Africa, Taiwan, Spain and Colorado. As the page is turned to a new topic other bits of the same laws fall into a new pattern. This means that the law of any one country is fragmented into paragraphs and sentences scattered throughout the book, one under each chapter or subdivision. To switch the metaphor, I find it impossible to follow any one thread through the pattern, to grasp any idea of the shape of the law of any one country. An attempt to use the index (thorough as it is) to piece together the whole law of a single country is quite a chore. One interested in the water law of Chile, for instance, will find only three references under "Chile" itself, and must search for the word "Chile" through almost every index heading from "Access to Water" to "Wells." He will discover at least 139 page references and although many are duplicates, assembling and sorting the numerous fragments is difficult.

Since the book was not designed for my edification, but for government officials, commissions and scholars interested in improving the water law of faraway places, this might be thought an unfair criticism. But even if the book is read as a catalog, as intended, by a person searching for parts he could assemble into a new whole, the method has its drawbacks. In most cases the individual sections of a comprehensive water law are interrelated, and a country's rule on one topic is influenced by its rule on another. These relationships become very hard to see when the two are widely separated in the text. Further, differences in the form of water law may be dictated by physical and climatological differences. Water

laws are also shaped by social and economic conditions, and history and background are often needed to understand the reasons for a choice of one law over a competing form.

This is not to say that these matters are totally ignored by Teclaff, but his format leaves little room for them. A few pages of introduction contain a very nice, concise essay on some of the factors that have shaped water law and on some developments that are leading to new water laws all over the world. Short paragraphs at the beginning of each topic outline some of the considerations leading to variation in the laws, or to choice among them. Some legal history is given, in explanations of a prior law that preceded a new adoption. A few hints are made of influencing factors such as conjunction with agrarian reform. At the end of the book, a notation of some trends gives other hints of reasons behind the different rules in different countries. But too often Teclaff gives no explanation of the purpose of a provision, or no indication of the problem to be solved. This is unfortunate, for a variety of laws on a single phase of water law is not necessarily a variety of solutions to the same problem, but may indicate a variety of problems. And if different provisions do relate to the same problem, we are given no reason why the choice is or should be made one way or the other, and little or no critical analysis as to the desirability of each or a rank of preference between them.

Perhaps the reader in that far off developing country can supply these lacks. He should know the local climate, land conditions, water occurrence, demand for water, economy and history, and should be able to select the most suitable form of law on the basis of rational choice. But there are still dangers, for simplistic ideas have appealed to the uninitiated in water law as in other settings, and many physical and practical problems of water management and people management are not obvious to the official, legislator, or scholar new at the water game. Yet to be fair, there is no doubt that even though this person may need other help, he is going to be immensely helped by the many ideas and choices he will be offered by this work.

It is to be regretted that the book is in form a "document," offset from typewritten copy on letter-size paper, paperbound. Law librarians should take care that it is not so cataloged, or stacked among "ephemera." It is a valuable reference work, and it deserves a better format and classification than the publisher has given it.

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