

*International  
Investment Law And  
Water Resources  
Management An  
Appraisal Of*

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*Indirect  
Expropriation  
Nijhoff  
International*

The Handbook of International

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Investment Law and Policy is a one-stop reference source. This Handbook covers the main conceptual questions in a logical, scholarly yet easy to comprehend manner. It is based on a truly global vision insisting particularly on

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Global South related issues and developments. In this respect, the Handbook of International Investment Law and Policy provides an excellent modern treatment of international investment law which is one of the fastest growing areas of

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international economic law.

Professor Julien Chaisse, Professor  
Leïla Choukroune, and Professor  
Sufian Jusoh are the editors-in-chief  
of the Handbook of International  
Investment Law and Policy, a  
1,500-page reference book, which is

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anticipated becoming one of the most influenced reference books in the international economic law areas. This Handbook is a highly comprehensive set of four volumes of original materials designed to cover all facets of international

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investment law and policy. The chapters, written by world-leading experts, explore key ideas and debates in relation to: international investment substantive law (Volume I), Investor-state dispute settlement (Volume II); interaction between

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international investment law and other fields of international law (Volume III); and, the new trends and challenges for international investment law (Volume IV). The Handbook will feature more than 80 contributions from leading experts

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(academics, lawyers, government officials), including Vivienne Bath, M. Sornarajah, Mélida Hodgson, Rahul Donde, Roberto Echandi, Andrew Mitchell, Ernst-Ulrich Petersmann, Christina L. Beharry, Krista Nadakavukaren Schefer, Leon

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Trakman, Prabhash Ranjan,  
Emmanuel Jacomy, Mariel Dimsey,  
Stavros Brekoulakis, Romesh  
Weeramantry, Nathalie Bernasconi-  
Osterwalder, David Collins,  
Damilola S. Olawuyi, Katia Fach  
Gomez, Jaemin Lee, Alejandro

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Carballo-Leyda, Patrick W. Pearsall,  
Mark Feldman, Surya Deva, Luke  
Nottage, Rafael Leal-Arcas, James  
Nedumpara, Rodrigo Polanco, etc.  
This Handbook will be an essential  
reference tool for students and  
scholars of international economic

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law. Policy makers and researchers alike will find the Handbook of International Investment Law and Policy useful for years to come. This book offers a systematic analysis of the interaction between international investment law,

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investment arbitration and human rights, including the role of national and international courts, investor-state arbitral tribunals and alternative jurisdictions, the risks of legal and jurisdictional fragmentation, the human rights dimensions of

investment law and arbitration, and the relationships of substantive and procedural principles of justice to international investment law. Part I summarizes the main conclusions of the 24 book chapters and places them into the broader context of the

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principles of justice, global administrative law and multilevel constitutionalism that may be relevant for the administration of justice in international economic law and investor-state arbitration. Part II includes contributions clarifying the

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constitutional dimensions of transnational investment disputes and investor-state arbitration, as reflected in the increasing number of arbitral awards and amicus curiae submissions addressing human rights concerns. Part III addresses the need

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for principle-oriented ordering and the normative congruence of diverse national, regional and worldwide legal regimes, focusing on the pertinent dispute settlement practices and legal interpretation methods of regional economic courts and human

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rights courts, which increasingly interpret international economic law with due regard to human rights obligations of the governments concerned. Part IV includes twelve case studies on the potential human rights dimensions of specific

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protection standards (e.g. fair and equitable treatment, non-discrimination), applicable law (e.g. national and international human rights law, rules on corporate social accountability), procedural law issues (e.g. amicus curiae

submissions) and specific fundamental rights (e.g. the protection of human health, access to water, and protection of the environment). These case studies discuss not only the still limited examples of human rights discourse

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in investor-state arbitral awards; they also probe the potential legal relevance of investor-state arbitration for the judicial recognition, interpretation and balancing of primary rules, such as of investment law and human rights

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law, in the light of the principles of justice as defined by national and international law.

Has the well-known fragmentation between Human Rights and Water and Investment Law been exacerbated by the protection

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offered to foreign investors under Peru's recently signed Regional Trade Agreements and under WTO rules, both enforceable under their specific dispute settlement procedures? This chapter shows that commercial treaty rules are an

evolving source of legal obligations which may actually help to improve Peru's water governance. Traders and investors can still trust arbitrators to safeguard their legitimate interests. On the other side, trade-distorting social and



environmental dumping can now be attacked under the new, comprehensive treaties. Regardless of the relative economic impact of different water uses, Peru cannot trade away its international obligations by condoning “water

grab” investments and violations of fundamental human rights and environmental norms. The only caveat is the unilateralism even of well-meant standards “made in Washington”. Nonetheless, while WTO still ensures non-

*Page 26/256*

discriminatory treatment of foreign operators, it will not systematically protect investment treaties and contracts with regulatory “freeze clauses” in cases of serious violations of ius cogens or peremptory social and environmental law, including

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water grabbing. And developing countries accepting higher standards can count on their developed trading partners to enforce such standards in countries with competing producers. In *General Principles of Law in Investment Arbitration*, the authors

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address selected general principles of law, assessing their functions in investment arbitration. The resulting picture is that of a lively source that escapes doctrinal straitjackets and maintains its relevance.

Environmental Interests in

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Investment Arbitration  
The Multiple Challenges  
Investment Treaties and the Legal  
Imagination  
A Social Vision of Water  
An Interdisciplinary Approach to  
BIT Obligations

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International Economic Law Might  
Improve Water Governance in Peru  
In Contractual Renegotiations and  
International Investment Arbitration,  
Aikaterini Florou explores the  
complex phenomenon of the  
renegotiation of investor-state

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contracts. The author reconstructs the relationship between those contracts and the overarching investment treaties using an original interpretative methodology based on transaction cost economics and relational contract



theory.

Outlines a general theory of whether and how to include public interest concerns in the realm of international investment law.

Environmental Interests in  
Investment Arbitration Challenges

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and Directions Flavia Marisi  
Economic growth, social inclusion,  
and environmental protection stand  
at the core of sustainable  
development, which aims to deliver  
long-term growth for current and  
future generations. Foreign Direct

Investment (FDI) can play a key role in sustainable development. Host states' benefits descending from FDI inflows include tax revenues, technology transfer, specialised training of local human resources, network with satellite

activities, better availability of quality products and customer-centric services. These downstream effects jointly stimulate economic growth and social inclusion. This thoroughly researched book explores the

relationship between environmental protection – the third component of sustainable development – and FDI. In practice, the intersection between environmental protection and foreign investment not only has generated remarkable success

stories such as cross-sectoral green investment but has also in some instances led to severe cases of environmental degradation. Certain foreign investments resulted in open-pit mines leaking harmful substances into the soil,

excessive deforestation, improper treatment of water, pollution of groundwater and contamination of mud pits following oil exploitation, leaving the host state with significant environmental damage. Some other cases have witnessed

the host state withdrawing or infringing its own environmental policies, which could, in principle, lead to a decrease in the value of the foreign investment as a result of natural resources deterioration. In recent years, an increasing number



of investment arbitration cases have seen a clash between the states' commitments towards their citizens, which include the duty to protect the environment, their health and well-being, and the commitment towards foreign

investors to protect their investments. In this book, the author focuses on investor-state cases in which environmental protection measures have been contested and discusses substantive mechanisms in treaty

drafting, rules of Customary International Law, and interpretation doctrines, which are aimed at taking environmental concerns into consideration. The topics covered include the following: statistical analysis of

investor-state cases where environmental protection measures have been contested; the role of environmental principles in investor-state arbitration; treaty mechanisms addressing environmental concerns; legal tools available

under Customary International Law to address environmental interests; the application of the doctrines of proportionality, police powers, and margin of appreciation; and environmental counterclaims as an instrument to claim compensation

for environmental damage. The author provides a detailed framework on the normative architecture, offers an extensive analysis of the relevant case law, and proposes concrete solutions to the identified clashes, aimed at

refining the balance between environmental and investment protection. With its in-depth analysis and careful documentation, this book aptly captures the inherent fragmentation of international law and

undoubtedly represents an invaluable resource for both international law practitioners and scholars. The solution-oriented approach adopted in the book will be welcomed by legal counsel, law firms, investment treaty negotiators,



and decision makers at the different stages of investment lawmaking and practice, as well as by international institutions and academics.

Drinking water and wastewater services must be provided to many

sectors of a nation's economy, including its industrial, commercial, and residential sectors. This forms the scope of the water industry's activities and it explains why the privatisation of water sanitation and water services has become a huge

market and a much-debated issue in a number of jurisdictions.

Historically the water industry has been run as a public service which is owned by the local or national government, recent trends suggest that the role of the private sector is

increasing. The growing economic interests concerning water and wastewater services are generating a tension with the recent recognition of the human right to water and sanitation. This tension between human right and economic

rules is the focus of this book,  
which reviews all the international  
rules that form the regulation of  
global water services.  
Issues, Challenges and Directions  
Foreign Investment in the Energy  
Sector

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A Preliminary Ruling System for  
ICSID Arbitration  
Evolution in Investment Treaty Law  
and Arbitration  
Balancing Private and Public  
Interests  
Human Rights and Gender

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## Implications

*Throughout his career, Michael Reisman emphasized law's function in shaping the future. In this wide-ranging collection of essays, major thinkers in*

*the international legal field address the goals of the twenty-first century and how international law can address the needs of the world community.*

*In Towards Consistency in*



*International Investment Jurisprudence, Katharina Diel-Gligor addresses the problem of inconsistent arbitral decision-making, with a focus on ICSID arbitration. After*

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*analysing the causes,  
forms, and manifestations  
of inconsistencies, she  
proposes a preliminary  
ruling system as a means  
of reform.*

*Increasingly,*

*transnational  
corporations, developed  
countries and private  
actors are broadening the  
boundaries of their  
investments into new  
territories, in search of*

*a higher return on capital. This growth in direct foreign investment involves serious concerns for both the investor and host state. Various exponents of international*

*civil society and non-governmental organisations persuasively claim that such growth in foreign investments constitutes potential and serious hazards both to the*

*environment and the  
fundamental rights and  
freedoms of local  
populations. This book  
explores from an  
international law  
perspective the complex*

*relationship between  
foreign investments and  
common concerns, i.e.  
values that do not  
coincide, or do not  
necessarily coincide, with  
the interests of the*

*investor and of the host state. It pays particular attention to the role of the main international development banks in reconciling the needs of foreign investors with the*



*protection of common concerns, such as the environment, human rights and labour rights. Among its collection of essays, the volume asks how much "regulatory space"*

*investment law leaves;  
whether international  
investment law is an  
effective means of  
balancing contrasting  
interests, and whether  
investment arbitration*

*currently constitutes a  
mechanism of global  
governance. In collecting  
the outlooks of various  
experts in human rights,  
environmental and  
international economic*

*law, this book breaks new ground in exploring how attention to its legal aspects may help in navigating the relationship between foreign investment and*

*common concerns. In doing so, the book provides valuable insights into the substantive issues and institutional aspects of international investment law.*

*Sustainable development,  
as defined by the World  
Commission on Environment  
and Development, is  
"development that meets  
the needs of the present  
without compromising the*

*ability of future generations to meet their own needs." More specifically, sustainable development is a process of change that seeks to improve the collective*

*quality of life by  
focusing on economically,  
socially, and  
environmentally sound  
projects that are viable  
in the long-term.*

*Sustainable development*



*requires structural  
economic change and the  
foundation of that change  
is investment. In  
developing nations with  
low levels of domestic  
savings, investment*

*predictably comes from  
abroad in the form of  
foreign direct investment.  
A large and ever expanding  
number of international  
investment agreements are  
in place to govern these*

*transactions. While these accords seek to foster development while mitigating the risk involved in these types investments, many questions remain*

*unresolved. This highly  
insightful book reflects  
the contributions of a  
variety of world renowned  
experts each of which is  
designed to provide the  
reader with valuable*

*perspective on recent  
developments in investment  
law negotiations and  
jurisprudence from a  
sustainable development  
law perspective. It offers  
answers to pertinent*

questions concerning  
advancements in investment  
law, including the  
negotiation of numerous  
regional and bilateral  
agreements as well as the  
increasing number of

*disputes resolved in the World Bank's International Centre for the Settlement of Investment Disputes (ICSID), from different developed and developing country perspectives. It*

lays out future directions  
for new treaty  
negotiations and dispute  
settlement proceedings, as  
well as ongoing investment  
promotion efforts, against  
a background of rapidly



*evolving international relationships between economic, environment and development law. It focuses on key issues in investment laws which have emerged as priorities in*

*the negotiation of  
bilateral and regional  
investment agreements, and  
have been clarified  
through recent decisions  
of the ICSID and other  
arbitral panel awards.*

*Revisiting Privatization,  
Foreign Investment,  
International Arbitration,  
and Water  
Challenges and Directions  
Charting the Water  
Regulatory Future*

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*Charting an Elusive  
Intersection  
How Foreign Investors Play  
By Their Own Rules  
Re-Politicising  
International Investment  
Law in Latin America*

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*through the Duty to  
Regulate Paradigm*

This book addresses the  
diverse ways in which  
international law  
governs the uses,  
management, and

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protection of fresh water. The international law of fresh water is most comprehensively understood in the light of the different bodies of norms applicable to

these varied uses and functions. The regulation of fresh water has primarily developed through the conclusion of treaties concerning international

watercourses. Yet a number of other legal regimes also apply to the governance of fresh water. In particular, there has been an increasing recognition

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of the importance of  
fresh water to  
environmental  
protection. The  
development of  
international human  
rights law and

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international humanitarian law has also proven crucial for ensuring the sound and equitable management of this resource. In addition, the economic

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uses of fresh water  
feature prominently in  
the law applicable to  
watercourses, while  
water itself has become  
an important element of  
the trade and investment

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regimes. These bodies of rules and principles not only surface in an array of dispute settlement mechanisms, but also stimulate wider trends of institutionalization.

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The book investigates the origin and scope of these bodies of norms as they apply to fresh water, and demonstrates how they connect and adapt to one another,

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forming an integrated  
body of international  
principles. This  
approach is accompanied  
by a detailed analysis  
of the practice of  
states and of

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international  
organizations, taking  
into account the  
activities of the many  
non-state actors  
involved in the  
treatment of fresh

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water.

Water plays a key role in addressing the most pressing global challenges of our time, including climate change adaptation, food and

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energy security,  
environmental  
sustainability and the  
promotion of peace and  
stability. This  
comprehensive handbook  
explores the pivotal

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place of law and policy  
in efforts to ensure  
that water enables  
positive responses to  
these challenges and  
provides a basis for  
sound governance. The

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book reveals that significant progress has been made in recent decades to strengthen the governance of water resource management at different scales,

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including helping to  
address international  
and sub-national  
conflicts over  
transboundary water  
resources. It  
demonstrates that

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'effective' laws and policies are fundamental drivers for the safe, equitable and sustainable utilization of water. However, it is also shown that what

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might constitute an effective law or policy related to water resources management is still hotly debated. As such, the handbook provides an important

and definitive reference  
text for all studying  
water governance and  
management.

In International  
Investment Law and Water  
Resources Management,

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Daza-Clark offers an appraisal of indirect expropriation, including an analysis of the doctrine of police power.

International investment

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law is in a state of evolution. With the advent of investor-State arbitration in the latter part of the twentieth century - and its exponential growth

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over the last decade -  
new levels of  
complexity, uncertainty  
and substantive  
expansion are emerging.  
States continue to enter  
into investment treaties

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and the number of investor-State arbitration claims continues to rise. At the same time, the various participants in investment treaty

arbitration are faced  
with increasingly  
difficult issues  
concerning the  
fundamental character of  
the investment treaty  
regime, the role of the

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actors in international investment law, the new significance of procedure in the settlement of disputes and the emergence of cross-cutting issues.

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Bringing together  
established scholars and  
practitioners, as well  
as members of a new  
generation of  
international investment  
lawyers, this volume

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examines these  
developments and  
provides a balanced  
assessment of the  
challenges being faced  
in the field.

A Relational Contract

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Theory Interpretation of  
Investment Treaties  
Contractual  
Renegotiations and  
International Investment  
Arbitration  
Investment and Human

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Rights in Armed Conflict  
Judge Knot  
Integrationist  
Perspectives  
Human Rights in  
International Investment  
Law and Arbitration

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**There is a growing interplay between international investment law, arbitration and human rights. This book offers a systematic analysis of this**

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**interaction, exploring the  
role of principles of  
justice in investment law,  
comparing investment  
arbitration with other  
courts, and examining  
case studies on human**

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**rights and protection standards.**

**This book addresses the diverse ways in which international law governs the uses, management, and protection of fresh**

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**water. The regulation of fresh water has primarily developed through the conclusion of treaties concerning international watercourses, yet a number of other legal**

*Page 117/256*

**regimes also apply to the governance of fresh water. In particular, there has been an increasing recognition of the importance of fresh water to environmental**

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**protection. The  
development of  
international human  
rights law and  
international  
humanitarian law has  
also proven crucial for**

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**ensuring the sound and equitable management of this resource. In addition, the economic uses of fresh water feature prominently in the law applicable to**

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**watercourses, while water itself has become an important element of the trade and investment regimes. These bodies of rules and principles not only surface in an array**

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**of dispute settlement mechanisms, but also stimulate wider trends of institutionalization. Since the publication of the first edition of this volume in 2013, water**

*Page 122/256*

**has continued to be at the forefront of the international agenda, and the adoption of the UN Sustainable Development Goals constitutes a milestone around which**

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**various public and private initiatives have been launched. This book presents and appraises these important developments as part of its comprehensive**

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**analysis of the origin and scope of the various areas of international law as they apply to fresh water. It demonstrates how these areas connect and adapt to one**

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**another, forming an  
integrated body of  
international principles.  
Foreign Investment in the  
Energy Sector: Balancing  
Private and Public  
Interests, a**

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**comprehensive collection  
of essays from experts  
and practitioners, offers  
an important new  
resource to the field.  
This book is about the  
issues, challenges and**

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**directions currently faced  
by water as a key  
resource for mankind.  
The book aims at  
providing a finer  
understanding of the  
water regulatory future.**

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**The contributions in this book are grouped around specific themes. In Part I, the contributions address the water challenge to public international law. In Part II, the authors**

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**explore the most pressing ethical, legal, and social issues. In Part III, the discussion covers the economic drivers shaping the future of water.**

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**Foreign Investment,  
International Law and  
Common Concerns  
Investigating Water  
Ownership as a Strategy  
in a World of Economic  
Goods Under**

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**International Trade and  
Investment Laws  
Too Public Not to Be  
Private  
Sustainable Development  
in World Investment Law  
Public Services and**

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# **International Trade Liberalization The Origins of International Investment Law**

Developments within various sub-  
fields of international law influence

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international investment law, but changes in investment law also have an impact on the evolution of other fields within international law.

Through contributions from leading scholars and practitioners, this book analyses specific links between investment law and other sub-fields

of international law such as the law on armed conflict, human rights, sustainable development, trade, development and EU law. In particular, this book scrutinises how concepts, principles and rules developed in the context of such sub-fields could inform the content of

investment law. Solutions aimed at resolving problems in other settings may provide instructive examples for addressing current problems in the field of investment law, and vice versa. The underlying question is whether key sub-fields of public international law, notably

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international investment law, are open to cross-fertilisation, or, whether they are evolving further into self-contained regimes.

Ã ” Freshwater is an essential resource. This book offers a comprehensive international look at diverse issues arising from water use

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for human consumption, agriculture, energy, industry, waste disposal and ecosystem conservation. The contributions, written primarily but not exclusively by legal experts, are highly informed and insightful. In addition to more traditional topics, they address the WTO and natural

resources, Ethiopia's large-scale commercial farms, and aquifer management in the Geneva region and Latin America. An important read for scholars, policy-makers, and concerned citizens. — Edith Brown Weiss, Georgetown University, US

— " This excellent book covers the

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important legal and political perspectives on the world's freshwater resources. The chapters, written by distinguished experts from academia and practice, systematically address issues of economics, environment, sovereignty over resources, energy, conflict resolution,

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and in addition offer some in depth case studies. A wonderful book and compulsory reading for who needs to have the full picture of the complex international dynamics of freshwater in our time. • Catherine Bråjlmann, University of Amsterdam, The Netherlands ” This volume

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provides a masterful investigation of the multiple points of interaction between freshwater and international law, and compelling and insightful analyses of such interactions bearing out and substantiating the thrust of the volume “ mapping out the “ multiple challenges “ facing

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international law in its water governance role at different, relevant scales – global, regional and sub-regional. The volume’s focus on these ‘multiple challenges’ is particularly welcome at a time when the planet’s freshwater endowment is coming under

increasing pressure from a multiplicity of factors, forcing policymakers, lawmakers, government negotiators and private-sector players on the water scene to challenge well-established behavioural and regulatory patterns, domestically and in relation to

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transboundary inter-State relations. In its stimulating multifarious approach, the volume offers fresh and insightful perspectives of some tested facets of the water governance role of international law, dealing with rivers, lakes and groundwater aquifers shared by a multiplicity of States.

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Some novel facets like, notably, the human right to water, trans-national trade in land and water resources, the rights of local communities, and State succession to water treaties, are also canvassed masterfully, adding to the value of the volume not only to international water law specialists,

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but also to the vast and growing population of water professionals in general. In sum, the volume is a must for all those who know and practise international and domestic water law, who influence the international water governance debate at the global, regional, and sub-regional scales, and

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who, in general, interact with water resources in the transboundary but also in the domestic setting of their respective countries. • Stefano Burchi, Chairman of the International Association for Water Law AIDA " Essential as it is to human life, over one billion people currently lack

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access to safe drinking water and by 2025 this group could grow to three billion. Nowhere is this situation more critical than in the over 260 international drainage basins shared by two or more states where more than half of the world's population will reside by the year 2050.

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International Law and Freshwater is an outstanding piece of legal and policy scholarship that poignantly, thoughtfully and effectively addresses the who, what, where, when and how of international waters governance and international law. • Richard Kyle Paisley,

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University of British Columbia,  
Canada The issues surrounding water  
embody some of the greatest  
challenges of the 21st century. The  
editors of this timely book have  
brought together the leading authors  
in the field to explore the key  
questions involving international law

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and water governance. International Law and Freshwater connects recent legal developments through the breadth and synergies of a multidisciplinary analysis. It addresses such critical issues as water security, the right to water, international cooperation and dispute resolution,

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State succession to transboundary watercourse treaties, and facets of international economic law, including trade in " virtual water" and the impacts of " land grabs".

Containing detailed analysis and thought-provoking solutions, this book will appeal to researchers and

academics working in the legal field, as well as international relations and natural sciences. Water practitioners, public officials, diplomats and students will also find much to interest them in this insightful study. A subject relevant to the governance of water resources and public services

is the effect that international trade and investment agreements may have on national capacities to manage natural resources and to regulate public services. The region has yet to assess the consequences that international investment agreements may have on the

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economic, social and environmental sustainability and efficiency of natural resources utilization and provision of public services. The report discusses the urgent need to begin a process of systemizing principles the duties of those investing in water-related activities, especially public services.

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This book examines whether public service liberalization poses a threat to gender and human rights?

The Regulation of the Global Water Services Market

An Appraisal of Indirect Expropriation  
International Investment Law and  
Water Resources Management

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Reconsidering the Nexus of  
Investment Protection, Environment,  
and Human Rights  
General Principles of Law and  
International Investment Arbitration  
Handbook of International  
Investment Law and Policy  
International Natural

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Resources Law, Investment  
and Sustainability provides  
a clear and concise insight  
into the relationship  
between the institutions  
that govern foreign  
investment, sustainable  
development and the rules

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and regulations that administer natural resources. In this book, several leading experts explore different perspectives in how investment and natural resources come together to

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achieve sustainable development in developing countries with examples from water, oil and gas, renewable energy, mineral, agriculture, and carbon trading. Despite varying perspectives, it is clear

that several themes are central in considering the linkages between natural resources, investment and sustainability. Specifically, transparency, good governance and citizen empowerment are vital

conditions which encourage positive social, economic and environmental outcomes for developing countries. In addition, this book provides new insights into key concepts which underpin international law, including

sovereign rights and state responsibility principles. It is clear from this book that in the attempt to reconcile these concepts and principles from separate legal regimes, complex policy questions emerge

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whereby it is difficult to attain mutually beneficial or succinct outcomes. This book explores how countries prioritise their policy objectives to achieve their notion of sustainable natural resource use, which

is strongly influenced by power imbalances that inform North-South cooperation, as well as South-South cooperation in the international investment regime. This book will be of great interest to students,

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academics and researchers of international environmental law, international human rights law, international investment law and international economic law. This book may also be of relevance to

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environmentalists, policy-makers, NGOs, and investors working in the natural resources field.

Foreign investors have a privileged position under investment treaties. They enjoy strong rights, have no



obligations, and can rely on a highly efficient enforcement mechanism: investor-state dispute settlement (ISDS). Unsurprisingly, this extraordinary status has made international

investment law one of the most controversial areas of the global economic order. This book sheds new light on the topic, by showing that foreign investor rights are not the result of unpredicted arbitral

interpretations, but rather the outcome of a world-making project realized by a coalition of business leaders, bankers, and their lawyers in the 1950s and 1960s. Some initiatives that these figures planned for

did not emerge, such as a multilateral investment convention, but they were successful in developing a legal imagination that gradually occupied the space of international investment law. They sought not only to

set up a dispute settlement mechanism but also to create a platform to ground their vision of foreign investment relations. Tracing their normative project from the post-World War II period, this book shows that the

legal imagination of these business leaders, bankers, and lawyers is remarkably similar to present ISDS practice. Common to both is what they protect, such as foreign investors' legitimate expectations, as

well as what they silence or  
make invisible. Ultimate,  
this book argues that our  
canon of imagination, of  
adjustment and potential  
reform, remains closely  
associated with this world-  
making project of the 1950s

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and 1960s.

This book provides a comprehensive overview of the legal regime governing fresh water, its protection, management, and uses. It looks at the status of water in international law, taking

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into account its multi-faceted nature, whether environmental, social, cultural, or economic. It examines the universal and regional dimensions of the regulation of water, including issues surrounding

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the treatment of water in environmental, human rights, trade, and investment law. It addresses links between international, regional, and national water regulatory frameworks, and assesses the role of dispute settle.

Water has quickly moved from the realm of common and public control into private control as an economic good. Globalization and international investment trade laws, as well as overall trade laws, have

helped encourage this shift. Water has strong ties to various sectors given its usefulness as well as the simple ability to sustain life. The UN, World Water Council, World Bank, WTO, IMF, GATT and GATS are all

players in the world of water management. Much of the literature to date has been centered at the policy level and focused mainly on intercountry disputes. The paper argues that national interests are tied to water

and can be supported by trade in water and water services. As we have seen, conflict and war can stem from water issues between countries, and where political laws have much variance in application as

chosen by nations around the globe, trade and investment law appear to be more advanced in terms of enforcement. Here the argument is given that when water ownership is privatized, it can reduce

the likelihood of water  
being withheld or destroyed  
in time of war due to global  
agreements governing trade  
and economies, thus, moving  
direct competition by  
nations through war into  
competition through trade

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and economic power. The paper posits that while both public and private ownership have both positive and negative elements, combining them can serve to promote interests of nations as well as the simple need for

humans to have access to water as a basic human right. We conclude that where water supports necessary life functions for human beings, in a world of globalized trade and investment, it provides

employment, tax revenue and opportunities for technological advancement, and serves the interests of nations, their private and multinational corporations and the people of those nations.

Water and Free Trade  
Realizing the Right to Water  
in International Investment  
Law

International Law and  
Freshwater

The Human Right to Water and  
International Economic Law

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Fresh Water in International  
Law

Global Public Interest in  
International Investment Law

**This book addresses the  
topical question on how  
national and international**

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environmental concerns  
could be adequately  
integrated into  
international investment  
law. It covers the  
question whether  
international investment

law restricts state  
sovereignty in an  
unacceptable way - in  
particular, the freedom of  
host states to develop  
national policies and  
regulation for the

improvement of the environment. The book first analyzes the interaction between international investment law and the protection of the environment, on the



basis of concepts such as sustainable development, fair and equitable treatment, and international responsibility. Secondly, several chapters discuss

challenges which are encountered in attempts to integrate environmental concerns in investment policies in specific sectors and regions (e.g. climate change, water

pollution, renewable and nuclear energy, and the European Union region). And, finally, specific case studies illustrate the legal and policy tensions between

investment law and  
environmental protection,  
namely Vattenfall's  
disputes with Germany,  
legal clashes between  
Chevron and Ecuador, and  
multinational mining

companies' conflicts in  
Indonesia. The  
contributions are written  
by international experts  
and will be of interest to  
policy makers and  
practitioners. \*\*\*

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Librarians: ebook  
available (Series: Legal  
Perspectives for Global  
Challenges - Vol. 4)  
[Subject: International  
Law, Investment Law,  
Environmental Law]

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Water plays a key role in addressing the most pressing global challenges of our time, including climate change adaptation, food and energy security, environmental

sustainability and the promotion of peace and stability. This comprehensive handbook explores the pivotal place of law and policy in efforts to ensure that



water enables positive responses to these challenges and provides a basis for sound governance. The book reveals that significant progress has been made in

recent decades to  
strengthen the governance  
of water resource  
management at different  
scales, including helping  
to address international  
and sub-national conflicts

over transboundary water resources. It demonstrates that 'effective' laws and policies are fundamental drivers for the safe, equitable and sustainable utilization of water.

However, it is also shown that what might constitute an effective law or policy related to water resources management is still hotly debated. As such, the handbook provides an

important and definitive  
reference text for all  
studying water governance  
and management.

This book discusses the  
international right to  
water and the

liberalization of water services. It is concerned with the harmonization of the right to water with the legal systems under which liberalization of water services has taken

or may take place. It assesses paths of harmonization between international human rights law and international economic law in this specific field. The issue

of the compatibility  
between the fulfilment of  
the right to water and the  
liberalization of water  
services has been at the  
heart of a passionate  
public debate between



opponents and advocates of the privatization of the utility. The book provides an unbiased analysis of different international legal regimes under which the liberalization of

water services has  
occurred or is likely to  
occur, notably  
international investment  
law, international trade  
law and European Union  
law, in order to assess

whether the main features of the right to water can be guaranteed under each of these systems of law and whether there is space for prospective harmonization. The work

will be an invaluable  
resource for academics,  
researchers and policy-  
makers working in the  
areas of International  
Human Rights Law,  
International Economic

Law, International Water  
Law, International Trade  
Law and EU Law.

International investment  
law is a complex and  
dynamic field. Yet, the  
implications of its

history are under explored. Kate Miles examines the historical evolution of international investment law, assessing its origins in the commercial and political

expansionism of dominant  
states during the  
seventeenth to early  
twentieth centuries and  
the continued resonance of  
those origins within  
modern foreign investment

protection law. In particular, the exploration of the activities of the Dutch East India Company, Grotius' treatises, and pre-World War II



international investment  
disputes provides insight  
into current controversies  
surrounding the interplay  
of public and private  
interests, the systemic  
design of investor-state

arbitration, the substantive focus of principles, and the treatment of environmental issues within international investment law. In adopting such an

approach, this book provides a fresh conceptual framework through which contemporary issues can be examined and creates new understandings of those controversies.

Essays on International  
Law in Honor of W. Michael  
Reisman

Looking to the Future  
International Natural  
Resources Law, Investment  
and Sustainability

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**Towards Consistency in  
International Investment  
Jurisprudence  
Water as Tradable  
Commodity  
Empire, Environment and  
the Safeguarding of**

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## **Capital**

**‘Judge Knot’ explores the biggest and the most controversial success story in international law: investor-state dispute settlement, or ISDS. Since 1990, investors have launched hundreds of claims against**

**government regulation. This exclusive inside look explains what makes the system tick: its poorly understood centuries-old origins, why corporations demand investment law solutions to political problems, how arbitrators supply**

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**these solutions, and why the system lasts despite the many politicians and citizens unhappy with it. Building off of an unprecedented set of interviews with the arbitrators who actually decide the cases, ‘Judge Knot’ brings together the best of political**

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**science, law and development  
economics scholarship and offers a  
concrete alternative to ISDS that  
leverages what works about the  
system and discards what does not,  
so that international law can be more  
supportive of democracy and**

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**development goals.**

**This book offers insights into how international investment law (IIL) has frustrated states' protection of human rights in Latin America, and IIL has generally abstained from dealing with inter-regime frictions.**

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**In these circumstances, this study not only argues that IIL should be an object of contention and debate ('politicisation'). It also contends that Latin American countries have traditionally been the frontrunners in the politicisation of international**

**legal instruments protecting foreign investment, questioning whether the paradigms informing their claims' articulation are adequate to frame this debate. It demonstrates that the so-called 'right to regulate' is the paradigm now prevalently used to**

**challenge IIL, but that it is inadequate from a human rights perspective. Hence, the book calls for a re-politicisation of IIL in Latin America through a re-conceptualization of how states' regulation of foreign investment is**

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**understood under international human rights law, which entails viewing it as an international duty. After determining what the ‘duty to regulate’ constitutes in relation to the right to water and indigenous peoples’ right to lands based on**

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**human rights doctrine, the book  
analyses the extent to which Latin  
American countries are currently re-  
politicising IIL through an  
articulation of this international  
duty, and arbitral tribunals'  
responses to their argumentative**

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**strategies. Based on these findings, the book not only proposes investment treaties' reform to anchor the 'duty to regulate' paradigm in IIL, and in the process, to induce tribunals' engagement with human rights arguments when**

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**they come to underpin respondent states' defences in investor-state dispute settlement (ISDS). In addition, drawing upon the (now likely defunct) idea of creating a regional ISDS tribunal, the book briefly reflects on options available**

**to such a tribunal in terms of dealing  
with troubling  
normative/institutional interactions  
between regimes during ISDS  
proceedings.**

**Water Services Disputes in  
International Arbitration**

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**Reconsidering the Nexus of  
Investment Protection, Environment,  
and Human Rights by Xu Qian The  
argument that universal access to  
water is a human right is based on  
the fact that life on Earth cannot  
exist without water. Yet the**

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**enormous cost of building and maintaining water service infrastructure, purifying, monitoring quality, and providing sanitation services is beyond the means of many of the States most in need. Foreign investment is thus mandated—hence**

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**the often acrimonious tension  
manifest in investor-State disputes  
over water rights. This book offers  
the first in-depth analysis of both  
international treaty norms and their  
interpretation by arbitral tribunals  
applicable to investment in water**

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**and sanitation services, complete with thoroughly researched recommendations for those arbitral practitioners in the eye of the storm. Like no previous study the book clearly reveals how to reconcile the economic and fundamental human**

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**interests arising from investment in water and sanitation services under the international investment regime. Among many vital issues, the author highlights the importance of the following: legitimacy of a State's alleged regulatory objectives, the**

**suitability of the measures undertaken to achieve the objective, and whether there are less restrictive means available; legal framework and stability of the State; applicable law, changes in law, and emergency circumstances; economic issues such**



**as water pricing; profit-driven private companies' reluctance to serve the poor; investment tribunals' generation of a "regulatory and jurisprudential regime" on water and sanitation services; and determination of**

**liability in relation to expropriation, fair and equitable treatment, and necessity. Arguing that the current investment treaty and arbitral case law framework can regulate water and sanitation services if certain interpretations are favored by**

**adjudicators, the author offers viable, sustainable, and reasonable legal solutions. A detailed annex presents cases decided before a variety of arbitral tribunals, as well as relevant WTO and ICJ cases, and reviews critical literature in the field.**

**The increasing number of cases involved with States' regulatory measures shows that stakes around water services generate specific legal problems which are new in the world of international economic law. As an incisive investigation of what has**

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**been called the “incursion of investment tribunal decisions into the regulatory autonomy of host States,” this profound and innovative analysis provides a coherent and consistent method of review that provides greater certainty to both**

**States and investors and deters abuse of power. It will be welcomed by policymakers and stakeholders interested in the implications of “globalization” of water services for the capacity to adapt to climate change and will suggest ways to**

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**enable States to better manage vital water services, even after privatization to foreign companies. This book analyses the way in which international human rights law (IHRL) and international investment law (IIL) are deployed – or fail to be**

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**deployed – in conflict countries within the context of natural resources extraction. It specifically analyses the way in which IIL protections impact on the parallel protection of economic, social and cultural rights (ESC rights) in the**



**host state, especially the right to water. Arguing that current responses have been unsatisfactory, it considers the emergence of the 'Protect, Respect and Remedy' framework and the Guiding Principles for Business and Human**

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**Rights (jointly the Framework) as a possible analytical instrument. In so doing, it proposes a different approach to the way in which the Framework is generally interpreted, and then investigates the possible applicability of this 'recalibrated'**

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**Framework to the study of the IHRL-  
IIL interplay in a host country in a  
protracted armed conflict:  
Afghanistan. Through the  
emblematic example of Afghanistan,  
the book presents a practical  
dimension to its legal analysis. It**

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**uniquely portrays the elusive intersection between these two bodies of international law within a host country where the armed conflict continues to rage and a full economic restructuring is taking place away from the public eye, not**

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**least through the deployment of IIL and the inaction – or merely partial consideration – of IHRL. The book will be of interest to academics, policy-makers, and practitioners of international organisations involved in IHRL, IIL and/or deployed in**

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**contexts of armed conflict.**

**The International Law Regimes that  
Effect Trade and Investment in  
Water Resources and Their Effect on  
the Global Water Crisis  
Routledge Handbook of Water Law  
and Policy**

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**Water Services Disputes in  
International Arbitration  
Politics and Development in  
International Investment Law  
Bridging the Gap Between  
International Investment Law and  
the Environment**

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# **Investment Law within International Law**

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