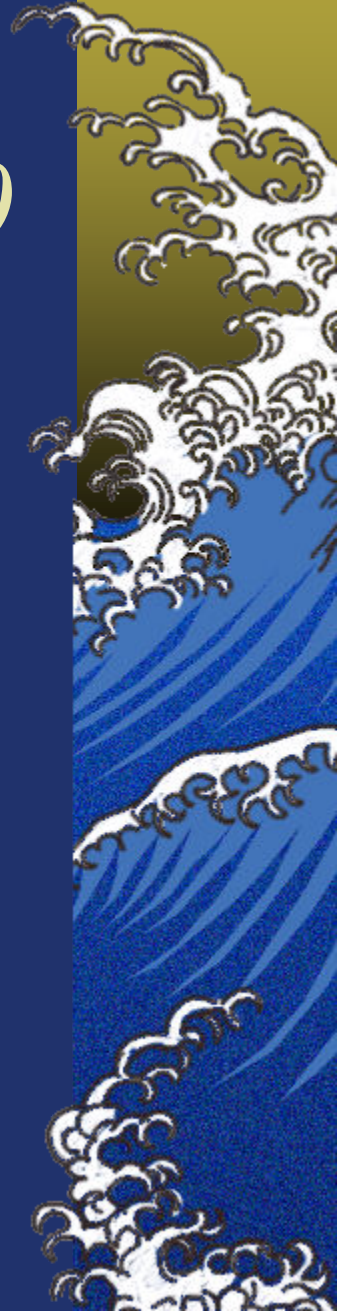


# *International Water Law in 2070*

*Joseph W. Dellapenna*

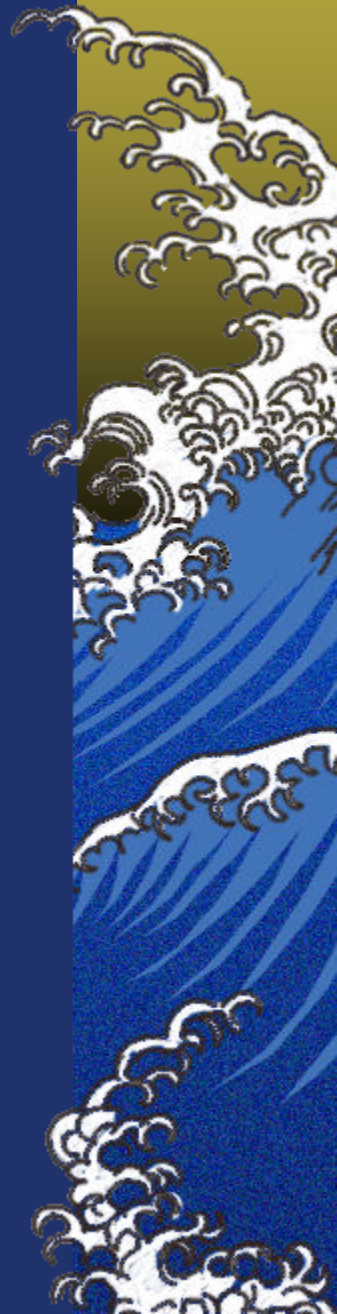
*Rapporteur, Berlin Rules on Water  
Resources (2004)*

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*Water—the ace of elements. Water dives from clouds without parachute, wings, or safety net. Water runs over the steepest precipice and blinks not a lash. Water is buried and rises again; water walks on fire and fire gets the blisters. Stylishly composed in any situation—solid, gas, or liquid—speaking in penetrating dialects understood by all things—animal, vegetable, or mineral—water travels intrepidly through four dimensions, sustaining (Kick a lettuce in the field and it will yell “Water!”), destroying (The Dutch boy’s finger remembered the view from Ararat), and creating (It has even been said that human beings were invented by water as a device for transporting itself from one place to another, but that’s another story). Always in motion, ever flowing (whether at steam rate or glacier speed), rhythmic, dynamic, ubiquitous, changing, and working its changes, a mathematics turned wrong side out, a philosophy in reverse, the ongoing odyssey of water is virtually irresistible—Tom Robbins (1976)*

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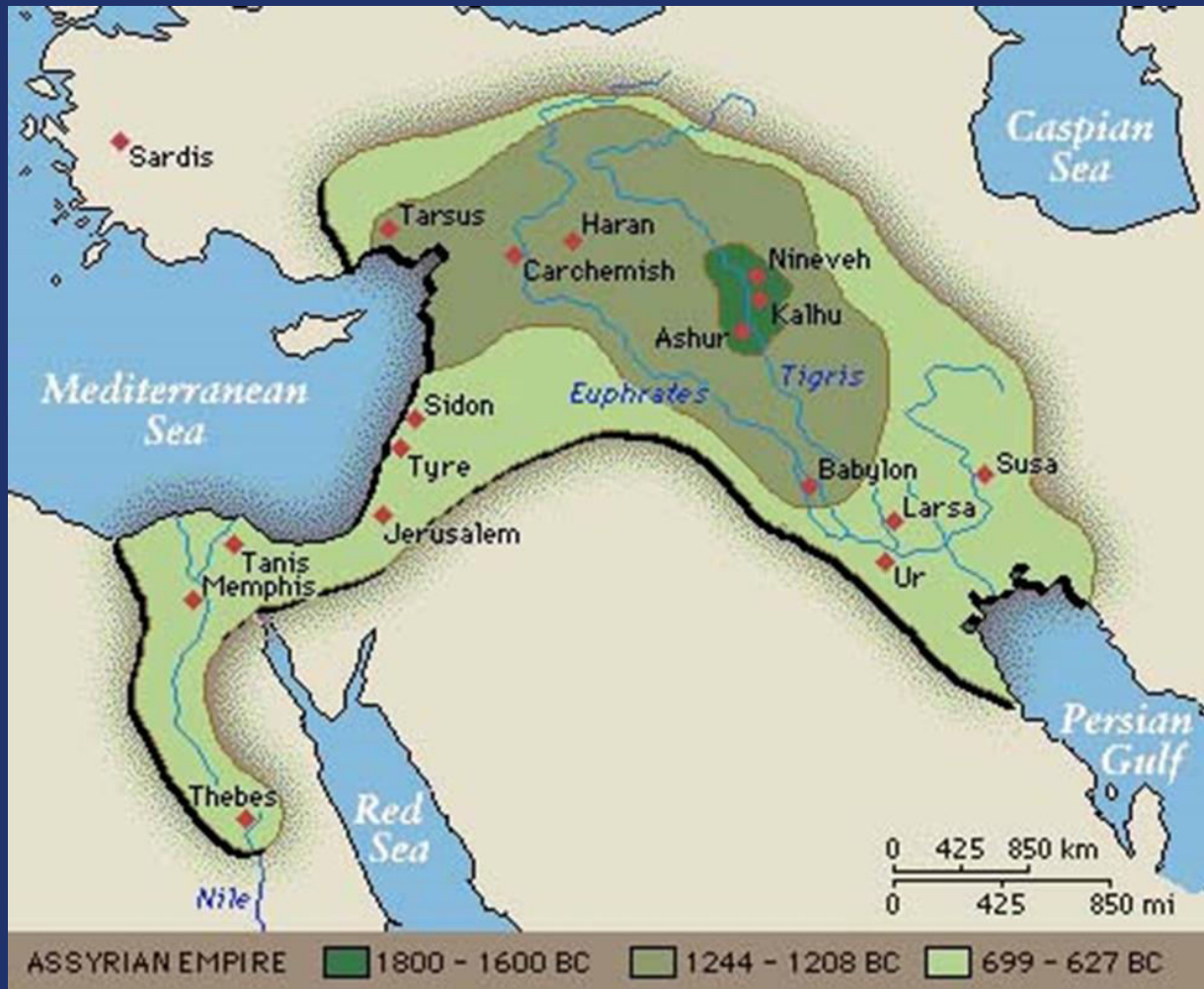
# Water in Today's World and in 2070

- ▶ *The last 75 years has seen exponential increasing pressure on water resources*
  - ▶ *The pressures are only likely to grow in the next 50 years*
  - ▶ *In addition to growing human demands on water resources, only climate disruption will degrade the available water*
- ▶ *Many disciplines must develop new knowledge and better apply existing knowledge to meet the challenges*
  - ▶ *Among those disciplines is law at all levels*
  - ▶ *Here I discuss the international legal dimension*





# An Early Hydraulic Empire



# The Emergence of International Water Law

- *Hydraulic empires*
- *The emergence of “sovereignty” in European thinking in the sixteenth century led to the Westphalian system of 1648*
  - *Propounded by Machiavelli, Luther, and Hobbes as the fundamental basis of legitimacy*
  - *Colonized societies lost their “sovereignty” to the colonizing powers, including authority over their water resources*
  - *Creating calls to reaffirm state’s “permanent sovereignty” over natural resources*
  - *Also fostering disputes over “absolute sovereignty” vs. “absolute integrity”*
- *The rise of treaties*
  - *Bilateral*
  - *Multilateral*



# The Codification of International Water Law

- ▶ *The Helsinki Rules on the Uses of Waters of International Rivers (International Law Association 1966)*
- ▶ *The Convention on the Protection and Use of Transboundary Waters (UN Economic Commission for Europe 1992)*
- ▶ *The Convention on the Non-Navigational Uses of Transboundary Watercourses (UN 1997)*
- ▶ *The Berlin Rules on Water Resources (International Law Association 2004)*
- ▶ *The Draft Articles on Transboundary Aquifers (International Law Commission 2008)*
- ▶ *The ECE Model Provisions on Transboundary Aquifers (UN Economic Commission for Europe 2014)*





# The Next 50 Years—The Issues to Be Confronted

- ▶ *Confronting the limits of our use and abuse of water resources*
- ▶ *Integrating the management of water more successfully with the management of other resources*
- ▶ *Attending to a greater extent to ecosystem services*
- ▶ *Updating traditional (or at least established) governance boundaries*
- ▶ *Accommodating a growing legal pluralism*
- ▶ *Developing more effective disaster policies*
- ▶ *Revisiting notions of ‘development’ in light of the foregoing issues.*



# Change Is Coming

- ▶ *Whether slowly or quickly, change will come to international water law and has already begun*
  - ▶ *Implementation and enforcement of international water law will have to become more effective*
  - ▶ *The limits of uses and abuses of water resources need greater attention*
  - ▶ *Integration of water resources management is long overdue*
  - ▶ *Ecosystem services can no longer be neglected*
  - ▶ *Transboundary institutions need to be perfected*
  - ▶ *More effective disaster policies must be developed and implemented*
  - ▶ *Individuals have to have a greater role in water decisions that affect their lives*
- ▶ *Does the international community have the means and the will to optimize the changes that must come? The International Water Resources Association is in a position to take the lead*

