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Review of *The Law of Adaptation to Climate Change: U.S. and International Aspects* edited by Michael B. Gerrard and Katrina Fischer Kuh

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THE LAW OF ADAPTATION TO CLIMATE CHANGE: U.S. AND INTERNATIONAL ASPECTS edited by Michael B. Gerrard and Katrina Fischer Kuh

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Reviewed by David Wirth, Boston College

The Law of Adaptation to Climate Change: U.S. and International Aspects, edited by Michael B. Gerrard and Katrina Fischer Kuh, American Bar Association Section of Environment, Energy, and Resources 2012, 928pp

This collection challenges traditional notions of the purpose of environmental law. From the early 1970s until recently, environmental law has been devoted to conservation, prevention, and restoration. Global warming changed all that, and policy responses now cleave into one of two conceptual categories: mitigation (shorthand for emissions reductions) and adaptation. The latter has received almost no attention from a legal perspective until now.

The first substantive chapter, by Robert L. Fischman and Jillian R. Rountree, very usefully sets out the architecture for policy responses as “adaptive management.” But despite the other authors’ valiant efforts, one is inevitably left with the impression that the law is poorly adapted to grappling with the need for adaptation described by Fischman and Rountree. In the U.S., addressed in the first half of the work, efforts worthy of a contortionist are required to press statutes containing regulatory tools designed to meet other policy goals into the service of adaptive management.

In the second half on international aspects, David Freestone sets out an international legal framework considerably more sophisticated than the overemphasized need for funding to developing countries. Kate Purcell addresses challenging questions related to the law of the sea under conditions of rising sea level without, unfortunately, speculating on the fate of a state whose territory is inundated altogether – does it continue even to exist?

Michelle Leighton accepts climate refugees as a practical reality, wisely avoiding the pitfall of attempting to craft a legal definition for those displaced by global warming. But as with domestic law, the overall impression is one of thin or non-existent remedies. Certainly this highly useful volume can serve as a template for the direction in which the law desperately needs to move.

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