

Water Justice

Water Justice refers simultaneously to the right to use water and to the right to "enjoy" (in a legal sense) healthy water ecosystems that carry cultural and spiritual meaning. The concept of water "rights" has been imposed on Indigenous Peoples by Western categories of ownership, and does not fit with the cultural realities of indigenous cultures and worldviews. The concept of water "justice" is much broader, and acknowledges the connection between indigenous people (and, indeed, all humanity) with the natural world around them. Controversies about sacred lands outside the legally acknowledged territories of indigenous peoples illustrate the distinction between "rights" and "justice". When the Isleta Pueblo Tribe in New Mexico sued the upstream city that was polluting their sacred river (the Rio Grande), they had to base their case on the legal framework about pollution and water quality standards. There is no legal protection for the sacredness of the river itself.

The concept of water justice is fully consistent with the Western concept of environmental ethics and the [rights of nature applied to water](#). Adding the rights of indigenous cultures to the rights of nature builds a formidable alliance of interests. Should the sacred lake be protected because of its religious meaning to the local indigenous communities, or because the lake has an inherent right to exist, or because the lake provides important wildlife habitat? This is the situation of the fight to save Fish Lake in Western Canada. The Tsilhqot'in peoples' are fighting plans to drain Teztan Biny (Fish Lake) for an open pit gold mine. They are basing their argument on their ancestral use of the lake both for subsistence and as an integral part of their sacred landscape. For details see the website of [Raven Trust](#) or watch the video, [Blue Gold: The Tsilhqot'in Fight for Teztan Biny \(Fish Lake\)](#).

Water justice for Indigenous Peoples requires communication across cultures and a willingness to unravel the underlying cultural assumptions

about water. Western legal systems normally include a provision recognizing the freedom to express any religious beliefs, but the notion of a lake or river possessing sacred qualities vital to religious expression clashes with the Western conviction that water is merely a material substance (unless it happens to be the water from a Christian holy place such as Lourdes in France). This double standard about whether sacred waters deserve protection stems from ignorance about the cultural underpinnings of water laws and policies, and how Western cultural values are projected onto the natural world. Exploring the dynamics of cultural values about water can lead to a more "water just" world. That is the premise of the Water and Culture Institute.

Resources

WALIR Project. The project on [Water Law and Indigenous Rights \(WALIR\)](#), managed by Wageningen University (Netherlands) in cooperation with the United Nations Economic Commission for Latin America (UN-ECLAC) is addressing water rights issues in the Andean region of South America. While the issues are regionally focuses, they have universal relevance to indigenous peoples everywhere. The very comprehensive website is a repository for the many scholarly as well as practical papers that have been produced by the project.

(Thanks to Tai Ahu for compiling the following references):

[Report on the Tu Cho International Indigenous Water Rights Conference](#), Yellowknife, NWT, Canada, June 21-23, 2006

[Chile's Supreme Court Upholds Indigenous Water Use Rights](#)
[Court's unanimous decision invokes ILO Convention 169](#)

(Newspaper article from Santiago Times, 30 November 2009

[Garma International Indigenous Water Declaration](#) (Australia, 2008) [from Website of United Nations University's Traditional Knowledge Initiative, www.unutki.org]

[Summary of the workshop](#) that led to the Garma International Indigenous Water Declaration.

[Indigenous Legal Rights to Freshwater: Australia in the International Context](#), Report by Melanie Durette, commissioned by the Indigenous Water Policy Group of the North Australia Indigenous Land and Sea Management Alliance (www.nailsma.org.au).

Two reports from the website of Land & Water Australia [<http://lwa.gov.au>] [Recognising Indigenous Water Rights and Values in NRM Structure, Process and Legislation](#).(2009)

[Report on "Provision for Cultural Values in Water Management: The Anmatyerr Story,"](#) Australia, 2008