

COMMUNAL WATER RIGHTS

Across the Andean region of South America and stretching up through central America into the American Southwest, the system of commons-based management of irrigation systems known as the “acequia” has been in place for hundreds of years. Acequias are rooted in centuries, if not millennia, of shared and preserved knowledge adapted to specific climatic conditions. Often, such systems reflect completely different notions of water than those reflected in Northern cultures with capitalist economies.

These systems originated in Spain, where they were in turn adapted from commons-based traditions in Africa and the Middle East, but also show the influence of indigenous traditions in the Americas. As a system of collective control and responsibility for irrigation systems in dryland and desert regions, the acequia has been adapted for use by indigenous communities, and offers an example of an existing form of community management of water resources for farming and sustenance.

Acequia systems involve carefully constructed networks of rights and responsibilities for those who are part of the common property management system in regard to water diversion, allocation, and use as well as re-use/recharging of water resources. Dutch irrigation expert Rutgerd Boelens notes that in the Andean region, the idea of water rights goes well beyond defined terms of access and use, to include the right to democratic control over the management of water resources. In the Andes, for instance, indigenous peoples use collectively controlled irrigation systems as a basic for their food security needs. Yet indigenous peoples' rights to control water for the public good are consistently under threat by other legal imperatives for water that do not respect its sustainable use or indigenous cultural autonomy and traditional systems.

In New Mexico, state law enshrines acequia systems and users' rights yet Spanish-language farmers have faced barriers to addressing grievances because of the dominance of an English language legal system through which they must press their cases, as well as their social marginalization and exclusion, a trend documented by legal services workers in the region.

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