Indigenous Water Governance

Presentation by Diane Yuan, Camille Bosc, Karin Gonchar, Nicholas Hare, Farron Rickerby, Dylan Weyell and Rini Rajput
“Water governance is the range of political, social, organizational, and administrative processes through which communities articulate their interests, their input is absorbed, decisions are made and implemented and decision makers are held accountable in the development and management of water resources and delivery of water services.” (Nowlan & Bakker 2010)

- Implications
- Limitations

**Indigenous View on Water**
- Strongly connected to spiritual world
- Sentient being
- Sacred
- Interconnected with all beings and things

**Western View on Water**
- Anthropocentric
- Utilitarian
- Resource
Environmental Racism

Racialized discrimination from the placement of environmentally hazardous structures or degraded environments in certain places that is inhabited by marginalized groups and/or people of low socioeconomic status.

- Colonial government’s land use decisions highly impact the ecosystems Indigenous communities rely on
- Common for Indigenous territories and ‘reserves’ to be the target location for waste disposal
- Where do we see this in the context of water management?

Source: CBC News
Source: The Indigenous Environmental Justice Project
Examples in Water Governance

**Great Lakes**
- Industrial and domestic contaminants in Indigenous water basins
- Increased incidence of cancers, birth defects, diabetes, chemical sensitivities in Indigenous communities around the Great Lakes

**James Bay**
- Development of hydroelectric energy in Quebec
- Flooding of Indigenous territories
- Toxic levels of mercury in watercourses
- Cause of the death of 10000 caribou

**British Columbia**
- Farmed fish release contaminants into water
- Sea lice in fish farms transferred and decimated entire wild salmon runs

**Ottawa**
- Chalk River to be the site for nuclear waste disposal
- Canadian government ‘gave’ control to private company Canadian Nuclear Laboratories
- Indigenous groups in the area were NOT consulted
Indigenous philosophies and water governance

Why is it important to identify ontological differences between indigenous and settler-colonial framework?

- Human groups and societies have evolved differently and organized via distinct methods depending on sociocultural and temporal circumstances
- Creating a counter-narrative and reclaiming space from the settler-colonial framework is essential for decolonizing methodology

Water is Life

Art by Chriti Bellcourt

Great Chain of Being
Cree

Connections that we share with the natural world: water is the connection

- Water gives and takes all forms of life
- It is life and is alive
- *Nipy* (water) has etymological connections to life, death and sleeping
- *Yá at wooné* (respect) central tenet of governance, enacted through ceremonial and traditional practices

Art by Lloyd Dubois
Indigenous philosophies and water governance

**Anishinaabe**

Interactions between beings is governed by the following laws

- **Sacred** law handed down by the spirit
- **Natural** law determined by observed occurrences in nature
- **Customary** law enacted through protocols and agreements
- Obligations and responsibilities (rather than rights), determined *through* human and non-human relationships

Art by Clayton Samuel King
WOMEN’S ROLE IN WATER GOVERNANCE: AN INTRODUCTION

● Women’s relationship to water according to Anishinabe law  
  ○ Bonded by life-giving ability  
  ○ Responsible for speaking for water during ceremony  

● Lack of recognition of women’s role within water conservation policy  
  ○ Voice of indigenous women absent in the discourse around water protection in Canada  

● Initiatives taken by indigenous women to raise awareness surrounding women’s roles in water governance  
  ○ Akii Kwe  
  ○ MEWW
WOMEN’S RELATIONSHIP TO WATER

- **TEK (Traditional Ecological Knowledge)**
  - Controversial - term translates poorly into western ideology
- **Anishinabe tradition - women have a special relationship with water**
  - Both have life-giving powers - women provide us with our very first environment – water (amniotic fluid)
- **Indigenous women called the “Keepers of the Water” or “Carriers of the Water”**
  - Special responsibility - women speak for the water during ceremony
  - Acknowledge its life-giving forces and pay respect
- **Women are especially strong in spirit during their “moon time”**

https://www.thesolutionsjournal.com/article/water-song-indigenous-women-water/
INITIATIVES

● Akii Kwe
  ○ informal grassroots group of women speaking on water protection
  ○ Protesting Chemical Industries
  ○ 1998 submission on water quality issues

● MEWWs (mother earth water walkers)
  ○ Josephine Mandamin and Irene Peters leading awareness-raising walks around the Great Lakes
  ○ begins annually in the spring with a water ceremony, feast, and celebration

Drinking Water Advisories

1) Boil Water Advisories
   - Faecal pollution (i.e. e. coli) or to operational deficiencies in treatment.

2) Do Not Consume Advisories
   - Issued if a chemical that can’t be removed by boiling is present.

3) Do Not Consume Advisories
   - Issued if the water can cause skin, eye or nose irritations.
Impacts on Indigenous Communities

Physical Health
● Elevated rates of infectious disease such as whooping cough, pertussis, MRSA, methicillin-resistant Staphylococcus Aureus, shigellosis, diarrhea, impetigo
  ○ Access to handwashing limited.
● Skin conditions
● Conditions associated with consuming dangerous chemicals (i.e. mercury poisoning, cancer).

Mental Health
● Loss of basic need can lead to high levels of stress.
● Ecological Grief
● Loss of water can results in severe cultural, social economic harm.
  ○ Contributes to higher rates of suicide, alcoholism, and unemployment
Grassy Narrows and White Dog First Nations

Grassy Narrows and White Dog First Nations
Why does this disparity exist?

- Not enough funding.
- Jurisdictional fragmentation.
- Lack of protection for source waters.
- Lack of consultation.
- Indigenous knowledge not incorporated.
- Historical and ongoing colonialism
Water Governance as a Political Process

International “Soft Law”

→ Human rights to water and sanitation (Ex. UN Human Right to Water, ICESC)

→ UN Declaration on the Rights of Indigenous Peoples - Canada was announced as a full supporter in 2016 (Indigenous and Northern Affairs Canada, 2017)

→ Normative and legal leverage points in the protection of Indigenous ownership and control over water (WCEL, 2017 and Askew et al., 2017)

→ Key articles relating to water governance (UN General Assembly, 2007 and Askew et al., 2017):
   1. Protection of Indigenous relationships to their land and territories
   2. Rights to use, own, develop and control lands and resources, including the right to determine development and the right to redress if development hinders these rights
   3. Establishing free, prior and informed consent before resource development projects
Legal Rights to Water in Canada

How can Indigenous rights to water be implemented through current legislation?

- **Canadian Federal Law** (As outlined by Boyd, 2011)
  - Section 7 of the Charter of Rights and Freedoms: ”Right to life, liberty, and security of the person”
  - Section 15 of the Charter: ”Right to equality”
  - Section 36 of the Constitution: Government’s obligation to provide "essential public services of reasonable quality to all Canadians".
  - Section 35 of the Constitution: Reaffirmed “Aboriginal rights”

- **Provincial law - Example: BC**
  - “The federal government holds jurisdiction over federal land and First Nations’ lands with respect to drinking water” (British Columbia Ministry of Environment, 2017)
  - Implementation of UNDRIP in provincial legislature (Bellrichard, 2019)

Image Sources:
Indigenous Water Governance in Practice

Analysis: Is Indigenous water governance working in practice? Why or why not? (Particularly within the context of post-colonial governance structures)

- Non-binding frameworks are limited in what they can accomplish
- Fragmentation leads to gaps in governance - Lack of clarity surrounding the responsibilities and authority of various jurisdictions, governance models, and mandates (Nowlan & Bakker, 2007)
- Legal discrimination and environmental justice issues - Ongoing impacts of settler-colonialism (Moore et al., 2017 and White et al., 2012)
- Lack of regulatory framework (Boyd, 2011)
- Lack of alignment and consideration with Indigenous law, governance systems, and worldviews (UBC First Nations Studies Program, 2009)

- On the other hand...Truth and Reconciliation Commission, court processes

Image Sources:
Outstanding Issues

1. No Regulatory Framework
2. Lack of Funding
3. Lack of Trust

Case Study: Serpent River.
Outstanding Issues

1. **No Regulatory Framework:**
   - In June 2013, The Safe Drinking Water for First Nation’s Act was passed under the past Conservative Government in Canada. However, it bore no regulations which is the backbone of any legislation. Therefore, there is no current enforceable rules around ensuring that First Nations on reserve have access to clean water.
   - This means that no level of government is currently held accountable to ensure that First Nations drinking water is clean and safe.

2. **Lack of Funding:**
   - Lack of funding mechanisms made available to Indigenous and Northern Affairs Canada (INAC).
   - Over the past two decades, the federal government has capped funding to INAC at 2%.
   - INAC has never had enough funding to meet capital requirement of Canadian reserves.

3. **Lack of Trust:**
   - Long standing history of a lack of trust or mistrust pertaining to the First Nations and Crown’s relationship.
   - Goetze (2005) discusses how this mistrust will affect the outcome of water ongoing and future governance changes and negotiations between First Nations and the Crown.
Case Study: Serpent River, Ontario

Serpent River, Ontario, Canada.

Serpent River is a First Nations reserve located in Ontario, Canada. It is home to ~370 First Nations who are associated with the Anishinaabe band.

-Dangerously high levels of Trihalomethane (THM) were found in the drinking water. This can be attributed to a lack of regulatory framework pertaining to First Nations on reserve.

- ‘Do Not Drink’ advisory in place for two years. Serpent River First Nations were forced to drink bottled water.

-The connection between INAC cutting infrastructure funding and the water treatment plant failure was made.

-Presently, the ‘Do Not Drink’ advisory has been lifted. However, Serpent Lake residents still do not trust the water.
Assessing Canada’s Progress

Federal Progress
❖ Bill S-8 “Safe Drinking Water for First Nations Act”
➢ Evaluation
■ Ineffective
■ Non-conclusive
■ Weak framework

Provincial Progress
❖ BC’s “Water Sustainability Act” (WSA)
➢ Evaluation
■ Step forward in right direction
■ Lacks strong vision

By the numbers: Drinking water advisories in First Nations communities

1995
The year the longest standing drinking water advisory was put in place, on Neskantaga First Nation in Ontario

2021
The year the Liberals promise to eradicate all drinking water advisories by

67 long-term drinking water advisories remain for the federal government to fix

59.7% of those drinking water advisories are over a decade old

32 long-term drinking water advisories have been lifted under this government
22 have been added

Sources: Indigenous Affairs Canada and Health Canada as of Dec. 21
Co-Governance Water Management Model
- Collaborative approach
- Fosters social trust and cohesion
- Decentralized decision-making
- Costly

Indigenous Governance Water Management Model
- Self-determination
- Sovereign
- Ecologically sustainable
- Capital investment required

Source: Oliver M Brandesa and Deborah Curran

Figure 1: Water Governance Models: Conceptual Framework

Source: Oliver M Brandesa and Deborah Curran


Thank you!

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