



FRESHWATER IN NEW ZEALAND

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The question “Ko wai au?” in Māori is asking about identity but directly translates into “Who are my waters?” (Ruru, 2018). This question highlights the importance of water to the Māori people of New Zealand. Water is sacred and a key part of their identity, helping to define their tribe’s origins. In my paper I will look at the cultural importance of water to the Māori, their struggle to protect their water sources and their water rights, the Whanganui River settlement, and the importance of the Māori’s water struggles globally.

The Māori are the Indigenous Peoples of New Zealand who are made up of many different groups. There are about forty different tribes and hundreds of subtribes throughout the country (Ruru, 2018). Although the groups differ from one another, they do share some similarities, such as the significant role that water plays in their culture. All of the tribes have geographical identity markers connected to water and “many rivers and lakes throughout the country are culturally important for tribal identity” (Ruru, 2018). The Māori view water as a “means of transport, livelihood, tradition, and identity” (Martin, 2019, p57) and as a living being with mauri or life force (Ruru, 2018). Water is part of the Māori’s cosmovision, which influences their conceptions of water. To the Māori, water is sacred and is something that they are related to, and that sustains their people. Part of their identity is derived from bodies of water, such as rivers and lakes, that are important to their tribes. To these people water is much more than a resource for survival or profit. New Zealand was colonized by the British in the mid-1800s, which had major impacts on the Māori, particularly on their culture and natural resources (Harmsworth et al., 2016, p2). Many of New Zealand’s natural resources, including water, were exploited by the colonizers. Since then, the New Zealand legal system has treated water as being unownable (Johnston, 2018, p41) and regularly does not recognize Indigenous ownership. The

Māori have been forced to fight against the privatization of water, to protect their water from pollution and large corporations, and to have their water rights recognized.

The way that the Māori and non-Māori people view water differs substantially, resulting in very different relationships with, uses, and treatment of water. “The common law views freshwater as a fugitive resource: incapable of ownership until it is captured. It compartmentalises bodies of water, such as rivers and lakes, into components” (Johnston, 2018, p40). An example of a component is the banks which are considered ownable while the actual flowing water is not. So, if you have the land the river is on, or beside you, have access to that water. This compartmentalization allows for bodies of waters to be broken down into separate pieces to be sold and profited from. But to the Māori, water’s value is much more than economic. Culturally water is sacred and even to this day the basic tenets of traditional society are still strong and influence how the Māori live (Harmsworth et al., 2016, p2). In New Zealand the Resource Management Act, or RMA, manages the use of all New Zealand air, water, and land, putting day to day decision making under local governments’ control (Ruru, 2018). The RMA and associated policy provides Māori interests with a legal base to be considered in decision making about water use, but it has not done much to significantly protect Māori interests (Ruru, 2018). New Zealand’s settler state does not recognize Māori ownership over freshwater, claiming that no one owns water or that we all own water (Ruru, 2018). The Māori have been on the land far longer than the settlers but are denied control over their water, only getting some power in decision making over what the Māori consider as rightfully theirs. The RMA has failed to protect water ecosystems that are currently declining (Martin, 2019, p55) and “the Crown’s position that ‘no one owns water,’ the assumption of water as a commons, is based on a weakly

founded precedent in English common law” (Martin, 2019, p56) and completely ignores Māori law. Legislation has been developed to weigh the economic advantage against environmental values and in a capitalist system economics trump the environment.

On August 5, 2014, the Whanganui Māori and the New Zealand government signed a deed of settlement to legally recognize the Whanganui River as a living being with its own rights, placing the river in a new relation with human beings (Salmon, 2014). This river has incredible importance to its people. This importance is highlighted by the Whanganui people’s saying, “Ko au te Awa, Ko te Awa ko au” or “I am the River, the River is me” (Salmon, 2014). This settlement does not mean the end of the Māori’s water struggles but it is undoubtably a victory and a step in the right direction. The Crown and Whanganui tribes mutually picked two people to be the human face of the river and to act in its name and interests and to administer the Te Korotete, a \$30 million fund to support the river’s health and well-being (Salmon, 2014). As well, an \$80 million payment was made to the Whanganui tribes for “breaches of their rights in relation to the river under the Treaty of Waitangi” (Salmon, 2014). This deed of settlement reflects Māori beliefs and their relationship with the river and recognizes the Whanganui as a people.

The Whanganui River settlement was the result of years of struggle by the Māori against colonial views and legislation. This victory is a reward for their hard work as this settlement is in line with Māori culture and beliefs as well as recognizing them and their relationship with the Whanganui River. What has been granted to the river is called fluvial personhood, which is the inherent rights of certain elements such as rivers. This personhood has not only been granted in

New Zealand but also in Canada with the Magpie River in Quebec. This river is in the territory of the Innu First Nation, whose members also have a spiritual connection with water. Fluvial personhood is very important because it provides these bodies of water with a new kind of protection and recognizes them in a new way. Instead of just being a resource, they are persons with rights which garners them more respect. Fluvial personhood in general, and the Whanganui River settlement in particular, are consistent with the United Nations Declaration on the Rights of Indigenous Peoples, or UNDRIP, article 26 point 2, “Indigenous peoples have the right to own, use, develop, and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired,” and article 29 point 1, “Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for Indigenous Peoples for such conservation and protection, without discrimination” (Manuel and Derrickson, 2015). Both UNDRIP articles outline Indigenous rights to their traditional natural resources and protections for those resources.

Like the Indigenous Peoples of New Zealand, other Indigenous groups worldwide also have a spiritual and cultural connection with water, have spent years fighting to protect their water, and to have their water rights respected. There are many different Indigenous groups of water defenders. One example is the Lenca people in Honduras. Water is also sacred to them, and they have been fighting for their “mandatory rights as Indigenous peoples to their cultural and spiritual identity, habitat, food, water, self-government, control over territories and natural assets, respect and inclusion” (Lakhani, 2020). The Lenca and the Māori are only two examples

of Indigenous groups who are water defenders with cultural and spiritual ties to water. There are many more around the world who face similar struggles. This is why the Māori's fight and victories are important and go beyond New Zealand. The Māori's wins are significant for all Indigenous Peoples as they set a precedence, showing what is possible. Debates around resource management in New Zealand had led to exploring new styles of governance and collaboration such as asserting Indigenous rights which have led to positive legislative change (Harmsworth et al., 2016, p3). Internationally New Zealand stands out for having signed an overarching treaty between the government and Indigenous Maori groups that crosses agencies, communities, and jurisdictions to acknowledge and recognize Indigenous rights (Harmsworth et al., 2016, p5) proving that this can be done. The Māori's water fight has global relevance, and their successes bring hope to others fighting the same fight abroad.

Water is important to every culture and human being but the reason for that value differs greatly. For the Māori, water is considered to be sacred and a part of their identity as a people that believes water is a living being they must respect and care for. Many other Indigenous groups around the world have similar connections to and views about water, which is why they are fighting similar battles to the Māori. But no matter what your relationship with water is or what your beliefs are, water is crucial to your survival. There is only a finite amount of freshwater in the world, and it must be respected and protected.

Bibliography

- Harmsworth, G., Awatere, S., & Robb, M. (2016). Indigenous Māori values and perspectives to inform freshwater management in Aotearoa-New Zealand. *Ecology and Society*, 21(4).
<http://www.jstor.org/stable/26269997>
- Johnston, A. (2018). Murky Waters: The Recognition of Māori Rights and Interests in Freshwater. *Te Mata Koi: Auckland University Law Review*, 24, 39–65
<https://edspebscohostcom.ezproxy.langara.ca/eds/pdfviewer/pdfviewer?vid=5&sid=40a8c892-f6eb-4f1e-88c5-768f585404bb%40redis>
- Lakhani, N. (2020). “Chapter 2 The Indigenous Awakening.” Who Killed Berta Caceres. *Verso Books*. 39-50
- Martin, B. (2019). Water Law: A New Statute for a new Standard of Mauri for Fresh Water. *Policy Quarterly*. 15 (3): 55-61
<https://ojs.victoria.ac.nz/pq/article/view/5688/4997>
- Ruru, J. (2018). Listening to Papatūāuku: A Call to Reform Water Law. *Journal of the Royal Society of New Zealand*. 48 (2-3): 215-224
<https://www.tandfonline.com/doi/full/10.1080/03036758.2018.1442358>
- Salmond, A. (2014). Tears of Rangi. *Hau: Journal of Ethnographic Theory*, 4(3), 285–309
<https://www.journals.uchicago.edu/doi/full/10.14318/hau4.3.017>