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# Water as a Collective Responsibility: The Tribunal de las Aguas and the Valencian Community

## **Cover Page Footnote**

We would like to thank the International Institute of Education and the Fulbright for support that has led to the completion of this article, the Program for Cultural Cooperation Between Spain's Ministry of Culture and United States Universities, and the Office of Research and Sponsored Programs for additional research support.

## Water As A Collective Responsibility: The *Tribunal de las Aguas* and the Valencian Community<sup>1</sup>

JULIA A. HUDSON RICHARDS and CYNTHIA A. GONZALES

Every Thursday at eleven o'clock in the morning, residents and visitors in the Spanish Mediterranean city of Valencia can meander to the center of the old town and stop at the Door of the Apostles outside the main Cathedral to witness Europe's oldest continuing legal court, the *Tribunal de las Aguas de la Vega de Valencia*, or Water Tribunal of the Valencian Plain.<sup>2</sup> Here, members of the irrigation community of the River Túria can defend themselves against accusations that they have transgressed the customary norms of water usage for the community. The institution has made its way to the internet, to tour guides, and despite its murky origins, provides an intriguing example of local, community-based control of a natural resource—what economist Elinor Ostrom referred to as property regimes.<sup>3</sup> Though the decisions of the Tribunal bind the members of the community, this is no ordinary legal institution. In the event of an accusation in the Tribunal's jurisdiction, a locally elected panel of syndics issues swift judgment on-site at the weekly hearing. No one takes any records, and there are no appeals.<sup>4</sup> The syndics are not legal scholars, lawyers, or judges, but rather “water-users themselves, [and] are liable to be accused, judged, and condemned, just as any other user.”<sup>5</sup> The court has become part of the Valencian landscape, has been featured in artwork, and even literature by local authors, most particularly the 19<sup>th</sup> Valencian master Blasco Ibáñez.

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<sup>1</sup> We would like to thank the International Institute of Education and the Fulbright for support that has led to the completion of this article, the Program for Cultural Cooperation Between Spain's Ministry of Culture and United States Universities, and the Office of Research and Sponsored Programs for additional research support.

<sup>2</sup> In 2009, The Tribunal de las Aguas, and its Murcian counterpart, the Council of the Wise Men of the Plain of Murcia, was placed on the UNESCO Intangible Heritage Lists as a “unique testimony of a living cultural tradition: that of justice and democratic government ... of waters by the peasants,” “El Tribunal de las Aguas de Valencia es designado Patrimonio Cultural Inmaterial de la Humanidad,” *Las Provincias* September 30, 2009, <http://www.lasprovincias.es/valencia/20090930/local/valenciana/tribunal-aguas-valencia-designado-200909301522.html> (accessed January 12, 2012).

<sup>3</sup> Elinor Ostrom, *Governing the Commons: The Evolution of Institutions for Collective Action* (Cambridge: Cambridge University Press, 1990); see also William H. TeBrake, “Hydraulic Engineering in the Netherlands During the Middle Ages,” in *Working with Water in Medieval Europe: Technology and Resource Use*, ed. Paolo Squatriti (Leiden: Brill, 2000), 126-27.

<sup>4</sup> Christine L. Green, “The *Tribunal de las Aguas*: A Minor Jurisprudence, Not Jurisprudentially Minor,” *Law & Literature* 20, no. 1 (2008), 92.

<sup>5</sup> *ibid.*

In this article, we argue that as a community-based organization, the Tribunal has survived as a method of water control precisely because it continued to answer the needs of local community members, and because community members – both men and women – have historically been involved in its management; as such, it provides an alternate model for water and resource management. Its survival has also been bolstered by its socio-cultural significance in the region of Valencia as an expression of regional economic and cultural identity. The Tribunal de las Aguas, as well as the larger complex of irrigation systems within the three provinces of the Comunidad de Valencia on Spain's eastern coast, is a successful example of what have become known as common property regimes. In his examination of flood control systems in the Netherlands, for example, William H. TeBrake notes that both the Netherlands and Valencia constituted "early and successful examples of common property regimes," which, along with "numerous examples...call into question ....that the collective management of any resource or benefit is doomed by an inner logic to fail, and only private or state control will succeed in the long term."<sup>6</sup> For years, scholars based their examinations of how people used natural resources on the work of Garrett Hardin. Hardin argued that when large groups of people use resources in common, it will inevitably result in "environmental degradation," or what he called the "tragedy of the commons."<sup>7</sup> Critics of Hardin's work, however, note that he discusses primarily what we may call open-access systems rather than systems that are under community control, which have means by which users can regulate access and maintenance, and mete out sanctions against users who violate community norms.<sup>8</sup> Further, Elinor Ostrom's groundbreaking 1990 work *Governing the Commons* offered a variety of empirical data to support the idea that common resource management can be an effective "third way" between privatization and top-down state control.

But scholars have focused primarily on the economic impacts and implications of common property resources and their allocations; in the case of the Tribunal, research has also leaned heavily toward the legal ramifications of

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<sup>6</sup> William H. TeBrake, "Hydraulic Engineering in the Netherlands During the Middle Ages," in *Working With Water in Medieval Europe: Technology and Resource Use*, ed. Paolo Squatriti (Leiden: Brill, 2000), 126-27.

<sup>7</sup> Garrett Hardin, "The Tragedy of the Commons," *Science* New Series, 162, no. 2859 (1968), 1243-1248; also discussed in Elinor Ostrom, *Governing the Commons: The Evolution of Institutions for Collective Action* (Cambridge: Cambridge University Press, 1990), Kindle Edition, chap. 1, location 147.

<sup>8</sup> Partha Dasgupta, "Common Property Resources: Economic Analytics," *Economic and Political Weekly* 40, no. 15 (2005), 1610-11.

the institution.<sup>9</sup> Few scholars, however, have examined how these regimes have become important to the people who use them, or what their continuation tells us about their societies. Though the Tribunal de las Aguas had been around for centuries, by the nineteenth century, it had become an important cultural marker for Valencians, particularly through the work of artists and authors involved in the post-Romantic *costumbrismo* movement that emphasized regional cultures, like Bernardo Ferrándiz, who painted numerous sconces of the Tribunal in the middle of the 1800s, including, as we will see in this article, Valencian women as “litigants” in front of the Tribunal.<sup>10</sup>

The inclusion of women in irrigation administration, and their cultural representation, are both significant. In addition to being overwhelmingly economic, much of the literature on common property resources also focuses on non-western areas—in part because many western areas have chosen to manage their resources through state control or privatization.<sup>11</sup> In addition, regardless of the area of focus, scholars tend to approach issues of common resource allocation from a gender-neutral stance, despite the fact that, as Tony Beck and Madan Ghosh have discussed in the case of West Bengal, the division of labor surrounding the collection of common property resources like fallen fruit is

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<sup>9</sup> The legal implications of the Tribunal, as well as other forms of agricultural cooperation, have been the focus of much Spanish language literature, as well as the few studies in English. See in particular Francisco Xavier Burrell, *Discurso sobre la distribución de las aguas del Turia y deber conservarse el Tribunal de los Acequeros de Valencia* (Valencia: Imprenta de D. Benito Montfort, 1828); Francisco Xavier Burrull y Vilanova, *Tratado de la distribución de las aguas del Rio Turia y el Tribunal de los Acequeros de la Huerta de Valencia* (Valencia: Imprenta de D. Benito Montfort, 1831), Antonio Agundez Fernandez, “Tribunales agrarios,” *Revista de Estudios Agrosociales* no. 11 (1955), 39-66; José Antonio Martínez Bara, “El Tribunal de las Aguas de Valencia de 1775-1780: una pretensión jurisdiccional fallida,” in *Martínez Ferrando, Archivero: miscelánea de estudios dedicados a su memoria*, ed. Jesús Ernesto Martínez Ferrando (Madrid: Asociación Nacional de bibliotecarios, Archiveros, y Arqueólogos, 1968), 515-533; Victor Fairén Guillén, “Dos llamadas de actualidad sobre el Tribunal de las Aguas de Valencia (El Tribunal y los recursos; la adhesión de la Acequia del Oro) in *La protección jurídica del ciudadano (Procedimiento administrativo y garantía jurisdiccional). Estudios en homenaje al Profesor Jesús González Pérez*, Tomo I, ed. Lorenzo Martín Retortillo Baquer (Madrid: Editorial Civitas, S.A, 1993), 201-216; Sebastián Martín-Retortillo Baquer, “Reflexiones sobre los jurados de aguas,” in *La protección jurídica del ciudadano*, 217-302, Christine Green, “The Tribunal de las Aguas: A Minor Jurisprudence, Not Jurisprudentially Minor,” *Law and Literature* 20, no. 1 (2008), 89-113

<sup>10</sup> Carmen Gracia, *El Tribunal de las Aguas. Ferrándiz ante la Modernidad* (Valencia: Institució Alfons el Magnànim, 1986), 53-122.

<sup>11</sup> This excludes, of course, the literature on fisheries, which has become global. For examples of excellent work discussing non-western resource allocation, see *list the sources here, pick the best stuff*.

inherently gendered, and that cutting off access to these resources has a particularly negative effect on women—especially poor women.<sup>12</sup>

### **The Tribunal de las Aguas and Its Irrigators**

So what does an obscure judicial institution from eastern Spain have to tell us about the culture of resource management? It is certainly an ancient institution—though its origins are obscured, most historians agree that it was established under Muslim rule after the conquest of the 8<sup>th</sup> century—evidently not by authorities, but by users themselves.<sup>13</sup> When the new settlers arrived in Valencia, by all accounts they came to an area that under the Romans had been an important agricultural zone, but had faltered somewhat after the collapse of Roman rule—archaeological evidence suggests that Visigoths were beginning a cultural renaissance that would have potentially led to improvements in the aqueduct system most recently expanded under Roman control. After the Muslim conquest of Spain in 711, settlers introduced a host of new products to the region, known to historians as the “Arab Agricultural Package,” which included nuts, oranges (which became Valencia’s primary export), artichokes, and eggplant—though the area they stumbled into was water-scarce, the extant irrigation system gave them a foundation upon which to improve, and as such expand Valencia’s agricultural output.<sup>14</sup>

The region of Valencia is one of Spain’s contemporary Autonomous Communities, officially known as the *Comunidad Valenciana*, and comprises three provinces—Castellón in the north, Valencia in the center, and Alicante in the south.<sup>15</sup> The irrigation systems put in place over a roughly 3,000-year- period by Iberians, Romans, Arabs, and Spanish have created a somewhat bifurcated landscape. Immediately in from the Mediterranean coast lies the *huerta*, or “orchard,” of irrigated land, and to the west of that the *secano*, or unirrigated land.

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<sup>12</sup> Tony Beck and Madan G. Ghosh, “Common Property Resources and the Poor: Findings from West Bengal,” *Economic and Political Weekly* 35, no. 3 (2000), 147-153.

<sup>13</sup> Thomas Glick, *Irrigation and Society in Medieval Valencia* (Cambridge: The Belknap Press at Harvard University Press, 1970), 65.

<sup>14</sup> Andrew M. Watson, “The Arab Agricultural Revolution and Its Diffusion: 700-1100,” *Journal of Economic History* 34, no. 1 (1974), 9; Karl Butzer, Juan F. Mateu, Elisabeth K. Butzer, and Pavel Kraus, “Irrigation Agrosystems in Eastern Spain: Roman or Islamic Origins?” *Annals of the Association of American Geographers* 75, no. 4 (1985), 479-509.

<sup>15</sup> Thomas Glick notes that south of the Río Xúquer in Valencia, the topography changes, and that irrigation management is very different. Though the three provinces share culture, language, and political history, environmentally Castellón and Valencia are distinct from Alicante. The biggest difference is that water rights in Alicante were separate from the land, and could be sold by the landowner. Glick, *Irrigation and Society in Medieval Valencia*, 12.

The expanse of the huerta traditionally depended upon the funding and technology available for irrigation, so historically it has been a very fluid boundary. In the modern period, the huerta was the space for growing Valencia's most lucrative agricultural market products, particularly oranges, but also rice, tomatoes, almonds, and carob, among others. The secano is home to its own profitable crops, like wine and olives, but these products have to compete with wines from Rioja and olives from the south. Valencia is also one of Spain's most dynamic agricultural regions. Historians of Spanish agriculture have tended to focus on the south, primarily because the presence of a vast landless peasant class has led to tremendous social revolution and upheaval. Traditionally, southern peasants have been characterized as backward, and certainly not invested in land they did not own and upon which they could not really improve. Southern landowners, on the other hand, tended toward absenteeism, and had little motivation to improve their techniques or resources. Historians have often extrapolated this pattern of rebellious peasant/disinterested landowner to the rest of Spanish agriculture, but Valencia belies that characterization. With a variety of small- and large-landholders and a rural bourgeoisie that emerged in the nineteenth century, farmers invested in newer technologies like chemical fertilizers and guano, formed societies and cooperatives dedicated to agriculture, and began agronomical institutes.<sup>16</sup> From Castellón to Alicante, landowners and communities initiated new projects that also expanded the irrigation infrastructure into the nineteenth and twentieth century, in full realization that the region's economic identity was inextricably tied to agricultural production.<sup>17</sup> This is the context for the formation and continuation of the Tribunal and the rest of the

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<sup>16</sup> Edward Malefakis, *Agrarian Reform and Peasant Revolution in Spain: Origins of the Civil War* (New Haven, CT: Yale University Press, 1970); James Simpson, *Spanish Agriculture: The Long Siesta* (Cambridge: Cambridge University Press, 1995), see in particular pages 13-32. Simpson's argument is a compelling examination of "Spanish" agriculture, but in this instance, a national view of any industry is somewhat misleading. Valencian agriculture, as Simpson also notes, is a much more dynamic sector than much of the rest of Spanish agriculture, though he seems to discount the significance of this in terms of national production, despite that during the first half of the twentieth century, Valencian citrus products were Spain's dominant; see Carlos Barciela and Albert Carreras, *Estadísticas históricas de España, siglos XIX-XX* (Madrid: Fundación Banco Exterior, 1989), 113-14.

<sup>17</sup> This is part of a longer history of community-based organizations within the region of Valencia that yes, include the irrigation communities, but also a large complex of farmers' communities (*Comunidades de Labradores*) that formed at the end of the 19<sup>th</sup> century—in Villarreal, in the province of Castellón de la Plana, once bragged that it had facilitated the conversion of 844 hectares of secano to *regadío* between 1899 and 1912, as well as building new wells to help small farmers. Comunidad de Labradores de Villarreal, *Memoria demostrativa de sus servicios de su labor Agro-Social. Años 1899-1913* (Villarreal: Imprenta de F. Chabrera Canos, 1914. Edición facsímil, Vila-real: Publicaciones d'Il.lustríssim Ajuntament de Vila-real, 1994), 17.

irrigation communities that formed the bedrock of water management on the Eastern coast. We see a long tradition of agricultural growth, an extended history of market-oriented agriculture, and, perhaps most importantly, a history of people concerned about and involved with the success of these systems.<sup>18</sup>

Currently, the Tribunal jurisdiction covers an area of about 17,000 hectares, including urban areas, eight “*acequias madre*” (main or “mother” canals) and in 2011 received a budget from the Valencian community of 41,000 Euros.<sup>19</sup> According to the so-called Wittfogel thesis, this area is large enough to demand centralized [usually understood to mean “state”] organization, though according to Robert C. Hunt, “very large canal irrigation systems can be effectively operated by the farmers” that directly use the systems—very large for Hunt consists of an area of more than 100 hectares, and involved complex and wide-ranging irrigation structures to be built.<sup>20</sup> This is a case, therefore, where empirical economic data has suggested that the state would have to step in so as to prevent a sort of “Hobbesian state of nature” in which users “cannot themselves create rules to counteract the perverse incentives they face,” but it would appear, to the contrary, that users in Valencia, as well as in other locations like Nepal, have been able to establish a rational system of use.<sup>21</sup> Organization of water in Valencia and Castellón depended on the classification of the land itself. By the medieval period, the legal custom had already emerged that stated that if land was already irrigated, then it held water rights by virtue of that irrigation, and was, as such, inseparable from the land itself. The amount of water an irrigated plot

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<sup>18</sup> The history of Spain (or Hispania) as a granary for Rome is relatively well-known, but the eastern coast of Spain has a much more colorful history.

<sup>19</sup> “El Tribunal de las Aguas de la Vega de Valencia,” homepage of El Tribunal de las Aguas, <http://www.tribunaldelasaguas.com/el%20tribunal.html> (accessed January 13, 2012); “La Generalitat destina 41.000 euros a financiar las actividades del Tribunal de las Aguas,” *Las Provincias*, September 30, 2011, <http://www.lasprovincias.es/20110930/comunitatvalenciana/valencia/convenio-tribunal-aguas-valencia-201109301536.html>, (accessed January 12, 2012), J.M. Houston, “Urban Geography of Valencia: The Regional Development of a Huerta City,” *Transactions and Papers (Institute of British Geographers)* no. 15 (1949), 19, <http://www.jstor.org/stable/621029>.

<sup>20</sup> Robert C. Hunt, “Size and the Structure of Authority in Canal Irrigation Systems,” *Journal of Anthropological Research* 44, no. 4 (1988), 347; The Wittfogel thesis is one of the dominant means of explaining irrigation and water usage, even though he himself does not address irrigation exclusively, but rather “all hydraulic systems.” For irrigation purposes, he posited that large-scale systems have historically necessitated some sort of super-authority, most likely a central state organization. Karl August Wittfogel, *Oriental Despotism: A Comparative Study of Total Power* (New Haven, CT: Yale University Press, 1957).

<sup>21</sup> Elinor Ostrom and Roy Gardner, “Coping with Asymmetries in the Commons: Self-Governing Irrigation Systems Can Work,” *Journal of Economic Perspectives* 7, no. 4 (1993), 95; Ostrom and Gardner contradict this claim by economists by showing the example of Nepalese irrigation systems.



received depended on its size, and of course since the irrigated land was worth more, plots were subject to a special tax called a *cequitage*.<sup>22</sup>

It is also likely that the original Tribunal (or “proto-Tribunal” in Glick’s phrasing) helped lay the groundwork for an entire complex of irrigation communities in what was historically known as the Reino, or Kingdom, of Valencia, which became integrated into the Kingdom of Aragón in the 13<sup>th</sup> century, after the region’s reconquest by King Jaume I. In establishing the special legal code for the region, historically known as *Els Furs*, Jaume I further ensured that “inhabitants of the city and Kingdom of Valencia” could maintain control of their water and rivers.<sup>23</sup> This network of irrigation communities was possibly, like the Tribunal, rooted in Arabic practices transferred to and modified for Spanish conditions, but historians lack documentation from the years before the thirteenth century reconquest. According to Thomas Glick, “Valencian irrigation institutions come onto the historical stage full-blown in the thirteenth century,” and for the most part remained in tact until the nineteenth century, when interest in Spanish irrigation was all the rage among British officials attempting to solve water distribution problems in India.<sup>24</sup> Interestingly, Glick’s most important work on the subject, 1970’s *Irrigation and Society in Medieval Valencia*, predicted the collapse of a lot of these old institutions, like the Tribunal, due to the construction of a major reservoir in 1950—the disappearance of the Tribunal, however, does not appear to have been hastened.<sup>25</sup>

These communities, including the Tribunal, developed a couple of interesting traditions, again already forming when Aragonese historians and scholars began keeping records. While the Tribunal de las Aguas is the most famous, these communities of irrigators during the medieval period were the basic levels of local organization, and anyone who happened to use any water from an irrigation or canal system was a member. In addition, the huerta near any town was also considered part of the town, and those farmers were also residents of the town. The entire region worked on a close interdependence between rural huerta and urban centers, which we can see very clearly with the occupation of *femater*, a teenage boy whose job it was to collect the city of Valencia’s urban waste for distribution on farms, though this evidently developed a bit later; in medieval Valencia and Castellón, high productivity was more often than not attributable to

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<sup>22</sup> Glick, *Irrigation and Society in Medieval Valencia*, 12-13.

<sup>23</sup> Vicente Giner Boira, *El Tribunal de las Aguas en Valencia* (Valencia: Javier Boronat, 1995), 28.

<sup>24</sup> Glick, *Irrigation and Society in Medieval Valencia*, 1-3.

<sup>25</sup> *ibid.*, 3.

good irrigation.<sup>26</sup> It was not just people who bridged the gap between city and countryside—indeed, both spaces used the same water, worked within the same irrigation structure, and “the needs of the urban population determined the rate and extent of expansion of the irrigated farmland, and indeed the financial and administrative resources of the city were often required for the turning of barren *marjal* [bog] into productive huerta.”<sup>27</sup>

This urban-rural connection deserves a bit more attention, as it has for centuries been an important part of Valencian culture. We tend to think of irrigation as an agricultural issue, but another interesting feature of any irrigation community in Valencia was its focus on all water-users, including anyone using water for milling or for any early industrial activity. As such, they were considered *hereters*, or a member of the community, and subject to its regulations. The community, including the Tribunal, was headed by a local bureaucracy chosen by vote, ideally in part due to their knowledge or expertise in irrigation matters, contradicting a popular image of medieval peasant farmers as ignorant—rather, they had to understand the land they were farming, how water moved, community norms and traditions, and perhaps possessed a measure of literacy as well.<sup>28</sup>

Of course, the Tribunal did not emerge as an authority in the region’s water management overnight—its role, like the roles of other irrigation communities certainly developed over the course of centuries, and that development was in part facilitated by a recognition of community needs. During the modern period, it has maintained a role in Valencian society, and in the last 300 years has expanded that role. The Tribunal can “petition Madrid on behalf of the irrigation rights of the entire huerta,” which it has done since the eighteenth century, and has a protected status as a “special Tribunal” under 1866’s Law of

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<sup>26</sup> *ibid.*, 26-27; Mónica Burguera, “Gendered Scenes of the Countryside: Public Sphere and Peasant Family Resistance in the 19<sup>th</sup> Century Spanish Town,” *Social History* 29, no. 3 (2004), 320.

<sup>27</sup> Glick, *Irrigation and Society in Medieval Valencia*, 12.

<sup>28</sup> It is not clear on what criteria members of the bureaucracy were chosen. By the 19<sup>th</sup> century in Valencia, votes in farmers’ communities were allocated according to the size of one’s plot, and whether or not it was irrigated. For example, in the Comunidad de Labradores of Alcira, in the province of Valencia, members who owned less than ten hanegadas of irrigated land got one vote, the same number as a farmer who owned thirty hanegadas of *secano* [one hanegada equals roughly 831 square meters)—the number of votes increased according to the amount of irrigated land one possessed, and each town’s Comunidad de Labradores had specific vote allocations, so this was not a centralized pattern. Glick, *Irrigation and Society in Medieval Valencia*, 37 and “Article 15,” *Ordenanzas de la Comunidad de Labradores de la Ciudad de Alzira y su Sindicato y Jurado de Policía rural* (Alcira: Imprenta de José Muñoz, 1908), 7.

Waters. It has survived the expansion of a large-scale reservoir.<sup>29</sup> According to Rajesh Shah, an activist and member of the Blue Planet Run Foundation, fifty percent of water projects fail because of a lack of community involvement, and even fewer projects are monitored or visited in the long-term; he further attests that “the only solutions [for water shortage and availability] are the solutions that the community owns.”<sup>30</sup> The example set by the Tribunal de las Aguas is that local people with a stake in water management can effect that management if given the tools to do so.

Perhaps the Tribunal’s most audacious claims rests on its representation of all of the water users in its jurisdiction. This representation is symbolized in part by the location of the court—just outside of the cathedral, which would have meant, in the centuries following the reconquest, that Muslim and Morisco members of the community could petition or defend themselves in the court as well. It also has historically included women water users. The role of women in the Tribunal is one that has not been focused upon by historians, yet, like in most areas of the world, women are not only water-users, they are important water-users...even if, at least in the past, they could not be elected as syndics.<sup>31</sup>

### **Women and Water**

*“Women play a central role in the provision, management, and safe-guarding of water.”<sup>32</sup>*

This statement was adopted as one of four principles established by the 1992 Dublin Conference on Water and the Environment. Known as the “Dublin principles,” they were intended to serve as general decision making guidelines with regard to conservation and sustainability. All four of the principles are listed as follows:

1. Fresh water is a finite and valuable resource, essential to sustain life, development, and the environment.

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<sup>29</sup> Glick, *Irrigation and Society in Medieval Valencia*, 66.

<sup>30</sup> “Worldwide Race for Water Launched at UN,” bhopal.net: International Campaign for Justice in Bhopal, July 18, 2006, <http://news.bhopal.net/2006/07/28/worldwide-race-for-water-launched-at-un/> (Accessed January 11, 2012).

<sup>31</sup> Green, “The Tribunal de las Aguas,” 102.

<sup>32</sup> Vivienne Bennet, Sonia Dávila-Poblete, and María Nieves Rico, eds., *Opposing Currents: The Politics of Water and Gender in Latin America* (Pittsburgh: University of Pittsburgh Press, 2005), 1.

2. Water development and management should be based on a participatory approach, involving users, planners, and policy makers at all levels.
3. Women play a central role in the provision, management, and safeguarding of water.
4. Water has an economic value in all its competing uses and should be recognized as an economic good.<sup>33</sup>

According to Vivienne Bennet, coeditor of *Opposing Currents: The Politics of Water and Gender in Latin America*, the first, second, and fourth Dublin principles have contributed to a “revolution in water policy.” The third principle regarding women’s role, however, has essentially fallen upon deaf ears and has rarely been fully implemented in practice.<sup>34</sup> Although this principle has incurred limited response, its value is immeasurable because it recognizes the important reality that women are central to water management.<sup>35</sup>

The Tribunal de las Aguas in Valencia is one of these rare examples that has implemented this principle in practice as it is an institution that recognizes the valuable role that women play in water management and, furthermore, allows for their direct participation. As a public institution that deliberates weekly, the Tribunal has made itself accessible by all who belong to the larger Valencian community, and, furthermore, reinforces the notion that water is community property.<sup>36</sup> And, as community property, all members of the community shared a collective responsibility to properly manage and uphold water rights and regulations. This has included Valencian women. As members of the community, Valencian women also have direct access to the Tribunal along with their male

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<sup>33</sup> *ibid.*

<sup>34</sup> *ibid.*

<sup>35</sup> *ibid.*, 2.

<sup>36</sup> George E. Radosevich argues that the irrigation systems of Valencia were influenced by Muslim culture, which includes the notion that water is community property. Radosevich states that, “The system of water allocation and distribution that led to the calculation of the canal and outlet size was based upon the Muslim concept that water is community property and must be equitably apportioned among the community.” Radosevich further explains that the community of irrigators was influenced by three distinct principles: 1. Concept of proportional distribution, 2. Concept of individual responsibility to the community for upkeep of his part of the canal and prevention of waters in water use, and 3. Concept of collective responsibility by self-government and management only by the community. George E. Radosevich, “Moslem Water Law and its Influence on Spanish Water Law and the Irrigation System of Valencia,” Presented to the Seminario La Legislacion y Administracion de las Aguas en las Paises del Grupo Andion (Quito, Ecuador, January 14-19, 1974), 13 and 15.

counterparts. And as water users themselves, Valencian women are also held to the same standards and, thus, must accept the responsibility of adhering to water regulations. Although there are no written records that testify to the active participation of Valencian women, claims regarding women's direct participation can be supported by a number of factors. First, Valencian women were property owners, which often included irrigated land; second, Valencian women actively participated in Spanish legal courts, including the Tribunal; and third, various engravings and paintings depict women actively engaging with the Tribunal de las Aguas during its public proceedings.

The Spanish practice of partible inheritance meant that women, including Valencian women, inherited property that was equal to that of their male relatives.<sup>37</sup> Essentially, all family property was divided equally among all siblings with no preference given to male children before women. Therefore, Spanish women were women of property. Notarial records (testaments, marriage contracts, statements of power of attorney) since the middle ages reveal that women's inheritances ranged from moveable goods, such as clothing, books, and household items, to immovable goods that were comprised of real estate and land. Because of the inheritance system, the widows, wives, and daughters of Valencian artisans, merchants, and farmers were often in possession of dowries, yearly incomes, and urban property. Notably, Valencian women were also in control of agricultural property that came with water rights. For example, Lucrecia Valleriola was granted a flour mill and land in the huerta as part of her marriage dowry in December of 1531.<sup>38</sup> Other sixteenth century Valencian women were involved in the cultivation of grains and produce, such as grapes. Esperanza Fontova y de Montoya, for instance, was involved in a civil suit reviewed by the Royal Supreme Court of Valencia in 1584 in an effort to secure her rights to a vineyard.<sup>39</sup> These are just two of many examples that illustrate that Valencian women owned agricultural land, and, therefore, they had a vested interest in

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<sup>37</sup> Heath Dillard explains that a woman's right to inherit both real property and moveable goods evolved during the Visigothic period. A legal maxim of the Visigothic Code asserted that women were to be recognized in all matters of inheritance. The Visigothic Code would serve as a model for other law codes and constitutions that were established in Spain throughout the Middle Ages. Heath Dillard, *Daughters of the Reconquest: Women in Castilian Town Society, 1100-1300* (Cambridge and New York: Cambridge University Press, 1984), 26. For more information on partible inheritance, also see Richard L. Kagan, *Lawsuits and Litigants in Castile, 1500-1700* (Chapel Hill: University of North Carolina Press, 1981), 131 and Helen Nader, *Power and Gender in Renaissance Spain: Eight Women of the Mendoza Family, 1450-1650* (Urbana: University of Illinois Press, 2004), 3-4.

<sup>38</sup> Cynthia Ann Gonzales, "Taking it to Court: Litigating Women in the City of Valencia, 1550-1600," Ph.D. diss., University of Arizona, 2008, 112.

<sup>39</sup> *ibid.*, 145.

irrigation and water rights. Furthermore, their property ownership made them members of the irrigation community that was represented by the Tribunal.

As already alluded to, Valencian women have a documented history of voicing their concerns and defending their rights, including property rights, through the established judicial system. Women were quite knowledgeable of their rights, the law, and the judicial system and knew how to use the system to their advantage just as men did. Valencian women have maintained a participatory presence in Valencian legal courts, including civil courts, criminal courts, and the Inquisition, since the Middle Ages. From 1550 to 1600, one-third of all legal cases reviewed by the *Real Audiencia* (Royal Supreme Court of the Kingdom of Valencia) involved a female litigant.<sup>40</sup> In some instances, both parties involved in the civil suit were Valencian women. Because women maintained a significant presence in the Valencian courts, one can argue that they were also highly involved in the Tribunal de las Aguas as it too was a court. Christine L. Green's discussion of the Tribunal establishes the institution as a recognized "legal forum", or a court, with over 1,000 years of peaceful dispute resolution.<sup>41</sup> Green further emphasizes that the Tribunal provided a form of justice that was "accessible" by the Valencian community.<sup>42</sup> Again, the Tribunal was a Valencian court, and Valencian women have an established history of utilizing the courts in an effort to guarantee their rights. Because women owned agricultural property, they too would have had water rights, which gave them a vested interest in the Tribunal.

Nineteenth century engravings and paintings by Spanish artists further attest to Valencian women's active participation in Tribunal's proceedings. In particular, they present women engaged with the Tribunal either as observers with an interest in the Tribunal's deliberations or actively voicing their concerns to the administrators. The following three works by Tomas Rocafort, Josep Benlliure, and Bernardo Ferrándiz present a similar scene – it is noon on a Thursday afternoon and the Tribunal de las Aguas has convened in the Plaza de la Reina in front of the Cathedral. The seven administrators are formally seated and the members of the Valencian community have gathered around in interest. In Rocafort's 1831 depiction (Figure 1.), a male member of the irrigation community stands before the Tribunal and is engaged in a discussion with the administrators. All the while, he is surrounded by a mature, congenial audience comprised of men and women—the women are dressed in peasant garb. Notably, Rocafort places

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<sup>40</sup> *ibid.*, 9.

<sup>41</sup> Green, "The *Tribunal de las Aguas*," 89.

<sup>42</sup> *ibid.*, 92.

women in the audience alongside men, attesting to women's interest in the adjudication of water rights.



Figure 1. Engraving by Tomás Rocafort (1831)<sup>43</sup>

*El Tribunal* by Josep Benlliure (Figure 2.) provides a very similar scene. Again, the Tribunal has convened, and Valencians have filled the plaza and gathered around the administrators. The audience is comprised of both men and women, but in this depiction, children of all ages are also present with some even carrying baskets of food items, perhaps emphasizing the connection between the rural (food) and the urban (the Tribunal's location). The audience is more casually dressed, and with the exception of the two men deliberating before the Tribunal, the members of the crowd appear relaxed and engaged in friendly

<sup>43</sup> *Grabado de Tomás Rocafort, El Tribunal de las Aguas* Homepage, "Iconografía," <http://www.tribunaldelasaguas.com/valencia/el%20tribunal2v.html>



interactions. Women are conversing, babies are being held, and children look on in curiosity. Benlliure's portrayal presents this weekly meeting of the Tribunal as a complete community event that brought people together – men, women, and children – in order to engage with one another and the Tribunal.



**Figure 2.** *El Tribunal* by Josep Benlliure (19<sup>th</sup> Century)<sup>44</sup>

*El Tribunal* by Bernardo Ferrándiz (Figure 3) is perhaps the most revealing of the three images as it places a Valencian woman at the center of the weekly proceedings. Ferrándiz's portrayal attests to women's involvement as he

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<sup>44</sup> *El Tribunal* per Josep Benlliure, Ibid. Benlliure's work was included in Vicente Blasco Ibáñez's 1898 novel *La Barraca*, which describes the Tribunal as a forum in which all members of the community came together to address their grievances.



presents a woman standing before the Tribunal engaged in a discussion with the administrators. A man stands closely beside her, but the positioning of the two figures clearly indicates that she is the center of attention. She appears confident and is directly engaging the members of the Tribunal. Furthermore, she appears as if she belongs there, and the lack of reaction from the audience regarding her presence supports this notion. The audience and the administrators seemed to be engaged in “business as usual” just as they do in the other two images.



Figure 3. *El Tribunal* by Bernardo Ferrándiz (1865)<sup>45</sup>

Valencian women’s participation in the Tribunal is perhaps not unusual when considering that Valencian women have been highly integrated into and active within the larger Valencian community since at least the late medieval and early modern periods. Research has shown that Valencian women have been central to Valencian society, as opposed to marginal, and that their legal and economic interests have been supported by the community.<sup>46</sup> As previously indicated, the nature of the Tribunal itself, as a community based institution, allows for the participation of all the members of the local community, which

<sup>45</sup> *El Tribunal* per B. Ferrándiz.

<sup>46</sup> Gonzales, “Taking it to Court”.

includes Valencian women. Furthermore, the Tribunal de las Aguas is an institution that is rooted in a community that has traditionally supported women's involvement in local socio-economic issues, including water rights and irrigation regulation. Valencian culture enabled women to be active and voice their concerns and opinions. This tradition and involvement of women can also be seen in the acequia, or irrigation, communities of Spanish Colonial New Mexico (1598-1821). As explained by José A. Ribera, The acequia systems and institutions developed in New Mexico served as a form of local government and community development.<sup>47</sup> Historians agree that acequia technologies and irrigation methods were influence by the irrigation practices found in Southern Spain, specifically Andalusia and Valencia, and were then combined with the irrigation practices of native Pueblo Indians.<sup>48</sup> Furthermore, Spanish medieval laws regarding land and water usage as codified in the Laws of the Indies in 1573, and then recompiled in 1681, provided the framework and legal basis that governed the development of settlements in the New World. Notably, "the allocation, distribution, and administration of irrigation water during the colonial period, and continuing into the present, have been strikingly similar to those of medieval Valencia...."<sup>49</sup> According to Ribera, the functions of the governing body of the *comisionados*, or ditch commission, in New Mexico closely resembles those of the Tribunal de las Aguas.<sup>50</sup>

The similarities between the New Mexico acequia communities and the irrigation communities in Valencia are also reflected in the active role of women. Records of water dispute cases place New Mexican women at the center of the acequia communities. For instance, the widow Margarita de Luna appeared before the governor and capitán general of New Mexico in 1769 asking that her water rights be upheld and defended. Margarita's neighbors, the Zalasares family, had blocked her use of ditch water that was needed to cultivate her fields. Margarita was initially successful in her case, but a year later in February 1770, the widow was once again forced to plead to the governor to support her cause as the Zalasares family still had not allowed water to pass to her fields. Margarita wanted the Zalasares to be denied access to her ditch and that they be required to build their own ditch or use another.<sup>51</sup> Margarita's case illustrates a number of

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<sup>47</sup> José A. Ribera, *Acequia Culture: Water, Land, and Community in the Southwest* (Albuquerque: University of New Mexico Press, 1998), xviii.

<sup>48</sup> *ibid.*, 5.

<sup>49</sup> *ibid.*, 26.

<sup>50</sup> *ibid.* Ribera further explains that the popular *mayordomo* (ditch boss or water superintendent) of New Mexico compares with the *cequier* (water chief) or *partidor de aguas* (water distributor) established during medieval Spain. The role of the Spanish *veedor* (overseer) is also reflected in the local water inspectors (*veedores* or *hombres peritos*) of New Mexico.

<sup>51</sup> *ibid.*, 35; 44.

things – first, that women in New Mexico owned agricultural property; second, that New Mexican women were members of the irrigation communities; third, they had water rights that were recognized by the community and supported by local institutions; and fourth, New Mexican women defended their water rights and actively voiced their concerns. Scholars addressing the issue of women and water management in other cultures, such as Latin America and the United States, have illustrated that women have always had a relationship with water, but they have been limited in terms of their roles with regard to decision-making and the development of irrigation legislation. This limitation stems largely from assumptions and gender perceptions that irrigators and farmers are predominantly male.<sup>52</sup> Throughout Latin America, for instance, farming is perceived as an activity that is practiced and developed by the male head of households and, thus, the participation of women in irrigated agriculture is regarded as uncommon.<sup>53</sup> Rhodante Ahlers explains, however, that research reveals that women are indeed very much involved in irrigated agriculture and in some cases have been shown to manage a farm completely.<sup>54</sup> Yet, women continue to face limitations in terms of their participation in the decision-making process. Remarkably, these formal limitations have not dissuaded women from seeking informal means to participate in the process, express their concerns, and secure their water. For instance, women in Ecuador have established water exchange networks, while women in other Latin American countries have been building relationships with community leaders and representatives of organizations. In addition, women have also been known to use male relatives to rally support within their own communities.<sup>55</sup> All of these efforts are a significant step towards carving out a space where women can fully participate in the process of water management alongside their male counterparts, much like Valencian women.<sup>56</sup>

Women, as argued by Ahlers, will need the necessary courage and confidence to carve out their space, to challenge traditional notions, and perhaps

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<sup>52</sup> E. P. Bastidas, *Gender Issues and Women's Participation in Irrigated Agriculture: The Case of Two Private Irrigation Canals in Carchi, Ecuador*, Research Report 31 (Colombo, Sri Lanka: International Water Management Institute, 1999), 1.

<sup>53</sup> Rhodante Ahlers, "Gender Issues in Irrigation" in *Women and Water Management: The Latin American Experience*, ed. Cecilia Tortajada (New Delhi: Oxford University Press, 2000), 205.

<sup>54</sup> *ibid.*

<sup>55</sup> *ibid.*, 210-211.

<sup>56</sup> For an example of a female water rights advocate in the United States, see Namika Raby, "Stella Mendoza: A 'Water Warrior' in the Imperial Valley, California" in *Fluid Bonds: Views on Gender and Water* (Kolkata: STREE, 2006), 305-316. Stella Mendoza was the first woman to serve on the Board of Directors of the Imperial Valley Irrigation District and became President of the organization in 2002. Ms. Mendoza is known as the 'water warrior' because of her success in mobilizing the community in order to address a water shortage crisis.

even risk “losing respect and status in the community” in order to successfully secure that space.<sup>57</sup> The Tribunal de las Aguas illustrates that this is indeed possible as it provides a model that allows for female participation and gives women a space within which to voice their opinions out in public to the entire community. Traditionally, one glaring omission was that women were not chosen as syndics, but as further evidence that the Tribunal not only remains a relevant model, but also a flexible one, the first female síndica de honor, Pilar Ortiz, was elected to the Tribunal in November of 2011, acknowledging yet again that women should be able to participate in our continuing conversations over water.<sup>58</sup> Many scholars argue that women’s opinions and concerns need to be voiced and listened along with men’s in order to successfully develop policies and legislation that will lead to sustainable development.<sup>59</sup> Water is a community issue, and one that can only be managed successfully by the entire community – by the men, women, and children who comprise each community.<sup>60</sup>

### **Into our (Thirsty?) Future**

The focus on the historical roles of women in legal systems with regard to water and agriculture is an important one. The plight of women in the world’s thirsty areas is well-known, and the U.N. has termed this a genuine “crisis.”<sup>61</sup> Women and girls across the world spend several hours each day collecting water for their families, which reinforces gender hierarchies, and limits opportunities for young girls to attend or continue school. The U.N. also notes that women in many areas face the additional pressures of being excluded from management of irrigation

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<sup>57</sup> Ahlers, “Gender Issues in Irrigation”, 212.

<sup>58</sup> L. Soriano, “Pilar Ortiz, primera síndica de honor del Tribunal de las Aguas,” *Las Provincias* November 11, 2011, <http://www.lasprovincias.es/v/20111111/valencia/pilar-ortiz-primer-sindica-20111111.html> (Accessed January 12, 2012). Green, “The Tribunal de las Aguas: A Minor Jurisprudence, Not Jurisprudentially Minor,” 102.

<sup>59</sup> See Cecilia Tortajada, ed., *Women and Water Management: The Latin American Experience*. New Delhi: Oxford University Press, 2000; Vivienne Bennet, Sonia Dávila-Poblete, and María Nieves Rico, eds., *Opposing Currents: The Politics of Water and Gender in Latin America*. Pittsburgh: University of Pittsburgh Press, 2005.; and Kuntala Lahiri-Dutt, ed. *Fluid Bonds: Views on Gender and Water*. Kolkata: STREE, 2006.

<sup>60</sup> José A. Ribera argues that acequia culture itself has been a means of building and unifying communities as all members work towards a common goal of successful water management. Furthermore, he believes that acequia traditions have helped to preserve larger cultural traditions and beliefs and have affixed people to a particular place. Ribera, “Acequia Culture International: From al-Andalus to the Americas,” a talk presented at the Hispanic Cultural Center (Albuquerque, NM: October 2011).

<sup>61</sup> United Nations, Human Development Report 2006, *Beyond Scarcity: Power, Poverty, and the Global Water Crisis* (New York: United Nations Development Programme, 2006), 5, <http://hdr.undp.org/en/media/HDR06-complete.pdf> (accessed October 15, 2011). The report also confirmed that the UN views water not as a saleable commodity but a human right.

systems, despite being primary users of such systems, both as household consumers and as farmers.<sup>62</sup> As we have shown, women frequently do not, or are not permitted to, identify as farmers, though over fifty percent of the world's food is produced by women, and those numbers increase in the developing world.<sup>63</sup> Increased financing for local wells from both national and international sources in water-scarce areas would at one level eliminate the need for such time-consuming tasks as walking long distances for water, and could perhaps encourage women to be more vocal in their local water administration (though this certainly depends on local and cultural norms). At another level, using a Tribunal-style model in collaboration with these projects also puts the long term maintenance of the systems in the hands of community members, which, as we have already shown, offers greater opportunities for success. Finally, encouraging women to have a greater say in the management of water, and providing education for this greater role, will undoubtedly improve productivity in agricultural regions, raising the standard of living for the entire region—research has indeed shown that “when women obtain the same levels of education, experience, and farm inputs that currently benefit the average male farmer” that their yields of staple products increase.<sup>64</sup> Women in conflict areas are already making their voices heard with regard to land issues, which include, of course, water issues. In the new nation of South Sudan, as PBS has recently reported, women have organized to monitor the passage of the country's new constitution, and are protesting areas where they feel that “traditional” structures are anti-woman, demanding greater access to power structures –access to resources and their management certainly falls under the category of “power structure.”<sup>65</sup>

In recent years, local communities, states, and corporations have been working to answer the demands we place on our natural wealth. How do we decide who has what claims to what land, water, food, and oil? For over a century, the responsibility for water maintenance and distribution in the “west” has fallen to primarily organized political states and their local entities, though in

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<sup>62</sup> *ibid.*, 18-19.

<sup>63</sup> “Factsheet: Women Farmers and Food Security,” The Hunger Project, 9/21/2008, <http://www.thp.org/system/files/Factsheet+on+Women+Farmers+and+Food+Security.pdf>, 2 (accessed January 11, 2012).

<sup>64</sup> Agnes R. Quisumbing, Lynn R. Brown, Hilary Sims Feldstein, Lawrence James Haddad, and Christine Peña, “Women: The Key to Food Security,” International Food Policy Research Institute, 1995, <http://www.ifpri.org/sites/default/files/pubs/pubs/ib/ib3.pdf>, 2 (accessed January 11, 2012).

<sup>65</sup> Mia Bittar and Lauren Feeney, “South Sudanese Women Struggle to Make Their Voices Heard,” Women, War, and Peace, courtesy of Public Broadcasting System, November 8, 2011, <http://www.pbs.org/wnet/women-war-and-peace/features/south-sudanese-women-struggle-to-make-their-voices-heard/> (accessed January 11, 2012).

recent years we have seen an upswing in the trend towards water privatization. Both of these solutions have their pros and cons, but cannot possibly answer all demand placed on those resources, *especially* water. In the last decade, at least, experts have been sounding alarms about our water scarcity, and as the global population grows, we certainly will face increasing challenges with regard to water usage, and in turn, we will have to become more creative in our solutions.

Perhaps one of the most recent solutions that has been embraced on a much larger scale is the privatization of water, and it has met with mixed results.<sup>66</sup> In Stockton, California, for example, local activists battled with officials over a proposed water privatization scheme—in 2003, city council members voted to invest \$600 million in a plan by OMI-Thames “for construction and management of the city’s municipal water utilities” despite grassroots efforts to encourage the council to oppose the plan. In 2007, after reports of “cutbacks in preventive maintenance, noxious odors drifting from the sewage treatment plant, increased leakage from underground pipes, sewage spills, and fish kills,” the council then voted unanimously to end the city’s relationship with OMI-Thames.<sup>67</sup>

Even more famous, or infamous, was the so-called Cochabamba water war, in Cochabamba, Bolivia. In April of 2000, Bolivians took to the streets to protest a privatization scheme put in place with the assistance of the World Bank that put Bolivia’s water under the control of a subsidiary of Bechtel called “Aguas del Tunari.” The Bolivian privatization plan led to dramatic rate increases, and a large-scale grassroots movement that brought together irrigators, peasant and indigenous organizations in large-scale protest.<sup>68</sup> In addition to other

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<sup>66</sup> The privatization heyday really begins in the 1980s, under policies set out in the UK by Prime Minister Margaret Thatcher, and in the U.S. by President Ronald Reagan. A number of cities in the US have experimented with this model, with as many as seventy cities contracting out their water services in just a three year period, according to Craig Anthony Arnold, “Water Privatization Trends in the United States: Human Rights, National Security, and Public Stewardship,” *William & Mary Environmental Law and Policy Review* 33, no. 3 (2009), 792, <http://scholarship.law.wm.edu/wmelpr/vol33/iss3/4>, (accessed January 13, 2012).

<sup>67</sup> For an examination of the battle over water privatization, see Alan Snitow and Deborah Kaufman, *Thirst*, directed by Alan Snitow, produced for PBS (Berkeley, CA: Snitow-Kaufman Productions, 2004); Alan Snitow and Deborah Kaufman, “Lessons of Stockton’s Water War,” *San Francisco Chronicle*, August 5, 2007, [http://articles.sfgate.com/2007-08-05/opinion/17257284\\_1\\_omi-thames-water-privatization-stockton-city-council](http://articles.sfgate.com/2007-08-05/opinion/17257284_1_omi-thames-water-privatization-stockton-city-council) (accessed January 5, 2012).

<sup>68</sup> Willem Assies, “David versus Goliath in Cochabamba: Water Rights, Neoliberalism, and the Revival of Social Protest in Bolivia,” *Latin American Perspectives* 30, no. 3 (2003), 15-16. See also Tom Perreault, “Custom and Contradiction: Rural Water Governance and the Politics of *Usos y Costumbres* in Bolivia’s Irrigators; Movement,” *Annals of the Association of American Geographers* 98, no. 4 (2008), 834-854.

demonstrations arguing for issues as diverse as educational rights and wage increases, the Bolivian government ultimately declared a state of siege against Bolivian protestors, particularly in Cochabamba, leaving several Bolivians dead, along with the plan itself.<sup>69</sup>

These two examples are not isolated incidents, and judging by the increasing literature and numbers of documentaries, activists and experts are becoming more and more afraid that our future conflicts will not be over basic commodities, nor over ideologies (if they ever really were), but over water.<sup>70</sup> In addition, people spend billions of dollars a year on the purchase of bottles of water, which activists argue further deplete our water supply while simultaneously contributing to pollution. Globally, water has gotten less clean, more expensive, and whether controlled by corporations or by states, people, especially in the west, are becoming less and less attached to the processes by which we clean and get water, and people in so-called developing countries are yearly more detached from clean water sources. The underlying question is a simple one—is water a human right or is it a commodity to be sold for profit? According to the World Trade Organization, the answer is the latter option. Global water activists, on the other hand, disagree.

The availability of technology is also extremely important. The majority of people in Africa facing water shortage, for example, live in rural areas—roughly eighty percent of the 300 million facing scarcity—and the International Association of Hydrologists notes that delving for groundwater is generally not difficult, and that “technology is often amenable to community operation and

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<sup>69</sup> “Bolivia Calls and Emergency After Protest Over Water” *New York Times* (1923-Current File) April 9, 2000, <http://search.proquest.com/docview/91703280?accountid=13158> (accessed 5 January 2012); “5 More die in Bolivia Protests After Emergency is Declared,” *The New York Times* (1923 Current File) April 10, 2000 <http://search.proquest.com/docview/91696820?accountid=13158> (accessed January 5, 2012); “Bolivian Water Plan Dropped After Protests Turn Into Melees,” *New York Times* (1923-Current File) April 11, 2000, <http://search.proquest.com/docview/91699620?accountid=13158> (accessed January 12, 2012).

<sup>70</sup> For an example of this literature, please see the following: Maude Barlow and Tony Clarke, *Blue Gold: The Fight to Stop the Corporate Theft of the World's Water* (New York: The New Press, 2005); Barlow, *Blue Covenant: The Global Water Crisis and the Coming Battle over the Right to Water* (Toronto: McClelland and Stewart, 2007); Charles Fishman, *The Big Thirst: The Secret Life and Turbulent Future of Water* (New York: The Free Press, 2011); Fred Pearce, *When the Rivers Run Dry: Water—The Defining Crisis of the Twenty-First Century* (Boston: Beacon Press, 2007); Vandana Shiva, *Water Wars: Privatization, Pollution, and Profit* (Cambridge, MA: South End Press, 2002).

development,” supporting a Tribunal-style organization of community involvement.<sup>71</sup>

As we have seen, though the Tribunal itself is ancient, it provides an interesting foundation for potential solutions to modern problems—Israeli scholar Menachem Davizon and Palestinian scholar Abdelrahman Tamimi have even recently posited that adopting a Tribunal style of management for resources will help to reduce local tensions and can be used as an instrument “to improve relations in the Middle East.”<sup>72</sup> It has remained relevant and flexible, as we can see through the recent election of the Tribunal’s first female syndic, demonstrating its willingness to change and adapt to new socio-environmental conditions. The emphasis on community control and ownership is especially significant in light of the data that suggests that community involvement is a direct pathway to success for water systems. It is, if nothing else, a third way, a way that can allow people across the world who face the worst consequences of water shortages and dirty water exercise agency solving their local problems in ways that answer their direct needs.

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<sup>71</sup> “Groundwater and Rural Supply in Africa,” International Association of Hydrologists and the Worldwide Groundwater Association, 2006, [http://www.iah.org/downloads/occpub/IAH\\_ruralwater.pdf](http://www.iah.org/downloads/occpub/IAH_ruralwater.pdf) (accessed January 11, 2012).

<sup>72</sup> “Israelíes y palestinos creen que el Tribunal de las Aguas puede mejorar su relación,” *Las Provincias* July 22, 2010, <http://www.lasprovincias.es/20100722/comunitatvalenciana/valencia/israelies-palestinos-creen-tribunal-201007221618.html>, (accessed January 12, 2012).