

River Rights: Tracing the Ebb and Flow of Judicial Currents across Continents and Countries

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River rights across the world are determined by a combination of global factors, a country's constitutional design, and the framings of religious and indigenous worldviews, together with secular culture. In the attempt to restore nature, court decisions increasingly dip into local-turned-global dynamisms that emanate from the very diverse heritage of people across countries and continents.

Judicial decisions that underscore the sacralized nature of rivers to reshape river rights emerge from various different religious, national and plurinational cultures. Since religious heritage is not coterminous with ecological and environmental well-being, in India aspects of religion have been considered by selection on the basis of their support for the environmental health of rivers. Similar developments can be observed in the jurisprudence of Latin American countries where indigenous worldviews are selectively illuminated or obscured in court decisions. In this region, pluriculturalism allowed the proliferation of novel judicial decisions that coexist with other more traditional pronouncements on environmental matters. In India on the other hand, legal challenges remain unresolved due to overlooked aspects of religious and cultural practices that are deleterious for religious minorities and river health. Comparing the role of the sacred and the secular in legal verdicts that accord rights to rivers within and across countries—in our view—therefore becomes a matter of comparative, theoretical, practical and global interest.

The purpose of this project is to analyze recent court cases pertaining to river law that are trailblazing and draw upon future-oriented restoration of biodiversity and ecosystems. Our examples will be taken primarily from two regions—Latin America (Argentina, Colombia, and Ecuador) and Asia (India)—while keeping an eye on the flow of judicial thinking on such judgments in other countries and continents. By focussing on landmark cases that attempt to redefine the course of recent ecological restoration efforts in those latitudes, we first of all hope to provide insight into the interrelations of the local, the constitutional, and the global in river jurisprudence, which appear to be hybridizing, in unison with the international, or striking for divergence. Secondly, the impact of the sacred and pluriculturalism as well as the secular within the judicial domain of river rights will be investigated. Finally, we aim at a comparison of legal judgments over river rights across different national cultures and legal systems, and seek to outline their possibilities and constraints for ecological restoration.