

---

## **GLOBALIZATION AND WATER MANAGEMENT: THE CHANGING VALUE OF WATER**

**AUGUST 6-8 AWRA/IWLRI, UNIVERSITY OF DUNDEE INTERNATIONAL SPECIALTY CONFERENCE 2001**

---

### **SPECIFIC LEGAL RIGHTS OF INDIGENOUS PEOPLES IN RELATION TO THE COMMODIFICATION OF WATER**

Merrell-Ann S. Phare<sup>1</sup>

**ABSTRACT:** The significance of freshwater resources to indigenous peoples is legally and culturally profound. Bulk removal and trade in freshwater to meet increasing global demand can seriously threaten fish habitat, specific indigenous rights, and the Canadian government's ability to fulfill its obligations to protect both of these elements. In particular, the exercise of indigenous fishing rights is dependent upon the existence and protection of fish habitat and water resources. The protection of these rights is a legal obligation of the Canadian government, which is not being fulfilled in current water decision-making. Indigenous fishing rights are constitutionally recognised, and by extension the habitat in which they are exercised must be protected. Despite this, there has been an historic pattern of exclusion of indigenous peoples from formulation of national water policies, and bulk water allocation decisions arising from international trade (for example, under the contentious and disputed water aspects of the North American Free Trade Agreement).

This paper will address the relationship between indigenous rights in Canada and the commodification of water through bulk water removal from freshwater bodies. Liability on licensing governments and exporting corporations from these activities will also be discussed. Activities in Canada can be instructive for other governments and indigenous peoples trying to protect water resources, indigenous rights and cultural heritage.

**KEY TERMS:** Water rights, Indigenous peoples, Commodification, Trade, Water exports.

---

<sup>1</sup>Centre for Indigenous Environmental Resources, 300-245 McDermot Avenue, Winnipeg, Manitoba R3B 0S6, Canada. [maphare@cier.ca](mailto:maphare@cier.ca)