

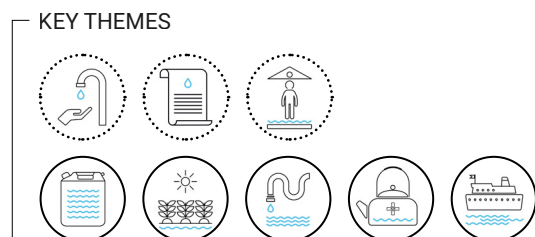


Customary Water Tenure: Linking Water, Culture, Heritage and SDGs 1, 2 and 5

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Heritage and culture not only shape the customary tenure of land and forest resources of most indigenous peoples and local communities in low-income rural areas, but also community members' mutual relations vis-à-vis their water resources, or, in other words: customary water tenure (Ramazzotti 1996; FAO 2020). Age-old settlement by farm communities and pastoralists' establishment of nomadic routes vested customary rights to land and the fugitive surface runoff and streams flowing over the lands; soil moisture, wetlands and lakes on the land; and aquifers under the land (fig. 1).

In customary water tenure, orally transmitted norms and practices have governed communities' construction, operation and maintenance of traditional local infrastructure, such as weirs, dams and ponds, to store water as buffer to seasonal variability; wells and lifting devices to tap aquifers, the planet's largest storage; and canals, tunnels and pipes to channel water where and when needed for drinking, other domestic uses, livestock, irrigation of crops, vegetables (fig. 2) and trees, brick making, crafts, small-scale enterprise and ceremonial uses, or to ensure water availability for fisheries and navigation. Customary normative frameworks continue to shape communities' investments in "modern" low-cost plastic pipes, tanks, small motorized pumps and solar energy, also responding to growing populations, markets for water-dependent produce, and higher aspirations (Tapela 2015; Hellum et al. 2015; Van Koppen 2022).



< Fig. 1 Customary furrow irrigation among the matrilineal Wa-Luguru in Tanzania (Source: Barbara van Koppen).



^ Fig. 2 Farmer-led irrigation in Ga-Mokgotho, South Africa (Source: Barbara van Koppen).

During dry seasons and droughts in harsh environmental conditions, when options for supply augmentation or rotation are exhausted, hard choices in sharing the finite naturally available water resource are inevitable (fig. 2–4). Anchored in oral cultural narratives, ceremonies and beliefs, water resources are invariably seen as a commons. As the Boran people of Ethiopia say: “Water is either a source that you ‘share in’ as a member of a descent-based collectivity, or one that you ‘share out’ to signify respect” (Dahl and Megerssa 1990). Accordingly, indigenous arrangements set priorities for sharing in water resources within their communities, often respecting social safety nets. With increasing water use and competition, rules also emerge for the “sharing out” of surface streams with upstream and downstream communities (Kormakech 2013).

The international recognition of customary water tenure is growing (FAO 2020) and opening up strong links with the SDGs. The IPPC (2022) highlights the critical importance of indigenous knowledge to adapt to climate change. Over the last decade, indigenous peoples in the US, Canada, New Zealand, and Australia (Jackson 2018) and Andean communities in Latin America (Boelens and Vos 2014) have reclaimed their rights to the water and access to it. In rural sub-Saharan Africa, customary water tenure “is without doubt the most important of the sources of law, and of water law in particular, as it is the one which is most known and respected by the population” (Caponera 2007, 92). Policies and interventions that take customary water tenure as the starting point for technical, institutional and financial support according to the priorities of vulnerable community members (fig. 3 and 4), mobilize heritage, culture and existing technical, financial, social and institutional capital. Accordingly, both the WASH sector (Sutton and Butterworth 2021) and irrigation sector

(Giordano et al. 2012; Woodhouse et al. 2017; Izzi et al. 2021) recognize and increasingly support self supply and farmer-led irrigation. This recognition and support of heritage and culture but also the vibrancy of customary water tenure accelerates the sustainable achievement of SDG 1 (ending poverty), 2 (food security) and 5 (gender equality by alleviating women’s domestic chores).

However, a major threat to customary water tenure lies in the “sharing out” of water resources with powerful high-impact third parties, including foreign and national corporate agribusiness and mining companies. The colonial heritage of water legislation continues to favor formalization of administrative water resource entitlements of these few high impact users, also dubbed “water grabs” (Franco et al. 2013; Van Koppen and Schreiner 2018). Or, worse, foreign companies force investment contracts on governments in which they claim the highest priority for water resource availability, whatever the implications for all other users (Bosch and Gupta 2022). Not surprisingly, RRI/ELI (2020) and Troell and Keene (2022) found that customary water tenure is, indirectly or even directly, better recognized in land, forest and constitutional law, international human rights law and indigenous peoples’ laws than in current water legislation. This has sparked a search (Schreiner and Van Koppen 2018; Troell and Keene 2022) for harmonization, new interpretations and operationalizations of existing or new legal tools, to recognize and prioritize customary water tenure.

Acknowledgment

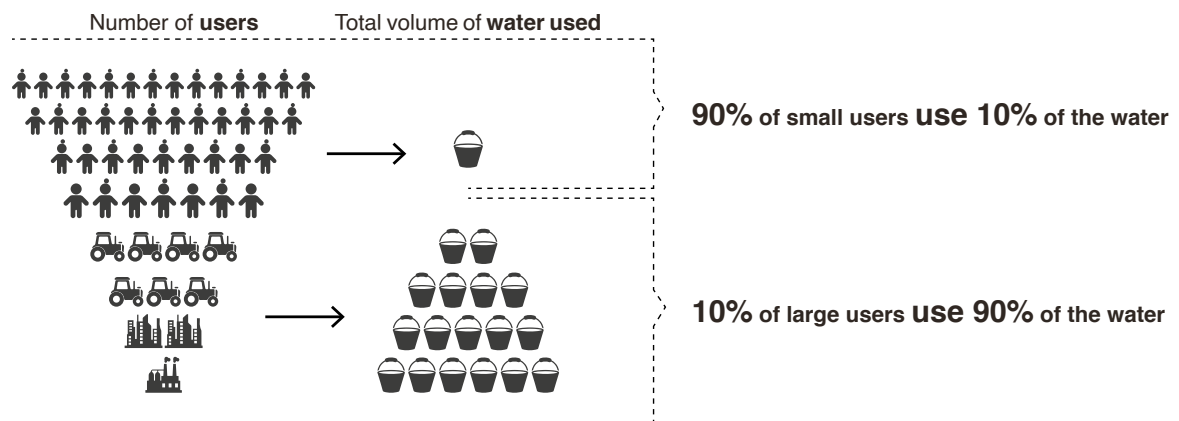
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^ Fig. 3 Women indicating their preferred sites for new communal water points in Ga-Moela, South Africa (Source: Barbara van Koppen).



^ Fig. 4 Community members mapping their multiple water sources, infrastructures and uses in participatory planning of improvements in Ga-Mokgotho, South Africa (Source: Barbara van Koppen).



^ Fig. 5 Historic inequalities in access to water in South Africa (Source: IWMI).

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