

Water Rights and Governance in Sub-Saharan Africa

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On March 13, 2008, the Robbins Collection and the Institute for Global Challenges and the Law (GCL) brought together an interdisciplinary group of experts from Senegal, France and California to comparatively assess and propose potential legal and policy options to the governance of access to and utilization of water in Senegal. The event began with a discussion of legal traditions and water rights in Senegal. Speakers focused on the disharmonious relationship between newly codified water regulations and customary traditions. Senegalese populations believe that the divinities delegate the use of water to communities. Water, in their custom can not be owned and is not property. It cannot be sold and when an individual leaves the community the water rights return to the community. New laws, however, have ignored the communal approach, which rather than diffusing the traditional ways has reinforced them. The end result is greater conflicts regarding water governance in Senegal.

After reviewing this historical perspective, discussions focused on current challenges in water governance. Participants learned of the surprising parallels in the challenges faced in Senegal to those currently and historically faced by California. The legal systems in place do not adequately address the growing strains on water access. Both an international and local solution will need to be derived to fully address the complexities.



Next Steps: Our Senegalese partners are drafting reports compiling Senegal's statutory, Islamic and customary laws governing use and pollution of surface water resources and groundwater. The reports will also provide an assessment of the most significant short-term and long-term water resources management challenges faced in the country. These will be available on GCL's website once completed. We expect this initial roundtable will be followed by others that bring together academic experts from different disciplines and policy and decision makers on the ground in sub Saharan African countries in order to successfully develop an effective legal framework.

Conference participants included: Professors Mamadou Badji, Moustapha Ngaidé, and Samba Thiam, from the Faculty of Law Université Cheikh Anta Diop, Dakar, Senegal; Professor Bernard Durand, Institut d'Histoire des Anciens Pays de Droit Ecrit, Université Montpellier I, France; Dean Christopher Edley, Jr., Boalt Professors Laurent Mayali, Joseph Sax, and Howard Shelanski, GCL's Executive Director Madhuri Messenger, CCELP's Executive Director Richard Frank and Associate Director Cymie Payne, the Berkeley Institute for the Environment's Executive Director Dan McGrath, and law students Hana Ivanhoe '08 and Flynn Coleman '08.