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“Governance, water, and globalisation: a political-ecological perspective”

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Introduction

The European Union (EU) and its member states have an urgent and important task ahead in order to achieve their stated goals of fostering innovation and moving towards sustainability. This chapter examines the case study of the European water sector using examples from the UK, Germany, and Greece and insights drawn from the analysis of

the contested making of the EU Water Framework Directive (WFD).¹ This empirical material² is placed in the context of the key theoretical and practical questions that have underpinned the analysis presented this book (see chapter 1). In particular, the aim of this chapter is to explore the way in which innovation and sustainability are articulated with the emergence of a multi-level (or multi-scalar) ‘gestalt of governance.’

The paper begins with a brief overview of the ongoing trends and significant changes in the European water sector. It identifies the consequences of these shifts in terms of the reorganisation of systems, structures, and practices of regulation; technical institutions and capacity; and the participation of citizens. Particular attention is paid to identifying (a) the key drivers that have shaped the reorganisation of the ‘modes of governing’ and (b) the shifting power geometries that flow from these new political and economic forms of organisation.

The second part of the chapter addresses the central themes that cut across the different case studies. First, the alleged shift from ‘government’ to ‘governance’ is discussed. Emphasis is placed on the contradictory way in which this process has created new institutions and empowered new actors, while disempowering others. Second, we investigate the dynamics of regulation at both national and EU levels. In contrast with the prevailing view (that the European trend is towards de-regulation), our evidence suggests that a profound re-regulation is under way; a tendency that is clearly noticeable in the water sector. Ironically, the process of re-regulation in the water sector

¹ European Communities (2000) “Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy” Published in the in *The Official Journal of the European Communities*, L 327 /1 Volume 43, 22 December 2000

² The empirical material is described in detail in the final project report on water supply; see: [http://www.geog.ox.ac.uk/~bpage/files/FinalReport\(Water\).doc](http://www.geog.ox.ac.uk/~bpage/files/FinalReport(Water).doc)

is primarily (but not exclusively) impelled by the need to make the management of water conform to market conditions, and is, therefore, an outcome of the driving forces of marketisation and privatisation. The character of the water business is such that in order to create competition it is necessary to institutionalise regulation. So, liberalisation is also associated with the establishment of new institutions and the emergence of new actors. In addition, the process of re-regulation in the water sector is highly scale sensitive (Swyngedouw 1998, 2000). The institutional configurations of re-regulation shift in important ways when jumping from scale to scale within the context of a multi-level European Union.

The alleged shift from ‘government’ to ‘governance’ and the process of re-regulation in the water sector share certain affinities. They both entail a transformation of the institutions and mechanisms of participation, negotiation and conflict-intermediation. Participation, then, is one of the key terrains over which battles over the form of governance and the character of regulation are currently being fought. In particular, when this change coincides with a new ‘scalar gestalt’ of institutional regulation, there emerges an episode of possible dramatic change within the power geometries of water governance. Finally, the chapter assesses the extent to which participation has already changed. The changing power relations and their consequences are discussed in the context of the ongoing process of privatisation and internationalisation of the water sector. We argue that changes in the meta-systems of political-economic organisation infuse the shaping of the new forms of governance and the degree, form, and organisation of ‘participation’ in decision-making processes. This opens up the possibility of making normative judgements about the democratic or participatory configuration that new forms of governance take.

From our point of view, governance should be considered from a concrete and not an idealist or normative perspective. To some extent, innovative political, institutional and regulatory frameworks have developed over the past decade or so at a variety of internally articulated levels (local, national, European). The formation of such new ensembles of governance is invariably related to actual transformations of the concrete (that is economic, social, cultural, and/or physical) manner in which various aspects of individual or collective life are organised. Moreover, the fact that both ‘sustainability’ and ‘participation’ have already risen higher on the political and research agenda suggests that these changing forms of governance have an impact on social life that is being questioned. Theoretical-idealist models of governance, political-institutional change, and participation practices dwell primarily within the domain of the conceptual, the desirable, and the possible (Schmitter 2002, Kooiman 2002, Gbikpi, this volume). However, when considered from the vantage point of actual political-economic and socio-ecological transformations, the contested terrain of political participation and the content of ‘governance’ are subject to all manner of internal conflict and tensions. The choreography of actual transformations in governance systems opens a vast arena of mutually interdependent mechanisms that significantly increase not only the complexity of the processes at work, but also, and perhaps more importantly, bring out the possible perverse effects (or, at least, the contradictory character) of many of these shifts.

Water and (Participatory) Governance

Emblematic Waters

Water is emblematic of the connectedness of nature and society. Water and the management of the terrestrial part of its circulation presents a seminal example of how ecological, physical, social, and political processes can fuse together in the modes of organising, regulating, controlling, and/or accessing resources. Water, conceived as a hydro-social cycle, constitutes an encompassing vector to such a degree that the ecological process of water circulation can no longer meaningfully be abstracted from its mode of political and economic embeddedness (Davis, 1990; Swyngedouw, 1996). The emblematic character of the hydro-social landscape is re-enforced, not only by the proliferation of conflicts over water, but also by the often radical transformations that have taken place in the European water ‘sector’ over the past two decades (Barraqui, 1995). To excavate transformations in the water sector is to simultaneously investigate transformations in the hydrological and social realms. In particular, such transformations embody and express shifts in sustainability and participation. Water becomes a lens through which the new modes of governance can be assessed.

First of all, an intense debate has raged recently over the potential physical limits to European water resources (EEA 1995a, 1995b, 1998, 1999 2000a, 2000b). Concerns over water expressed themselves primarily in terms of questions of quality in northern Europe, notably in Germany, the U.K. and the Scandinavian countries and of quantity in Southern European countries, notably Spain, Italy and Greece (EEA 1996a, 1996b). Furthermore, the perceived or real problems with present and potential future supply, in close concert with a greater environmental sensitivity and the growing power of environmental movements within civil society, has not only pushed water a few notches

higher up the political agenda, but has resulted in far-reaching changes in both the regulatory and institutional organisation of various aspects of the hydro-social cycle (Hassan, 1995).

Second, the meta political-economic dynamics have moved local, national and supra-national government towards creating regulatory environments that 'liberate' market forces and foster more competitive economic behaviour (Arthur Anderson 2000; Buckland and Zabel 1996; Cowan 1997; OECD 1997). This process includes the commodification of water (moving the boundary between public and private control in the direction of the latter) and has been played out in the organisation of water abstraction, distribution, and wastewater processing. In other words, regulating the interplay between the natural and social processes of the water cycle has become increasingly articulated with the dynamics of the market and, consequently, with the spatial and institutional processes associated with market forces (Bakker 1999; 2000; Gandy 1997; Rees 1998).

Simultaneous movements towards uniformity and difference distinguish European water policy. The organisational and institutional innovations associated with the twin drivers of (a) anxiety about the limits of nature, and (b) marketisation that are outlined above exhibit a mesmerising complexity and significant geographical variations. Clearly, the institutional and regulatory changes taking place across Europe are neither unequivocally pointing in the same direction nor are they of a similar intensity. For example, the wholesale privatisation of the water supply and sewerage system in England and Wales in 1989 and the associated fundamental restructuring in its mode of operation contrasts with more modest, yet significant, changes in Greece and a rather slower process in Germany (Hassan 1998; Getimis et al 2001; Skourtos

1995). Yet, the two aforementioned pressures are unmistakably visible in each of the cases and clearly manifest themselves in changing modes of governance. In addition, because regulatory powers and rule-setting procedures have been scaled up to the level of the European Union,³ a series of obligations have emerged that are shared by all levels of governance across the Union. In sum, despite highly varying geographical and institutional constellations, there is a series of common processes at work in the water sector (growing environmental concerns, the impetus on introducing market forces, and the ‘Europeanisation’ of governance) which turn it into an example of the wider changes in both the political economy and in the modes of governance of the EU and its constituent parts.

Since public/private boundaries have shifted and new considerations have entered the policy field, the relationship between individuals or social groups and the mode of (water) governance has undergone profound change, a change that echoes similar transformations in other domains of governing as well. In particular, the new modes of (water) governance open up an arena for problematising the thorny relationship between society on the one hand and its political expression through institutions that undertake public managerial and regulatory tasks on the other. Put differently, the relationship between state and society, which is invariably precarious, is posed here in new forms.

³ A process that is most clearly seen in the recent adoption of the WFD. See the interim report of the project ([http://www.geog.ox.ac.uk/~bpage/files/FinalReport\(Water\).doc](http://www.geog.ox.ac.uk/~bpage/files/FinalReport(Water).doc)); Kallis & Butler 2001).

(Participatory) Water Governance

The water case studies focused on three inter-related themes. First, substantiating the extent to which changes in the governability of water at local, national, and EU levels (and the articulation between these scales) expressed a shift from state-led and state-controlled forms of water-government (command-and-control systems) to a new institutional form of water governance beyond-the-state. Second, teasing out how these innovations in water governance articulate with changing choreographies of participation and, third, identifying the relationships, if any, between sustainability, innovation, and participation.

It is now commonly accepted that the system of governing within the EU and its constituent parts is undergoing rapid change (European Commission 2001; EU Committee of the Regions 2000). Although the degree of change and the depth of its impact are still contested, it is beyond doubt that the 19th/20th century political formations of articulating the state/civil society relationship through different forms of representative democracy, which vested power in hierarchically structured transcendental state-forms, is complemented by a proliferating number of new institutional forms of governing that exhibit rather different characteristics (Baiocchi, 2001; Curtin 1999; Jessop 1994, this book, Taylor 1999). The traditional state-form in liberal democracies is theoretically and practically articulated through forms of politics, which legitimise state power by vesting it within the political gift of citizens. The new forms of governance exhibit a fundamentally different relationship between power and citizenship and, consequently, constitute a new form of governability.

Contrary to state-based arrangements, which are hierarchical and top-down command-and-control forms of setting rules and exercising power (but recognised as

legitimate via socially agreed conventions of representation, delegation, accountability, and control), governance systems are presumably based on horizontal, network, and interactive relations between independent but interdependent actors that share a high degree of trust, despite internal conflict and oppositional agendas, within inclusive participatory institutional or organisational associations (Schmitter, 2002). These are systems of negotiation-and-covenant that operate beyond-the-state (albeit not independent from the state). The participants in such forms of governance partake (or are allowed to partake) in these networked relational forms of decision-making on the basis of the 'stakes' they hold with respect to the issues these forms of governance attempt to address (see Schmitter, 2002: 62-63).

Shifting Geometries of Power

To the extent that '*participation*' is invariably mediated by '*power*' (both among 'holders' and also between levels of government/governance and between governing institutions, civil society, and encroaching economic market power) then the excavation of shifting relations of power is a central concern (see Getimis & Kafkalas, this volume). Since it is impossible within the remit of this paper to exhaust the theorisations and perspectives on social and political power, we shall focus on the principles that fundamentally shape an individual's or a social groups' position within the polity. These principles articulate their respective (but interrelated) power position vis-à-vis governing institutions on the one hand and civil society on the other. In pluralist democracy, the political entitlement of the citizen is articulated via the twin condition of 'national' citizenship on the one hand and the entitlement to political participation in a variety of ways (but, primarily via a form of (constitutionally or

otherwise) codified representational democracy) on the other. Network based forms of governance often do not (yet) have codified rules and regulations that shape or define participation and identify the exact domains or arenas of power. This opens up a vast arena of contestation that revolves around the exercise (or the capacity to exercise) entitlements and institutional power. In the following sections, the key issues and problems associated with this alleged emerging shift from government to governance with respect to the twin features of participation and of power are explored.

Entitlement - Status

The first question revolves around ‘entitlement’ and ‘status’. While the concept of ‘holder’ is inclusive and presumably exhaustive, the actual concrete forms of governance are, as is clear from the case studies, necessarily constrained and limited in terms of who can, is, or will be allowed to participate. As all three case studies show, the ‘holder’ characteristics of a particular actor are varied and fluid. Hence, assigning or appropriating the entitlement to participate is of prime importance. In particular, assigning ‘holder’ status to an individual or social group is not neutral in terms of exercising power. As the research ascribing holder characteristics to particular actors revealed, the process was highly subjective, and far from clear-cut. In most real cases, the entitlement to enter into negotiations is conferred upon participants by those who already hold a certain power or status. For example, in the preparation of the WFD, the European Commission was the prime ‘gate-keeper’ in assigning entitlements. At a different scale, in the preparation of the current Water Bill in the UK, the central government is the prime ‘gate-keeper’ who chooses which actor’s contributions to consultation are given credibility. Of course, individuals and social groups can mobilise

all manner and forms of action to demand participation (as, for example, the European Environmental Bureau (EEB) successfully managed to do). The degree to which mobilisations of this kind are successful depends, *inter alia*, on the degree of force and/or power such groups or individuals can garner on the one hand, and the willingness of the existing participants to agree to include them on the other. In addition, the terms of participation may vary significantly from mere consultation to the right to vote on a decision or unanimity. Needless to say, that status within the participatory rituals co-determines effective power positionality.

More fundamentally, while political citizenship-based entitlements are inclusive (at a national level), holder entitlements are invariably predicated not only upon a willingness to accept new entrants as participants, but also upon willingness-to-participate by the new entrants. The latter of course depends centrally on the perceived or real position of power that will be accorded to the new entrant by the incumbent participants. In a context in which, partly through the erosion of political power (compared with other forms of power (economic power, for example)), and partly through emerging problems in the relationship between state and civil society, many individuals and social groups have fully or partially sought to ‘opt-out’ of political participation and chosen either other forms of political action or for outright rejection. For example, ‘deep ecologists’ and parts of the ‘alternative globalisation’ and ‘anti-capitalist’ movements have taken this route to pursue their political agendas. Similar practices were identified with respect to participation in the design and formulation of the WFD. Consumer organisations or trade unions chose to retreat from participation at the European level during the consultation period and lobby for their interests via other, usually national, channels.

Representation

In addition to decisions over entitlements to participate, the structure of representation is of crucial importance. While pluralist democratic systems exhibit clear and mutually agreed forms of representation, ‘holder’ participation suffers from an ill-defined and diffuse notion of representation. In particular, it has not outlined any actual system of representation. Various groups and individuals participating in networks of ‘governance’ have widely diverging mechanisms to decide on representation and to organise feedback loops to their constituencies. It is primarily civil society organisations that participate in ensembles of governance and their claim to be inserted into grass-roots civil society power is much more tenuous than is generally assumed. In fact, it proves to be extremely difficult to disentangle the lines of representation (and mechanisms of consultation and accountability that are directly related to the form of representation) through which groups (or individuals) claim entitlement to ‘holder’ status (and, hence, to participation). This, of course, opens up a space of power for the effective participants, an opportunity for which there is no formal check.

Accountability

Directly related to the question of representation is the mechanism and lineage of accountability. Again, while a democratic polity has more or less clear mechanisms to establish accountability (however minimal in effect), ‘holder’ representation fundamentally lacks explicit lines of accountability. In fact, accountability is assumed to be internalised within the participating groups through their insertion into (particular segments) of society. However, given the diffuse and opaque systems of representation, accountability is generally very weakly developed. In other words, effective

representation has to be assumed, is difficult to verify, and practically impossible to challenge. Ironically, then, the outcome of this, as is established in the research on the WFD, is often more technocratic, non-transparent systems of governance. These new institutions wield considerable power and, thus, assign considerable, albeit internally uneven power, to those who are entitled (through a questionable selective process of invitation) to participate.

Legitimacy

This brings the argument directly to the question of legitimacy. Given the difficulties outlined above, the mechanisms of legitimation of policies and/or regulatory interventions become very different from those of representational democracy. To the extent that legitimacy does not spring from institutionally defined entitlement to representation and accountability, these new forms of governance face serious internal and external problems to establish or maintain legitimacy. In fact, this has been a long-running problem for many of the EU forms of governance. As Heinel (1998: 82; 2002: 99) suggests, governance implies *a linguistic coding of problem definitions and patterns of action* (Gbikpi/Grote, 2002, p. 27). This view parallels recent perspectives on eco-political consensus formation that show a reliance on the formation of discursive constructions (through the mobilisation of discourse alliances) that produce a collective image of a desirable condition (Hajer, 1989; 1995). Such performative discursive strategies constitute powerful mechanisms for producing hegemony and manufacturing consent and, thus, a degree of legitimacy.

A clear example of how governance systems rely on constructing particular linguistic codings and images can be found in the WFD. While the Directive's stated,

and commonly agreed, legitimate objective is to achieve a ‘good water’ standard within the EU, it simultaneously privileges particular means of achieving that end (such as, among others, moving in the direction of full cost recovery). Such a strategy has generated intense social and economic conflict in some quarters – for example the 2001 Blue March of Spanish water activists. Evidently, merely because the ends are uniformly seen as legitimate there is no guarantee that the proposed means by which to achieve those ends will also be perceived as legitimate. As a result, such conflicts question the legitimacy of the entire *procedure of governance* through which the WFD was constituted.

Scale Geometry

Furthermore, the geographical scale or level at which forms of governance are constituted and their internal choreographies of participation/exclusion are clearly significant. More importantly, scales of governance are rapidly ‘re-scaling’ (Swyngedouw 1998; 2000), i.e. competencies and terrains of policy intervention have shifted in recent years either upwards from the national scale to the scale of the EU (or beyond) or downwards to the regional or local scale. This process of ‘jumping of scales’ (Smith, 1984) is not neutral in terms of power relations. In fact, with changing scalar configurations, new groups of participants enter the frame of governance or re-enforce their power position, while others become or remain excluded. For example, while nationally regulated water systems during the post-war corporatist forms of government invariably required the presence of employer and union representatives in the governing arrangements of the state, the recent ‘jumping of scale’ of water related policies to the level of then European Union has preserved the presence of employers’ organisations

(the water companies), enabled the participation of environmental groups (which were generally not present at the national level), but implied the *de facto* exclusion of unions or other workers' representation.

Order of Governance

The range of choices open to a decision-making governance ensemble is constrained by its position within a scalar governance hierarchy. As both Kooiman (2002) and Jessop (this volume) attest in their contributions, a clear distinction, at least theoretically, has to be made between meta-, first, and second order governance. In terms of the political and social framing of policies, there is a clear hierarchy between these orders of governance (which can and do operate at all scales). However, the choreography of participation, including entitlement, status, and accountability, vary significantly depending on the 'order' of the governing network. Consider, for example, how the formation of the WFD⁴) – a meta-governance order – was characterised by a very particular power configuration and structure of participation, while the framework directive *imposes* – as a form of also second order governing – (through its art. 14) a far-reaching degree of participation for the new institutions of governance to be established at the level of the river basin. The range of options open to catchments based governance ensembles is pre-determined by the WFD and reflects their relatively humble position within the governance hierarchy. Another example can be found at the national scale in the U.K. Local Organisations (such as the National Campaign for Water Justice), which campaign for the re-nationalization of the water industry, who find themselves

⁴ See chapter 1 of the final report on water supply ([http://www.geog.ox.ac.uk/~bpage/files/FinalReport\(Water\).doc](http://www.geog.ox.ac.uk/~bpage/files/FinalReport(Water).doc))

effectively excluded from local ensembles of governance (such as Catchment Abstraction Management Strategies (CAMS) or Customer Service Committees (CSCs)) because their political ambitions are external to the remit of these bodies. Considering the national political-economic structure of the water sector in the UK is not an option for such bodies, so that participants who wish to discuss such matters find themselves without interlocutors. Given the relative influence of meta-governance at a higher scale level, it becomes particularly important to focus attention on this level because it determines so much of what happens at other levels. In particular, it is necessary to study the ways in which participation is organised at the meta-governance level. While participation is written into the policy for second order institutions of governance (for example, river-basin institutions), there is no comparable mechanism to impose or to regulate participation for meta-governance institutions.

Political-economic and political-ecological constitution

The political and institutional armature does not operate independently from the social and economic sphere. In fact, any operation of the political sphere is *de facto* a political-economic and a political-ecological intervention as this sphere inevitably impinges on, and is shaped by, decisions over economic processes and modes of environmental use and transformation. This is particularly true in a market-economy in which key decisions over resource allocation are taken by private actors who operate within the regulatory framework of systems of government. Over the past few decades, there has been a tendency towards de- and re-regulation, and towards the externalisation of state functions. The new forms of governance were either instrumental in shaping this transformation of regulation or themselves became the regulatory framework for

managing a beyond-the-state polity. In this sense, therefore, the power geometries within and between networks of governance as well as, most importantly, the theatre of their operation and focus of their intervention, are shaped by these wider political-economic transformations. For example, when in the U.K. the political-ecological and ideological hegemony turned decidedly towards the privatisation of public functions, including the privatisation of the water sector, a whole host of quasi-governmental institutions (quangos) – or new forms of governance, such as the Office of the Water Regulator (OfWAT) – had to be established (by the national state) as the interlocutor between private interests and public concerns. Inevitably, both OfWAT's power as well as its internal composition is directly shaped by the now market-led and market-driven structure of the hydro-social cycle of the UK. Similar arguments can be made for the environmental regulator.

The continuing relevance of the state in a system of governance beyond-the-state

Last, but not least, it would be premature to announce the death of the national state in the wake of the emergence of these new forms of governance. In fact, many of these networked organisations are set up and directly or indirectly controlled by the state and, regardless of their origin, necessarily articulate with the state. Hence, the political power choreography in this hybrid government/governance configuration is multi-layered, diffuse, de-centred, and, ultimately, not necessarily very transparent. Yet, whether we consider EU levels of water governance or the emergence of sub-national levels of governance (around the efficiency of water services or around environmental concerns),

they cannot operate outside of the state. However, their institutional operation beyond-the-state permits a form of governability to emerge that is apparently outside the state, and to which the state must necessarily respond. This ambiguity becomes, in fact, one of the means the state mobilises to deal with its own immanent crisis of legitimacy. For example, the new forms of governance (at the EU or other levels) are invoked by the state to legitimise and push through forms of intervention that might otherwise meet with considerable resistance from (significant parts of) civil society. Equally, states can also divest political decisions that they anticipate will have inevitable negative electoral consequences down the hierarchy of governance onto quangos. For example, the proposed introduction of common carriage arrangements in the UK opens up the way for removing a subsidy that is currently given to rural consumers. By-passing the decision on introducing common carriage to OfWAT, the government puts itself at arms length from this difficult political act. At the same time, the political is redefined as technical. Whilst debates about common carriage and subsidies are inherently political because they are about the allocation of resources, they are presented as technical because an allegedly ‘technical’ body like OfWAT deals them with. In the absence of clear channels of accountability, civil society (both individuals and groups) finds it more difficult to engage in public debate and to contest the decisions made beyond-the-state.

Policy and Participation in the Water Sector: national and European crosscutting issues

The Shifting Political-Economy of Water

A debate is raging about the potential for and the actual shifts towards privatisation. This debate often suggests that privatisation is an inevitable and necessary means by which national policies can adapt to the requirements imposed by a new global and de-regulated world economic order. Our case studies show, however, that, since the inception of urban water systems in the 19th century, the urban hydro-social cycle has always been characterised by shifting configurations of public-private partnerships (see Swyngedouw, et al, 2002) and the co-existence of forms of government and of governance. However, since the mid 1970s, a shift has taken place in the state/private nexus in the water sector. This period (roughly starting with the global recession) is associated with the demise of state-led economic growth, and the subsequent transition to post-Fordist or flexible forms of economic development and state guidance. The first point, then, is that whilst the water sector has always used both public and private sectors, it moved dramatically towards the private sector following the crisis of Fordism⁵.

The second point is that ‘privatisation’ was -- with varying degrees of intensity between countries -- seen as an important mechanism for resolving the economic crisis of Fordism in general and, thus, also in the water sector. Mounting economic problems

⁵ ,Fordism’ is a general term that refers broadly to the post-war period (up to the mid-seventies) of socio-economic development in Western societies, characterised by the combination of mass production/mass consumption on the one hand, and state-led redistributive income and Keynesian macro-economic management on the other. This form of development reached an acute crisis and subsequent restructuring from the 1980s onwards (see Moulaert and Swyngedouw, 1987; Amin, 1994).

– in the context of high social and investment spending – resulted in growing fiscal difficulties for the national (and often also the local) state. The first political strategy for resolving the crisis of Fordism was to reconsider the direction of state spending. This resulted in reduced expenditure on welfare and an increased unwillingness to support debt-ridden industrial sectors or expensive infrastructure programs. The water sector illustrates this clearly. Prior to the shift, the price of water was kept low and infrastructure investments were also subsidised. The combination of an aging infrastructure in many European cities and apparently unrelenting growth in domestic demand put an even greater pressure on state budgets. Subsequently, national as well as local governments became increasingly unwilling to support those subsidies or to invest in infrastructure. A second strategy for dealing with the crisis was to focus on competitiveness. By the late 1970s and early 1980s, this was articulated around a quest for efficiency gains and greater productivity, which were to be achieved by cutting red-tape, de-regulating the labour market, and enabling greater investment flexibility. Political and economic processes within the EU itself contributed in important ways to this. The re-assessment of the public/private nexus in the water sector occurred partly as a response from the part of the member states, not so much to new European water legislation as – most importantly – to the necessity to comply with the convergence criteria for admission to the monetary union. Adhering to these criteria induced a shrinking of public sector spending (Ruys, 1997) and (in particular for the poorer member states) the ‘selling-off’ of public assets. The Greek example is a case in point to illustrate this.

The third point is that existing governance arrangements were an obstacle to the rapid changes needed to address the crisis of Fordism. The standard democratic

channels of government (often infused by the presence of social organisations such as unions) proved to be a considerable barrier for implementing swift policy-changes in the 1980s. The political-economic configuration has, consequently, changed in important ways, resulting in new institutional arrangements (see below) that permit a more market-oriented politics that is in tune with profit-making strategies to develop (Ogden, 1991; 1995).

Fourth, investors began to search for new frontiers for capital investment. Nature in all its forms became part and parcel of new accumulation strategies. Water presented itself as a possible new frontier to harness, as a potential source for turning H₂O into money and profit.

Fifth, and finally, the growing environmental problems and, consequently, the proliferating number of actual and potential conflicts in the management and regulation of the water cycle proved to be a serious challenge for traditional forms of organisation and implementation of water-related activities. Systems of governance had to become more sensitive to these issues, particularly in a context in which environmental groups within civil society became more vocal and powerful. Such groups ensured that questions of restricting or controlling demand (demand management), controlling pollution and protecting sensitive ecologies, were clearly heard. The internalisation of all these tensions within a fundamentally state-owned and state-controlled sector like water became increasingly difficult (Swyngedouw, 1998).

The combined effect of these processes and dynamics resulted in a shift, both in practice and ideology/discourse, from a state-led water sector to one that is more in tune with the imperatives of a competitive privatised economy. This shift was more dramatic in some countries than others, but even where the sector was not formally privatised, the

perceived end-goal of the sector's structure was repositioned so as to be more attuned to globalised market forces. In other words, a new hegemonic meta-governmental discourse emerged in the water sector, which was articulated around fiscal prudence, competitiveness, privatisation, the commodification of nature and environmental anxieties (Hajer, 1995). In some cases, actual privatisation has taken place (such as in the UK), in other cases the water sector was partly privatised (as in Greece). In some contexts, publicly owned companies are required to act strategically, managerially, operationally, and organisationally as if they were private companies (as in some German water supplies). In addition, water businesses are often now part of (global) multi-location water companies or multi-utility conglomerates.

Clearly, the privatisation process has had (and will continue to have) profound implications for the water sector and beyond⁶. Moreover, in this new marketised environment the question of what constitutes 'sustainability' is radically different compared with a more collective perspective. Moreover, the institutional and regulatory environment, including the parameters of who participates and who will be excluded from participation, has changed. Our case studies show, with varying degrees of intensity and levels of implementation, a tendency towards the *commodification* of water, the *marketization* of water supply and the *liberalization* of the water sector. But, regardless of the actual institutional form of organisation of the water sector (i.e. private, public, or mixed), the new stage in the commodification of water that started in earnest in the 1980s has by now become almost hegemonic.

⁶ However, we cannot dismiss the existence of powerful forces that oppose the privatising agenda or the internal contradictions of the privatising model, which has often ended in failure in many cases around the world (Svedoff et. al., 1999; Hardoy et. al., 1999; Bond, 1997).

A new regulatory order? De-regulation, Re-regulation, or No regulation

The tendency towards commodification and privatisation changes the regulatory context in important ways. Moves towards privatisation are legitimised by reference to increased competitiveness, higher productivity, lower prices, and a reduction in bureaucratic red tape. There has been a tendency to equate these shifts with de-regulation. However, evidence from the water sector from our case studies suggests exactly the opposite. Particularly in the case of the UK, new institutions accompanied the privatisation of the water utilities in 1989, most notably the economic regulatory body OfWAT. Although the main function of OfWAT is the protection of the consumer by means of regulating price setting and investment, the case study shows that, over time, this process proved to be full of tensions and conflict. Increasingly OfWAT became the umpire in an increasingly complex game, in which the various different water companies, the government, consumer bodies and the environmental lobby were players. Different players (for example different water companies) employed different strategies and each one required OfWAT to lengthen the game's rulebook. As Bakker (1999; 2001) has pointed out, the regulatory game that started with the privatisation (and ostensibly de-regulation) unleashed a certain 'regulatory creep', which has subsequently developed into a top-heavy institutional-regulatory body. Given the territorial monopoly-character of the privatised water companies, all sort of regulatory procedures, such as investment target-setting, pricing, environmental standards, abstraction and leakage standards, quality assurance, and the like, have been implemented. Having shifted from a situation in which the state was both 'poacher' and 'gamekeeper' to one in which there is a sharp institutional separation between the two has inevitably led to a situation in which 'regulations' have become formal, overt and

statutory. Rather than de-regulating the water sector, privatisation has resulted in a profound re-regulation of the water market and in the emergence of a considerable quasi-governmental regulatory structure. In so far as the regulatory institutions described in the UK are a specific product of privatisation *sensu strictu*, it is unsurprising that similar bodies are less obviously visible in Germany or Greece.

The struggles over the boundary between the public and the private terrain operate primarily through two interrelated axes: first, environmental standards and, second, market imperatives. The tension between these becomes contained in the pursuit of *environmentally friendly marketization*, while the public/private tension is mediated through debates over the form that the commodification process should take. Unanticipated consequences of these debates are seen in the changing character of knowledge within the water sector. Information that was once in the public domain becomes commodified, takes on commercial significance and becomes confidential. In the context of a shift to governance, knowledge management is central to playing the regulatory game. Retaining control of technical institutions remains an important vehicle for government bodies (at a variety of scales) to preserve its relative advantage within negotiations. But despite the apparent centrality of such debates about public and private spheres, it is clear that at a fundamental level state-led command-and-control strategies remain the key mechanism for the implementation of environmental regulations.

The shift from water government to water governance and the re-scaling of the power of water institutions

A host of new institutional or regulatory bodies have been set-up (in the UK appropriately called quango's) that have considerable decision-making responsibilities,

but which operate in a shady political arena with little accountability and only limited forms of democratic control. These institutional changes have invariably been defined as part of a wider shift from government to governance (Swyngedouw, 2000). Whereas in the past, water management and water policy were directly or indirectly under the control of a particular governmental scale, i.e. either at the national state and/or the local (municipal) level, in recent years there has been a spiralling proliferation of new water-related institutions, bodies, and actors that are involved in policy-making and strategic planning at a variety of geographical scales.

At a European scale, the Commission has undoubtedly increased its power to steer water policy. Successive generations of water-related directives and regulations culminating in the tortuous process of agreeing on an integrated EU policy in the form of the WFD have enabled the commission to become the defining scale of meta-governance as well as of second order governing within this sector. The political history of the successive stages of negotiating the framework directive suggests a rather tumultuous path in which various actors (such a national governments, water providers, industry, the agricultural sector, the Commission, the European Parliament, NGOs of a variety of kinds) played different roles. Their influence has changed over time.⁷ What is important in this context is the recognition that the ‘jumping of scale’ in terms of regulating water-related matters from the national to the European level paralleled not only the formation of new institutional forms of governance, but simultaneously altered the scope and focus of (a) regulation and (b) the participation of civil society groups and political constituencies. In the case of the WFD the result is a directive, which --

⁷ See chapter 1 of the final report on water supply.

though it did not satisfy all environmental NGOs - undoubtedly took a more radically pro-environmental form (with a primary concern of water quality over quantity) than earlier economic and consumer oriented concerns of national regulation. Water pricing (full infrastructure and environmental cost recovery) was singled out as one of the key means for delivering better quality water for Europe (in addition to the establishment of river basin authorities) and is, indeed, put forward as one of the key themes for the implementation phase. This reflected the choreography of the participants. The Commission, the Parliament, and the Council of Ministers all participated in the making of the WFD. Certain economic sectors (the fertilizer industry, the chemical industry, agriculture, the water industry) and certain environmental lobby organisation (such as the EEB) were also represented, albeit within a variable power geometry that changed over time. In contrast, consumer or workers organisations remained far less involved in the theatres of consultation and participation, primarily because they had to balance the allocation of their limited resources between engaging in water policies and other arenas of political and social action at the European level. Such groups, however, are exactly those that play or played significant parts in national regulatory frameworks.

Moreover, the implementation of the WFD by member states (second order governance) requires re-enforcing or establishing sub-national forms of governance (at the level of the river basin). While there is call for inclusive participation at that level, the modalities of such a participatory network of river basin management were vague at the time when the directive was passed. As national states constitute the level that has to comply with the WFD, the subsidiarity principle points to the national states as the arena through which the form and content of these sub-national forms of governance should be decided. Whilst the Commission is prepared to host working parties to

negotiate implementation for pragmatic reasons (Bloech 2001), the statutory expectation is that member states will establish structures of local participation (WFD Article 14). The overall result, therefore, is a ‘glocalisation’ (Swyngedouw, 1989) of the national government, both upwards to the EU level and downwards to the sub-national level. This results in a more complex articulation of varying geometries of scale-dependent forms of governance. In sum, national governmental regulation is simultaneously up-scaled and down-scaled, with an accompanying change in the choreographies of power, both between and within institutions.

Finally, privatization itself of course results in much greater power and autonomy for the companies themselves in terms of strategic and investment decisions. Privatisation de facto means taking away some control from the public sector and transferring this to the private sector. This not only changes decision-making procedures and strategic developments, but also affects less tangible elements such as access to information and data.

The internationalisation of the private governance of water

The supply of water is increasingly embedded in processes of economic globalisation. Whether publicly or privately owned, water businesses are expanding their operations geographically and they have become involved in an international competitive process. In the case of privatised companies, furthermore, their capital structure is also becoming increasingly internationalised. For example, after the UK government sold its ‘golden share’ in December 1994, it opened the way for a frenzied spree of mergers and international takeovers. Many UK water companies are actively acquiring water operations elsewhere in the world, while British companies have been subject to take-

overs from foreign competitors. For instance, Thames Water (London's water supply company) was acquired in September 2000 by the German multi-utility RWE. The privatisation of the Athens water company turned EYDAP into a stock market listed company and, hence, subject to the vagaries of national and international capital markets. At a global scale, an accelerated process of concentration and consolidation is taking place that is rapidly leading to a fairly oligopolistic economic structure of water utility companies, with two (French) companies controlling about 70% of the global privatised water market (Hall, 2001). This tendency has been further accentuated by the recent collapse of ENRON, one of the leading global multi-utility companies. Aside from the difficulties of regulating global companies (particularly with respect to environmental and social standards, investments, maintenance and infrastructure upkeep), this trend raises the spectre of increasing geographical strategies around investments and about the spread of activities, the flow of water-capital, and the portfolio of holdings. In addition, it opens the possibility of withdrawal of water companies from particular places and sites, permits strategic cherry-picking and might even lead to bankruptcies or liquidation of activities. This might lead to a situation in which the necessary provision of water for more problematic (i.e. costly and difficult to sustain) areas has to be undertaken by the public sector, while the private sector picks places that optimise corporate profitability.

In all of our case studies, increasing attention is paid to demand management. This is mainly a result of the growing awareness of the risk of dwindling water resources, which has intensified the political and social debate about the 'scarcity' of water (Nevarez, 1996), both in quantitative and qualitative terms. As Kaïka (1999) has pointed out, this discursive built-up of a particular water narrative and ideology,

particularly noticeable during, for example, the drought-related crisis conditions in Athens in the early nineties, serves specific political and economic objectives and policies. A climate of actual, pending, or imagined water crisis not only serves to facilitate further investment in the expansion of the water-supply side (as in the case of Athens), it also fuels and underpins drives towards commodification. While the price signal is hailed as a prime mechanism to manage 'scarcity', the discursive construction of water as a 'scarce' good in environmental terms becomes an important part of a strategy towards commodification, if not privatisation. In this context, strange political alliances are forged between free marketeers and parts of the environmental movement. The environmental NGOs are concerned about the increasing (but socially constructed) scarcity of water and they are very effective in disseminating their message through the media to the wider public. This contributes to the emergence of a greater willingness-to-pay from the part of the consumer and the introduction of the market mechanism as the preferred signal to allocate the resource to different social groups. Indeed such a mechanism is seen as the only strategy available to allocate a commodified resource (Princen and Finger, 1994). It is, therefore, significant that the main debates within the water institutions that have embraced participatory practices revolve around the intermediation of environmental interests and market driven imperatives. The consequences of this tendency can be seen at local or national levels. Under-represented social groups or actors, who are excluded from the ensembles of governance that are brought together to discuss environmentally friendly marketisation, are becoming increasingly oppositional. Consumer discontent, non-payment of bills (in the U.K. or Barcelona, for example) (Byatt, 1996), a variety of extra-institutional protest in Spain,

or the pan-European Blue March in August 2001 of discontent French and Spanish farmers, environmentalists, and worker organisations all attested to this.

Table 7.1. summarizes and schematically presents the main tendencies outlined in this section (the re-scaling of governance, tendencies towards commodification and an emerging internationalisation) and the varying degrees of intensity in which they take place in the U.K., Greece, and Germany.

Table 7.1: Shifts in influence in the UK, German and Greek water sector

a) UK

	State	Market	Civil Society
Supra-national	○ ↑ ↑ 3	○ ↑ ↑ 4	○ ↑
National	● ↑ ↑ 2	○ ↑	○ ↑
Local	○ ↓ ↑	⇒ ● → 1	○ →
1. Shift from State to Market at Privatisation 2. Emergence of national regulators at privatisation 3. Influence of EU over environmental regulation 4. Globalisation of the water industry			

b) Greece

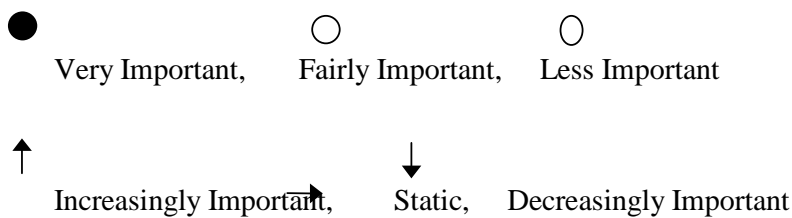
	State	Market	Civil Society
EU	● ↑ 1	○ ↑ 3	○ ↑
National	● ↑	● ↑	○ →
Local	○ ↓	○ ↓ 2	○ →

1. increasing importance of the EU is linked with increasing importance of the national level
 2. privatization: increasing integration of private companies and shareholders
 3. economical up-scaling through liberalization and part-

c) Germany

	State	Market	Civil Society
EU	○ ↑ 1	○ ↑ 3	○ ↑
National	○ ↓	○ ↑	○ →
Federal/regio	● →	○ ↑ 2	○ →
Local	● ↓	○ ↑	○ →

1. increasing importance of the EU is linked with the decreasing importance of the national level
 2. privatisation: municipalities loose influence through increasing integration of private companies and shareholders
 3. economical up-scaling through mergers and effects of the



Conclusions: Innovation, sustainability and the myths of participatory governance

The research on the water sector has identified the emergence of new forms of governance, with their particular configurations of participation. However, the thesis of the transition in environmental regulation from (democratically accountable) statist command and control to horizontal networked forms of participatory governance has to

be qualified in a number of ways. First of all, the national or local (*Länder*) state and its forms of political/institutional organisation and articulation with society remain important. In fact, the state takes centre stage in the formation of the new institutional and regulatory configurations associated with governance. This configuration is directly related the requirements of governability in the context of a greater role of both private economic agents as well as more vocal civil society based groups. The result is a complex hybrid form of government/governance (Warleigh, 2000).

Second, the non-normative models of governance as non-hierarchical, networked and (selectively) inclusive forms of governability, cannot be sustained in the light of the empirical evidence, which points to a series of highly contradictory or conflicting tendencies. While governance promises, and on occasion, delivers a new relationship between the act of governing and society, and, thus, re-articulates and re-organises the traditional tension between the realisation of the Rousseauian ideal in immanent forms of governing on the one hand and the imposition of a transcendental Hobbesian leviathan on the other, there are also significant counter-tendencies. In particular, tensions arise between:

- a) the possibilities and promises of enhanced democratisation through participatory governance versus the actualities of non-representational forms of autocratic technocracy, through the sole inclusion of 'experts'.
- b) the extension of 'holder' participation as partially realised in some new forms of governances versus the consolidation of beyond-the-state arenas of power-based interest intermediation
- c) the improved transparency associated with horizontal networked interdependencies versus the grey accountability of hierarchically articulated, and non-formalised and procedurally legitimised, associations of governance.

These tensions arise particularly prevalent and acute in the context of processes of the re-scaling of the levels of governance. The up-scaling, down-scaling, and externalisation of functions traditionally associated with the scale of the national state have resulted in the formation of institutions and practices of governance that all

express the above contradictions. This is clearly notable in the context of the formation (and probably implementation) of the WFD on the one hand and in the construction of the necessary institutional and regulatory infrastructure that accompanies processes of commodification of water on the other. Needless to say, this ambiguous shift from government to a hybrid form of government/governance, combined with the emergence of a new hierarchically nested and articulated ‘gestalt of scale’, constitutes an important and far-reaching innovation in the management of the hydro-social process.

Third, the processes of constructing these new choreographies of governance are associated with the rise to prominence of new social actors, the consolidation of the presence of others, the exclusion or diminished power position of groups that were present in earlier forms of government and the continuing exclusion of other social actors who have never been included. The new ‘gestalt of scale’ of water governance has undoubtedly given a greater voice and power to environmental organisations (of a particular kind, i.e. those who accept to play according to the rules set from within the leading elite networks). It has consolidated and enhanced the power of groups associated with the drive towards marketisation, and diminished the participatory status of groups associated with social-democratic or anti-privatisation strategies. Some groups, such as, for example, women’s organisations, migrant groups, and the like, remain conspicuously absent from arenas of governance that directly relate to questions of sustainability.

The result is the emergence at all scales of a meta-governance of water articulated around an environmentally friendly marketization, albeit a consensus which is contested by some of those who are excluded from the ensembles of governance. This ideological (or discursive) tendency suggests that within-the-state forms of government

have been partially replaced by interest intermediation, which operates by means of technocratic management in the institutions of governance beyond-the-state. Of course, this, in turn, reflects the shifting geometries and positions of power that are associated with the new configurations of partial participation. Such innovative procedures of organisational reform, including a partial, but selective, enlargement of the participatory domain, shape the focus of the sustainability debate in decisive ways. The resulting practice is centred on a relative physical-ecological sustainability (pursued by ecologists), combined with an overarching meta-objective to maintain sustainable economic *growth* and profits. This operates through the exclusion (discursively and practically) of groups advocating different forms of sustainability or whose focus with respect to sustainability revolves around constructing different forms of socio-ecologically sustainable communities.

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