



## Reframing water: Contesting H<sub>2</sub>O within the European Union



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### ABSTRACT

Water fulfills multiple functions and is instilled with numerous meanings: it is concurrently an economic input, an aesthetic reference, a religious symbol, a public good, a fundamental resource for public health, and a biophysical need for humans and ecosystems. Hence, water has multiple ontologies embedded within diverse social, cultural, spiritual, and political domains. For this paper, we reviewed 78 pieces of water legislation across the European Union, critically analysing the different ways in which water has been defined; subsequently we contrasted these definitions against the European Union Water Framework Directive (WFD). We argue that the act of defining water is not only a deeply social and political process, but that it often privileges specific worldviews; and that the impetus of the WFD reveals a neoliberal approach to water governance: an emphasis on water as a commercial product that should be subjected to market influences. Subsequently, we conclude that the emerging concept of the 'hydrosocial cycle,' which emphasises the inherent links between water and society, could be a useful heuristic tool to promote a broader conception of water based on diverse understandings, that challenge hegemonic definitions of water.

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### 1. Introduction

Water fulfils multiple functions and is instilled with numerous meanings across social, cultural, spiritual, and political domains (Barnes and Alatout, 2012). As such, water is simultaneously conceived as an economic resource, an aesthetic reference, a religious symbol, a public good, a fundamental requirement for public health, and a biophysical need for people and ecosystems (Bakker, 2010; Feitelson, 2012). These meanings may be overlapping and complementary or competing and mutually exclusive. Indeed, the act of defining water is a deeply embedded socio-political process that often privileges specific worldviews (Linton, 2010; Molle, 2008). For example, the identity of water in the first recital of the European Union's (EU) Water Framework Directive (WFD) is the product of protracted negotiations by different stakeholders (Kaika, 2003):

Water is not a commercial product like any other but, rather, a heritage which must be protected, defended and treated as such.

[EU, 2000, p. 1]

In an apparently contradictory manner the WFD highlights that water has simultaneously market and non-market values (Calvo-Mendieta et al., 2011). This provides a somewhat awkward definition for water that reveals some of the inconsistencies and tensions arising when defining water across multiple social, cultural, political and geographical boundaries. With water management being a globally contentious issue, understanding the various interpretations of water underpinning policy could facilitate a critical examination of the assumptions held by policy makers and the likely material outcomes for diverse stakeholders within and across jurisdictions. Through an analysis of definitions of water provided in legislation across the EU, we reveal encoded meanings of water and how these reflect approaches to water governance across the European waterscape(s).

Given that water is indispensable for human life, it is unsurprising that it has been the subject of a wide variety of legislation and policies, domestically and internationally, that attempt to regulate

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its provision in terms of quality and quantity. In the EU member states this has led to the ad hoc development of a variety of water laws and policies, ranging in scale from local government legislation to regional (EU) legislation with the passing of the WFD in 2000. In this paper, we examine different legal definitions that have been ascribed to water across related legislation within the EU. We argue that by unpacking these definitions, in the context of the broader politics, tensions and debates surrounding the governance of water in the neoliberal era, it is possible to access the embedded and formalised perceptions of water that drive particular management strategies and dominant ways of relating to water. This facilitates an appreciation of the embedded political assumptions regarding waterscapes and can highlight the implications of such assumptions in established societal practices.

Of particular relevance to interrogating the dominant socio-political influences upon perceptions of water is the emerging concept of the 'hydrosocial cycle' that is increasingly used by geographers to inform critical analyses of water governance regimes (cf. Boelens, 2014; Budds, 2008, 2009; Debbané, 2013; Linton, 2010, 2014; Linton and Budds, 2014; McDonnell, 2014; Mollinga, 2014; Schmidt, 2014). Initially proposed by Erik Swyngedouw in the mid-1990s (Swyngedouw, 1996), the hydrosocial cycle draws on the hydrological cycle (which describes the 'natural' process of continuous movement of water on, above and below the surface of the Earth) to emphasise interdependencies between flows of water and social processes (Budds et al., 2014). As such, the hydrosocial cycle highlights that water stores and flows are moderated by social, political, economic, and cultural relations and that these relations are, in turn, influenced by the materiality and physicality of water (Barnes, 2014).

Concepts of the hydrosocial cycle influence this paper in two ways. First, on a methodological level, we argue for the existence of multiple social constructions of water within the hydrosocial cycle and that legislative definitions of water provide a robust empirical window to examine the influence of these. As Budds et al. note, "water" is never simply H<sub>2</sub>O but always produced as a particular 'water', materially and discursively, and within specific moments, contexts and relations" (Budds et al., 2014, p. 168). The concept of the hydrosocial cycle provides a way of understanding how different 'waters' are produced as moments within particular sets of social relations and historical contexts. Legislative definitions of water can thus be understood as empirical moments in water's discursive construction, with different definitions of water having different social implications. Second, on a normative level, we propose that the hydrosocial cycle could become a broader political project (beyond its current academic foundation) to offer a radical re-conceptualisation of water where social processes are embedded within dominant definitions. This latter proposition builds on the conceptual foundations of the hydrosocial cycle that challenge hegemonic notions of human–water relations. As Budds et al. attest: "the hydrosocial cycle is purposefully contrasted with the hydrological cycle, which is a dominant and enduring concept for portraying the physical states and flows of water, yet arguably regards water and water processes as asocial and apolitical" (2014, p. 167). The challenge then is to imagine what such reconceptualization would look like.

The analytical starting point for this paper is the EU's Water Framework Directive (WFD), widely regarded as a ground breaking piece of legislation designed to redefine water governance across the EU's 28 member states (Blösch, 2004; Carter, 2007; Moss, 2008). The main objective of the WFD is to achieve 'good ecological status' of water bodies across Europe (Carter, 2007; Collins et al., 2007; Collins and Ison, 2010) through river basin management regimes institutionalised across the EU (Moss, 2004). In particular, the WFD is problem-based legislation that aims to: (1) promote sustainable water use; (2) enhance protection and ecological

improvement of water bodies; and (3) contribute to mitigating the effects of floods and droughts (Blackstock and Carter, 2007; EU, 2000). While the overall implementation of the WFD is largely left to EU member states, the WFD does prescribe processes including the need for public participation (Article 14) and the use of economic instruments and principles (Article 9). This paper focuses on the latter aspect of the WFD and questions the definition of water as a commercial good. It is argued that the promotion of economic instruments in the WFD, which are framed as being universally applicable for achieving desirable ecological outcomes, is a reflection of socially constructed waterscapes where water is perceived narrowly as a resource that can be transformed into an economic commodity.

As a foundation for a review of related EU legislation, we begin by providing a critical review of water governance debates and the formulation of the WFD and follow with a review of national legislation relating to water (e.g., Water Acts, Water Supply Acts, Water Abstraction Acts, Environmental Acts, Flood Acts, etc.) across all 28 countries within the EU. Seventy-eight different pieces of legislation were reviewed in total. The legislation was sourced from government websites and through the FAOLEX legislative database.<sup>1</sup> Where necessary, documents were translated to English, and all were analysed to determine the ways in which water was presented and defined in the text. The overall objective was not to assign specific water definitions to specific countries, but rather to illustrate the various formal 'constructions' of water within relevant EU legislation and associated governance regimes. Although beyond the scope of this article, related legislation passed at the provincial and municipal levels is likely to contain additional definitions for water, a potential area for future research and analysis.

## 2. Broader context: from government to governance

Recent critical literature in geography, falling broadly under the field of political ecology, emphasises the transformation of water management regimes around the world under the general influence of a neoliberal economic ideology (Bakker, 2003a, 2005; Budds, 2004, 2009; Swyngedouw, 2005, 2009). Neoliberal ideology broadly advocates for the rolling back of the state apparatus, which is seen to impinge upon capital investment, commodity production, and market exchange (Heynen et al., 2007). A key element of this has been the notion of a need to transform water into an 'economic good' – most notably outlined in 1992 with the Dublin Principles – to ensure its security, this has become an increasingly hegemonic idea in water governance policies (Swyngedouw et al., 2002; Harris, 2013a). It has also entailed a shift from 'government to governance' with the increasing liberalisation of water markets along with the emergence of new institutions and actors in water provision and regulation (Kaika, 2003; Kaika and Page, 2003). There has been a transition – since the mid-20th century at least – from governments being the ultimate providers of water to citizens, to a broader complex governance milieu in which private sector actors and non-government organisations along with different tiers of government are involved in shaping water governance regimes.

Neoliberalism has ultimately become a dominant ideological position in the world but, as Heynen et al. (2007, p. 7) stress, it has come to occupy this position "not primarily through any 'inherent' power of the ideas themselves, but rather through political mechanisms and institutions that propel them to travel and become entrenched." As such, while hegemonic, its influence over water governance regimes is certainly not absolute, but rather there is variegation in terms of how its influence is manifested

<sup>1</sup> <http://faolex.fao.org/>.

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