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FRAMING AND TRANSLATING INSTITUTIONAL ALTERNATIVES TO PRIVATIZATION IN EUROPEAN WATER SERVICES

ABSTRACT

European water services provision reflects a host of institutional forms, ownership arrangements, and degrees of private sector involvement. The European single market project and its related promotion of liberalization and privatization in networked services have been far more problematic and contested within water than sectors such as energy, telecoms or transport. This conflict is highly contextual; historically derived and locally situated material-discursive landscapes spurn variegated approaches to enacting or resisting neoliberal reforms in water management. The ‘public versus private’ debate which still drives much of the normative and critical research surrounding institutional arrangements for water delivery does not capture this diversity nor its correspondingly refined discourses of equity, efficiency, citizenship, the state, and the environment. This briefing paper explores insights from critical studies of neoliberalism and its situated institutional forms, and those of Framing Analysis, a method previously used to examine social movements and media discourse. Through doing so, it proposes to link the subtleties of public discourse and political positioning with those of institutional development, highlighting how culture and semiotics are inseparable from, and necessarily constitute, economic and institutional change. It also asks what patterns or tendencies can be found between frames and institutional forms and what may be abstracted to a European level.

SEPTEMBER 2013

THE LEIBNIZ INSTITUTE FOR REGIONAL DEVELOPMENT AND STRUCTURAL PLANNING (IRS), BERLIN, GERMANY

Acknowledgements: This research was made possible by the generous financial support from The Leibniz Institute for Regional Development and Structural Planning (IRS). Travel costs were also covered by Oxford Keble College Association. I would like to thank the following for their helpful conversations concerning European case studies and theoretical approaches; Dr. Alberto Ruiz Villaverde^{*}, Dr. Timothy Moss[†], Frank Sonderhous[†], Dr. Matthias Naumann[†], Dr. Ross Beveridge[†], Dr. Karina Böhm[†], Dr. Dimitrios Zikos[‡], Sandra Junier[§], and Dr. Erik Mostert[§].

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INTRODUCTION

The relative merits of municipal control, privatization, and liberalization in water services have traditionally been avoided in European Union (EU) policy and legislation. The 2000 EU Water Framework Directive made brief reference to principles of transparency and full cost recovery in utility management, but did not go as far as to promote privatized ownership and market based management. Similarly, Article 345 of the Treaty on the Functioning of the European Union (TFUE) which dictates that “The Treaties shall in no way prejudice the rules in Member States governing the system of property ownership” (European Commission [EC] 2008) is often interpreted to restrict the commission from openly supporting privatization. However, recent developments in EU policy suggest tenuous support for, and promotion of privatization and liberalization in water services. 2003 saw the EU Commission publish the Green Paper on Services of General Interest (EC 2003a) and an Internal Market Strategy for 2003-2006 (EC 2003b). Both praised the success of liberalization in energy and telecommunications sectors, the latter announcing an intention to “undertake a review of the legal and administrative situation in the water and waste-water sector” (EC 2003b:14). Following this, the Euromarkets Project was commissioned to review past implicit and explicit effects of EU policy on water liberalization and explore future scenarios for its development across Europe (Ecologic 2004). In more recent years, the Commission has been accused of promoting privatization of water through the design of its 2011 procurement provisions (Boscheck et al 2013), as well as the enforcement of privatization demands embedded in bailout terms for member states severely exposed to the recent European fiscal crisis. Observers claim the privatization of water services in Spain, Portugal, and Greece have been enforced by the so called ‘Troika’ of the European Commission, the European Central Bank, and the International Monetary Fund who collectively administer bailout funds (Blue Planet Project 2012).

Such developments at a European policy level are in contrast to the aggressive defense of municipal ownership and control, or even the re-municipalization of public services observed within some member states. A so-called ‘swing of the pendulum’ (Wollmann 2012) has been noted in public policy, away from the initial embrace of the privatization of public services in 1980s and 90s, and back towards public control. The local impacts of privatization are increasingly deemed to be socially unacceptable and politically contentious, while state

ownership and control are winning favor. Ensuring access to services and affordability, reconciling private ownership with positive and negative externalities of management, and aligning private profit motives with environmental and social welfare, have all proven difficult tasks for the private sector. Both France and Germany have witnessed a re-municipalization of water services following experimentations with privatization. In addition, democratic resistance to water's privatization has been high. In 2011, a campaign against water's privatization in Italy resulted in a public referendum rejecting privatization by 95% (Fattori 2013). Soon after, the group 'Right2Water' organized and delivered a citizen petition to the EU demanding a response on its position vis-à-vis privatization, sparking a public debate on EU water privatization policy (Boscheck et al 2013).

THEORETICAL APPROACH

In order to reconcile these apparently conflicting trends, research must recognize neoliberalism in water services as highly a variegated and contested project. As with any economic imaginary or political project, neoliberalism does not represent a "preconstituted ideological blueprint" (Brenner et al 2010: 190) which is unproblematically replicated and spread across different geographies. The extension of free market and commercialized principles of economic organization into otherwise unlikely arenas of exchange generates local tensions and contradictions which require social negotiation and mitigation. In particular, 'the state' (defined in the broadest of neo-Gramscian terms as a site of struggle and a collection of relationships) is enlisted to mitigate these tensions through legal, regulatory, or governance-based structures. Studies of contemporary neoliberalism must therefore (1) catalogue the diversity of discursive-institutional forms through which neoliberalism operates in the real economy, (2) map the local and historical contingencies of already existing social relations and material conditions which have driven in-situ solutions to neoliberalism and render it necessarily heterogeneous, (3) identify forms and process which can be abstracted in generalized terms that help define and comment on neoliberalism as a coherent project (Peck and Tickell 2002).

Bakker (2013) notes widespread civil resistance to water privatization, a reduction of private concession contracts in the water sector, and reconsideration of the merits of privatization by some of its traditional proponents (e.g. the World Bank). However, she emphasizes that

this should not be interpreted as a straight forwards retreat of neoliberalism. In keeping with the theoretical developments discussed above, she argues that the specific case of privatization should be studied in terms of how private capital activity employs spatial variation as a means of ensuring profitability while transferring less profitable activities back to the state. This spatial dimension to private sector participation has previously been emphasized at the city scale under models of 'Splintering Urbanism' (Graham and Marvin 2001). Reflecting the need to account for spatial variance in private sector roles in urban water, analytical approaches now emphasize a systematic and comparative approach to examining the specific institutional architectures (Castree 2008), produced scales (Swyngedouw 2004), dynamic aspects of the sequencing of institutional reform, and vectors of resistance and struggle encountered (Bakker 2008). Through a comparative approach, research must identify what trends can be abstracted into useful categories and proposed generative mechanisms, and which elements remain unique and specific.

METHOD

The contingent and variegated nature of neoliberalism emphasized above brings forth the question of how socially constructed forms of economic organization are translated into actually existing forms within an economy. This translation will only be partial, dependent upon both an agents' ability to formulate a coherent blueprint for economic organization, and the confining and enabling conditions which affect their agency in establishing that blueprint in the wider economy. As Fairclough observes,

....even in the case of social constructions such as institutions, what gets constructed is different from how it is construed; and the relative success or failure of this construal depends on how both it and the construction respond to the properties of the materials (including social phenomena such as actors and institutions) used to construct social reality.

Fairclough et al 2004: 20

In other words, critical research on institutional change and economic geography examines the spatially and temporally bound relationships between discursive and material change, and the nature of agency within those relationships. These types of questions are addressed in a host of material-semiotic (Latour 1993), discursive-institutional (Jessop 2001), and culturally embedded (Granovetter 1985, North 1990) models of economic change, which

differ in key respects but all hold to a critical stance on contemporary economic forms as somehow socially negotiated and constructed within certain confines on social agency.

The methodological approach taken in this cursory study was that of framing analysis. Current frame analysis theory cites its origins in the works of Goffman (1974) and frequently borrows his definition of framing as “the process of providing meaning to experiences and situations through the use of symbolic representations – frames – through which individuals make sense of the world and organize their behavior” (Goffman 1974). Literature points to three broad categories of contemporary frame analysis; management and organizational studies, media studies, and social movement studies (Entman 1993, Scheufele 2000). Within management and organizational studies, work has been largely in the form of controlled experiments which examine how the structure and presentation of information, rather than its content alone, affects human decision making and problem perceptions (Kahnman and Tversky 1984). Media studies have taken a highly reflexive approach, asking how media and audience agendas interact to produce frames and the attribution of causes and responsibilities in the social construction of reality (Scheufele 2000).

When examining social movements, frames are understood to rely on negotiated, shared, subjective meanings. As Gamson (1992:111) emphasizes “[c]ollective action frames are not merely aggregations of individual attitudes and perceptions but also the outcome of negotiating shared meaning (Gamson 1992:111, in Benford and Snow 2000). Framing in this context is understood to be a highly strategic process, designed and deployed to interpret events, recruit and mobilize other agents to that interpretation, and prescribe a given outcome of collective action (Benford and Snow 2000). Snow et al (1986) suggest that a prerequisite for social movements are the alignment of subjective frames between movement participants. Movements are often composed of members of disparate social groups with conflicting identities and interests; it is only when a shared framing of events, grievances, and demands has been found that social action may occur. In this sense, framing analysis is not only concerned with how framing emphasizes or excludes certain events and observation, but also how it is a diagnostic, interpretive, and prescriptive process. By diagnostic, it is meant that frames cite observations as evidence for the way the world *is*,

compares this to the way the world *should be*, and then predicts a set of actions which can be taken in order to reach that state.

...framing processes that are deliberative, utilitarian, and goal directed: Frames are developed and deployed to achieve a specific purpose-to recruit new members, to mobilize adherents, to acquire resources, and so forth.

Benford and Snow 2000: 624

Hence research is interested in linking the relative success of a given frame with the material relationships it attempts to observe and diagnose, and its ability to affect a change in those relationships.

FRAMES EXAMINED

Variation	Institutional characteristics	Framing Mechanisms
Privatization	Transfer of ownership from public to private. Often accompanied by legal and regulatory mechanisms to ensure profitability. Often followed by a reregulation to mitigate social and environmental impacts.	Transfer of ownership presented as inevitable or necessary consequence of fiscal constraints and state failure. Simultaneously, decisions are cast as depoliticized and post-democratic, excluding questions of locality, nationality, geography, and community.
Liberalization	The removal of regulatory and institutional 'barriers' to direct competition in water service provision, as well as the deployment of 'enabling' institutions.	Water liberalization is presented as analogous to previously liberalized network services. Water services are cast as subject to EU market strategies. Competition within or for the market is related to increased efficiency and innovation. Water is cast as a private commodity.
Corporatization	The separation of management of water services from municipalities and local government. The introduction of corporate accounting mechanisms, ring-fenced financing, and cost recovery.	Corporate structures are presented as an antidote to government inefficiencies and accounting inconsistencies. May be presented as precursor to privatization. In other cases, presented as compromise between municipal management and private ownership.
Re-municipalization	The re-acquisition of privately owned and or controlled water services, by force or purchase, by the state.	The state claims to be the delivery body of democratic legitimacy. Re-municipalization is framed under a democratic imperative or in reference to social and environmental justice issues. Related to this are framings of national sovereignty and ownership. Private sector performance, alignment of profit motives with social welfare, and the legitimacy of original public private agreements are brought into question.
Reclaiming the Commons	Collective ownership and management of water services.	Highly reactionary. Often framed in opposition to commoditization of nature, culture, and society. Emphasis is placed on indigenous and traditional modes of management. Water services are framed as a universal right and water as a common good. Constitutional in nature. Anti-state, in that the state is not seen as representing citizen interests. Anti-market in its opposition of privatization and commoditization.

PRIVATIZATION

Privatization can be defined as a transfer of ownership and or control of water and sewerage service assets from the state to the private sector. While the majority of European population is served by publicly owned and managed infrastructures, exceptions have attracted a large amount of attention in both policy and research. England is perhaps the most noted, being fully privatized in 1989 and having remained so since. France is the second most comprehensively privatized water industry, with an estimated 75% of the connected population being served by private operators (Hall et. al. 2013). Beyond these national examples, privately operated water supplies can be found in urban centers in Europe, for example in Barcelona and Berlin. Privatization has tended to be presented as a de-politicized and technical proposition, ushering any possibility of public debate or democratic decision making (Bakker 2003a, Graham 2006, Beveridge 2011). De-politicization is achieved through simultaneously attacking the state and state politics as an appropriate site for the management of public services while emphasizing the fiscal benefits and gains in economic efficiency achieved through privatization.

Where local or national government is either unwilling or unable to raise public funds to invest in water infrastructure and maintenance, the sale of water utilities combined with regulatory and legal mechanisms to ensure returns on investments and loans is enlisted as a means of raising necessary capital while reducing the financial burden on the state. This ‘bottom line’ argument is often framed as a necessary and inevitable measure; a technical truism devoid of political motivation. This form of fiscal framing can be found in early proponents of privatization in England under the “There Is No Alternative” rhetoric of the Thatcher government (often referred to as ‘TINA policies’). At the time, the financial crisis of the 1970s and International Monetary Fund bailout conditions had placed highly restrictive conditions on UK public sector borrowing and expenditure, lending weight to the arguments for the privatization of public services (Bakker 2003a). Graham (2006) identifies this ‘politics of necessity’ to be applied to specific instances of water and energy privatization in England and Wales. Beveridge (2011) similarly identifies a ‘politics of inevitability’ in the framing mechanisms used in the political campaigns and messaging leading up to the privatization of the Berlin water supply in 1999. Following the fall of the Berlin Wall, steady rises in unemployment rates, declines in population, and a series of failed urban development projects had left Berlin City and the Berliner Wasserbetriebe (BWB) heavily indebted. It was

the need to raise capital to address the cities fiscal crisis which served as the key argument for privatization. In more contemporary examples, the recent European economic crisis has hastened the privatization of Athens's water supplier in Greece. Proposing to sell the state majority share hold in the Athens utility, the Greek government has placed a similar emphasis on the necessity of ensuring "money for salaries and pensions" (Blue Planet 2012: 10).

CORPORATIZATION

Even prior to the rise of neoliberal project of the 1980s, post-war Anglo-American public policy had begun to adopt corporatist values in the management of public services. Broadly speaking, these included the ring-fencing of financial operations and the separation from political agendas of each public service, the evaluation of department performance according to criteria of economic efficiency and commercial objectives, and the simulation of market incentives in their management. The management of water as an economic commodity and the operation of water utilities as corporate units are emphasized. This approach to water management is perhaps most famously captured in the Dublin principles to water management which emphasized water as an economic good and the principle of Full Cost Recovery in its supply (ICWE 1992). This framing is attached to a host of other principals including the removal of cross subsidies between users under 'polluter pays' or 'user pays' principles) and between service providers in the form of ring-fenced accounting.

In addition to the internal restructuring of water service providers is the rescripting of water as a scarce economic commodity (Bakker 2005). For example, Kaika (2004) identifies the social construction of water scarcity as a necessary component of the framing of the corporatization of the Athens water supply. Similarly, Bakker (2005) discusses the discursive strategy within the English and Welsh water sector of presenting water as scarce economic commodity which must necessarily be allocated and managed on the basis of economic efficiency.

While transformation of ownership is not necessarily prescribed, there exist many examples of corporatized water utilities in which the state holds a majority shareholding, thus ensuring public ownership and control. However, given its theoretical proximity to free market philosophies, corporatization is often interpreted as a precursor to privatization. This was

certainly the case in some of the examples already reviewed. Bakker (2003) notes that, prior to water privatization in England, a separate process of “corporatization” had been undertaken from the 1970s onwards, and English water companies had from the 1970s onwards been restructured to resemble separate corporate entities. Similarly, prior to its privatization in 1999, the Berliner Wasserbetriebe (BWB) was a fully corporatized public company operating at a profit (Beveridge 2011). Athens’s corporatization has also served as a means for the state to progressively sell shares to raise further capital. Because of this, the corporatization of water companies may also be interpreted as the first step toward privatization by partisan political and public discourse. An example of this can be found in the Irish water reforms currently (2012) underway, in which municipal structure of water services was restructured towards a corporatized model alongside the introduction of an independent regulator. These developments and their accompanying introduction of direct charges to water users (rather than cost recovery through taxation) were met by public hostility which interpreted these measures as essentially ‘grooming’ for privatization¹.

Conversely, it should be noted that in other cases corporatization may be seen as a strategic measure carried out by the state to retain public ownership while conforming to the values of operational efficiency and cost recovery set out in European policy. Perhaps the most obvious deployment of this framing strategy has been in Holland’s response to the growing calls for water services liberalization and privatization witnessed in Dutch parliament from 1996 onwards. Dutch water services had experienced increasing amalgamation and centralization since the 1980s, which some voices within Dutch government saw as an opportunity to introduce independent regulation, private outsourcing, and possibly private ownership. Resisting these calls were the service providers themselves, the municipal governments into which they were heavily integrated, and public opinion polls sponsored by service providers (Sørensen 2010). Beyond eliciting public resistance, the Association of Water Companies (VEWIN) also began to publish voluntary benchmarking data in 1996 in move to emulate the cited efficiencies incentives of private sector involvement (Mostert 1998). By 1998, a memorandum adopted by government compromised on continuing the trend of mergers and benchmarking to emulate market efficiencies, while firmly retaining public ownership. The same year saw the role of public ownership and management in integrated water management reiterated by a consortium of water supply directors. By

¹ <http://www.iiea.com/blogosphere/who-owns-our-water-in-europe-and-does-it-matter>

2004, the private ownership of water services was made illegal while economic efficiency was observed to have increased by 27.5% between 1997 and 2009 (Braddbaart 2007). This approach of flanking privatization bids and protecting public institutions from open competition was emulated to a limited degree by Germany in its strategic resistance of the EU's proposed inclusion of water services within its 2003-2006 internal markets strategy. Having successfully campaigned against the opening up of water services to competition proposed under the EU market strategy, Germany's federal water and gas association (BGW) reiterated its support for the governments "modernisation strategy" for water services which in a similar manner to the Dutch case would emulate efficiencies through benchmarking activities and strict guidance on public private partnerships (Global Water Intelligence 2004).

LIBERALIZATION

Liberalization is the introduction of direct competition in utility services. Liberalization may come in the form of competition for the market (concession contracts and public private partnership bids) or in the market (vertically separated utilities competing for sections of the value chain, as is common in telecommunication and energy). The tendency for utilities to take on the form of vertically integrated firms serving regional monopolies means the introduction of direct competition requires a significant amount of state-driven institutional restructuring. Reflecting the shifting role of the state as a mechanism of 'rolling out' neoliberalism, liberalization of utilities has been succinctly summarized by Vogel (1996) as a case of 'freer markets, more rules'.

Limited examples of water liberalization are to be found in European Union member states; water has traditionally been exempt from EU liberalization policies and the process has been predominantly restricted to other networked services such as rail, telecommunications, and energy. However, recent developments in EU policy suggest an interest in mandating the opening up of competitive tenders for water services. The possibility of water utility liberalization has been repeatedly entertained by the European Directorate General for Environment (DG Environment) and Directorate General for Competition (DG Competition). In these cases, water tends to be actively compared to other successfully liberalized sectors while the differences between them are downplayed. In 2002, DG Competition commissioned an exploratory report on the potential for liberalization in the water sector

and its possible impacts; the final report in 2004 noted that "In the wake of the liberalization of the telecommunications and energy markets, the influence of competition policies on monopolistic economic sectors has increased greatly over the last years." (Ecologic 2004:1). 2003 saw the EU Commission publish the Green Paper on Services of General Interest (EC 2003a) and its internal market strategy for 2003-2006 (EC 2003b). Both praised the success of liberalization in Energy and Telecommunications sectors, and the latter announced an intention to "undertake a review of the legal and administrative situation in the water and waste-water sector" (EC 2003b:14). This comparison with energy utilities was particularly prevalent in the EC 2003-2006 market strategy, which noted a review of the possibility of liberalizing water markets,

The Council should rapidly adopt and implement the "energy package" to liberalise the gas and energy markets completely by 2007. The Commission will also undertake a review of the situation in the water and waste-water sector.

EC 2003b:1

In common to privatization and corporatization , liberalization employs a similar frame of depoliticized and technocratic logic in its arguments. As the commissioner for Bolkestein puts it,

We have to bear in mind that liberalisation is not a dogma; it is a practical instrument for establishing the correct relationship between price, quality and the standard of the service provided.

Bolkestein 2002

As well as competition within the market, evidence of liberalization for the market can also be found in recent developments in European policy. In more recent years, the Commission has been accused of promoting privatization of water through its design of 2011 procurement laws

Competition in the market in England following privatization in 1989 was originally intended to proceed under a number of mechanisms, (1) Common carriage agreements, in which suppliers share delivery infrastructure in order to contest customer contracts, (2) Inset appointments, in which water companies may build infrastructure within the periphery of neighboring companies in order to contest customer contracts near their borders, and (3) through the indirect competitive incentive of the threat of hostile take-over. However, the

on-going reregulation of the industry and failure of competition to emerge has led to a renewed effort to further liberalize the sector from approximately 2006 onwards. In a similar manner to European framings, frequent comparisons have been made with England's other networked services in which competition has been introduced to a greater degree. In such cases, the mechanism used was that of vertical separation, in which separate legal entities compete within the production, distribution, and retail sections of essential services.

It is also important to note that while liberalized networks necessarily imply commercialized utilities, they do not necessarily imply private ownership. Again, in the same speech, Bolkestein (2002) makes this distinction, advising any state embarking on the liberalization of water services to "first liberalize and then, if you want, privatise." (*ibid*: 1). Serving as reminder of the distinction between privatization and liberalization, as well as the distinct objectives of each, is the case of Scottish water's liberalization. Having resisted liberalization at the European level, the Scottish government introduced direct competition for commercial users in 2007. It has been freely admitted by public officials that this transformation was specifically designed by the center-left government of the time to resist the transfer of water companies to private ownership. Instead, all water supply assets remained in public hands, while billing and services dimensions for commercial customers were opened to competition (Ioris 2008).

RE-MUNICAPALIZATION

Re-municipalization is the act of the state buying or seizing utility assets under private ownership in order to regain public control and delivery of water services. A global decline in private sector water service contracts from 2007 (Bakker 2013) and the failure of projected private sector involvement to materialize (Hatchfield 2008), has led to privatization's status as the de-facto future of water services management to come under question. The failure of privatization to take hold in new markets has been accompanied by its retreat in others. Global examples of re-municipalization are recorded by a number of contemporary reports (Balanyá et al 2005) and charted on monitoring websites². Incidents of re-municipalization are also found in European states and not limited to water. Wollman (2011) notes similar trends in energy sectors in Europe, with a particular focus on Germany, attributing this turn to the observed underperformance of privatized utilities, rises in domestic charges, single

² <http://www.remunicipalisation.org>

issue management under profit motives, and the rising competencies of competing municipal alternatives. Germany is also home to the highly publicized project of re-municipalization of Berlin's water supply. Within France, re-municipalization from 2000 to 2013 has affected approximately 9% of its connected population Hall et al (2013).

A prerequisite for a number of European re-municipalization examples was the expiry of the original public-private contracts, or the successful challenge of the legal, democratic, or moral legitimacy of the agreement. As Hall et al(2013) observe in their examination of re-municipalization in Germany and France, contract expiries or legal challenges serve as points of entry which enable political agency. A further example can be found in Grenoble's water services, which from 1989 to 2009, were operated under a 25 year concession contract awarded to the *Compagnie de Gestion des Eaux du Sud-Est* (COGESE), a subsidiary of Suez. A key component of the early return of water services to public management was the revelation of corruption surrounding the initial negotiation of the concession contract in 1995, leading to the establishment of public-private *Société des Eaux de Grenoble* (SEG) in which 51% of shares were transferred to public ownership. Following further citizen pressure and lobbying, and a court decision in 1998 which annulled the original concession agreement, the city council decided to fully remunicipalize in 2000 (Hatchfield 2008). The re-municipalization of Paris was similarly a carefully timed process which had to operate within the confines, and through the weaknesses, of prior contractual arrangements. Following consultation with legal and financial advisors, public authorities took a staggered approach to remunicipalization, at first mandating the sale of shares to a publicly owned investment bank in 2007, subsequently buying those shares in 2008, and finally discontinuing concession contracts in 2009 (Hall et al 2013). Within Germany, Potsdam was remunicipalized under a forced buy-back of shares which was engineered only after the initial conditions of privatization were successfully challenged in court (Hatchfield 2008). Similarly, the establishment of the publicly owned Welsh Water (Glas Cymru) in 2001 came about largely due to an opportunistic buy out by the Welsh government. Regulatory intervention and a government "windfall tax" lead to the incumbent company (Hyder PLC) struggling to service its finance, followed by a series of public sales of shares. In the final stage, the Welsh government intervened with the creation of a not-for profit venture, financed by debt and backed by government (Owen 2012).

Remunicipalization is often intimately related with the re-politicization of water, in which government agents either elicit or respond to democratic and social justice imperatives. Filling in the vacuum of legitimacy often left behind by attacks the architecture of privatization are arguments concerning equitable access to water services and the status of water as a public good. Contested contracts and regulatory frameworks are often seen to enshrine guaranteed profits to private operators through allowed price increases, undermining the principles of universal access as right rather than a privilege. Public ownership and the removal of profit incentives from water service provision are then presented as being emblematic of citizenship (Bakker 2010). These principles are then frequently related to concepts of sovereignty and nationalism.

RECLAIMING THE COMMONS

The final frame reviewed is that of “Reclaiming the Commons”. As an emergent frame, it is hard to identify the core characteristics with as much evidence as the prior examples. The concept of the commons may be broadly defined through two means. The first is under neoclassical economic terms. Common pool resources are defined as subtractable, non-exclusive, rivalrous goods. Given the difficulties in institutionalizing private property rights over such goods, early economists suggest their unregulated use would generate a social dilemma of over-consumption (Hardin 1968). However, more recent theories point to the ability of CPR users to negotiate and enforce case-specific rules in order to achieve more social optimal outcomes and maintain sustainable yields. The nature of these rules is necessarily decentralized, in which authority and decision making become polycentric, rather than either top-down (as is the case in state management) or market-governed. These rules are said to be enforced through mechanisms of trust, expectation and reciprocity. As such, water has been a central commodity in the commons debate; some of the formative work on CPR management examined the case of Spanish Huerta irrigation systems (Ostrom 1991). These theoretical insights are then sometimes translated into normative governance principles promoting sustainable development. For instance, the United Nations now hosts a ‘Commons Cluster’ which promotes commons based approaches to development³.

The second method of defining the commons is in terms of a cultural and political movement and/or a normative mode of governance. A highly diverse array of actors and

³ <http://www.commonSACTIONfortheunitednations.org>

interests may populate and promote this frame. As a mode of governance, their common ground is an opposition to the commodification of elements of society, culture, or the environment under current political economies. There are some interesting overlaps in this regards, for instance the Peer to Peer Foundation, primarily focused on the ‘information commons’ and the networked ontology of internet users, has seen its members actively discuss the nature of the ‘water commons’⁴. Independently, NGOs and anti-privatization campaigners have adopted the commons concept as a means of framing their communication materials⁵. Similarly, a pan European organization named ‘Water is a Human Right’ has successfully launched a highly public campaign to promote water as a common pool resource, the right to water, and resistance to privatization⁶. Cumbers (2012: 126) also suggests that a further facet of the ‘Global Commons Discourse’ is the creation of collective spaces ‘outside’ of either the workings of capitalism or the State. An apt example in European water governance was the recent Alternative World Water Forum held in Marseille, March 2013⁷. Established in direct opposition to the World Water Forum held in the same city and date, the forum adopted the slogan ‘Water Belongs to Everyone’, and claimed democratic legitimacy over what they saw as the vested private interests of the World Water Forum.

Owing to the rejection of both traditional models of state stewardship and private ownership, commons-based framings of water are often initiated from grassroots civil action and pressure for democratic and or iterative economic decision making. In some cases this has taken the form of ‘democratizing water from below’. In 2010, a grassroots campaign in Italy successfully initiated a referendum against private sector delivery of water services. In 2011, the referendum returned a 98% vote against privatization, frustrating the Berlusconi government’s plans to open up water services to private tender (Fattori 2013). Similar bottom-up democratic pressure has played a role in Berlin’s current water services remunicipalization initiative, in which a public petition successfully lobbied government to disclose previously private documents outlining the negotiation of the cities original concession contract⁸. Finally, economic democracy has taken on a much more direct form in the case of Greece’s 136 initiative. In February (2011), in response to pressure from bailout

⁴ http://p2pfoundation.net/Commonification_of_Public_Services

⁵ <http://ourwatercommons.org/about-us>

⁶ <http://www.right2water.eu/>

⁷ <http://www.fame2012.org/en/>

⁸ https://epetitionen.bundestag.de/petitionen/_2013/_01/_24/Petition_39433.html

conditions imposed on the Greece government following its sovereign debt crisis, a bill was passed to speed up the divesture of public assets to private ownership. Among them was the sale of a 40% shareholding in the Water and Sanitation Company of Thessaloniki (EYATH), serving Athens. Despite polls indicating a general opinion that privatization of most state assets was ‘necessary’, the argument for water did not seem to stand to public scrutiny. As a result, and due to coordinated efforts by unions and civil groups, the 136 initiative was established. Named after the division of the net worth of EYATH by the number of meters it serves, 136 represents the amount required by each customer to buy the company outright and establish a cooperative municipal service⁹. While there is little change of this strategy succeeding, it has served to demonstrate the potential, and demand for, economic democracy in the management of Athens water services.

CONCLUSIONS AND SUGGESTED FURTHER RESEARCH

In contrast to other frames identified and explored, ‘Reclaiming the Commons’ remains in its infancy as a coherent institutional project. Many of its unifying features are reactionary in nature, defining what it is not far more than what it is. It is perhaps because of this ambiguity that the frame has gained traction with such a wide audience. Many of the messages which fall under the Commons frame have existed in previous anti-privatization rhetoric, and so the question remains as to whether Commonification is a distinct process or a coopted frame for already existing anti-privatization formats. To answer this, research must look for the emergence of institutional forms which correspond to the specific values and world views of the Commons frame. Studies of the development of neoliberal frames emphasize that this is an iterative and highly contextual process. It is likely that Commons frame will precede through a similar process;

Neoliberal reform dynamics do not reflect the inexorable unfolding of a preconceived, preconstituted ideological blueprint, replicated in a ‘pure’ form in one jurisdiction after another. Rather, they are forged in and through real-time, *in situ* forms of regulatory experimentation and institutional tinkering in which previous efforts to confront recurrent problems directly influence the ongoing search for alternative solutions.

Brener et al (2010): 190

⁹ <http://www.136.gr/article/resist-and-transform-struggle-water-greece>

Efforts to identify similar ‘institutional tinkering’ and resulting modes of water service ownership and management would allow research to assess to what degree they are truly distinct from, and in contrast to, neoliberalism.

A number of promising early examples of such institutional experimentation have already been revealed in research. The English water sector briefly considered a mutualized form of ownership for some privatized entities which were underperforming; however this was blocked by the economic regulator (Bakker 2003b). Current discussions in Germany are asking how the concept of the “Stadtwerk” can be extended to include multi-utility entities, publicly owned, and managed through a high degree of consultation and democratic decision making¹⁰. Online conversations are also being had by the P2P foundation concerning what forms of management should or could be promoted in the delivery of public water services¹¹.

The research also highlighted the importance of pluralism, contested visions, and political agency in the institutional reform in water services. These themes have received attention in recent approaches to de/re politicization and have potential to be developed within studies of water services reform.

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¹¹ http://p2pfoundation.net/Commonification_of_Public_Services

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