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WATER AS A HUMAN RIGHT AND ECONOMIC GOOD POLICY CHALLENGES FOR EUROPE

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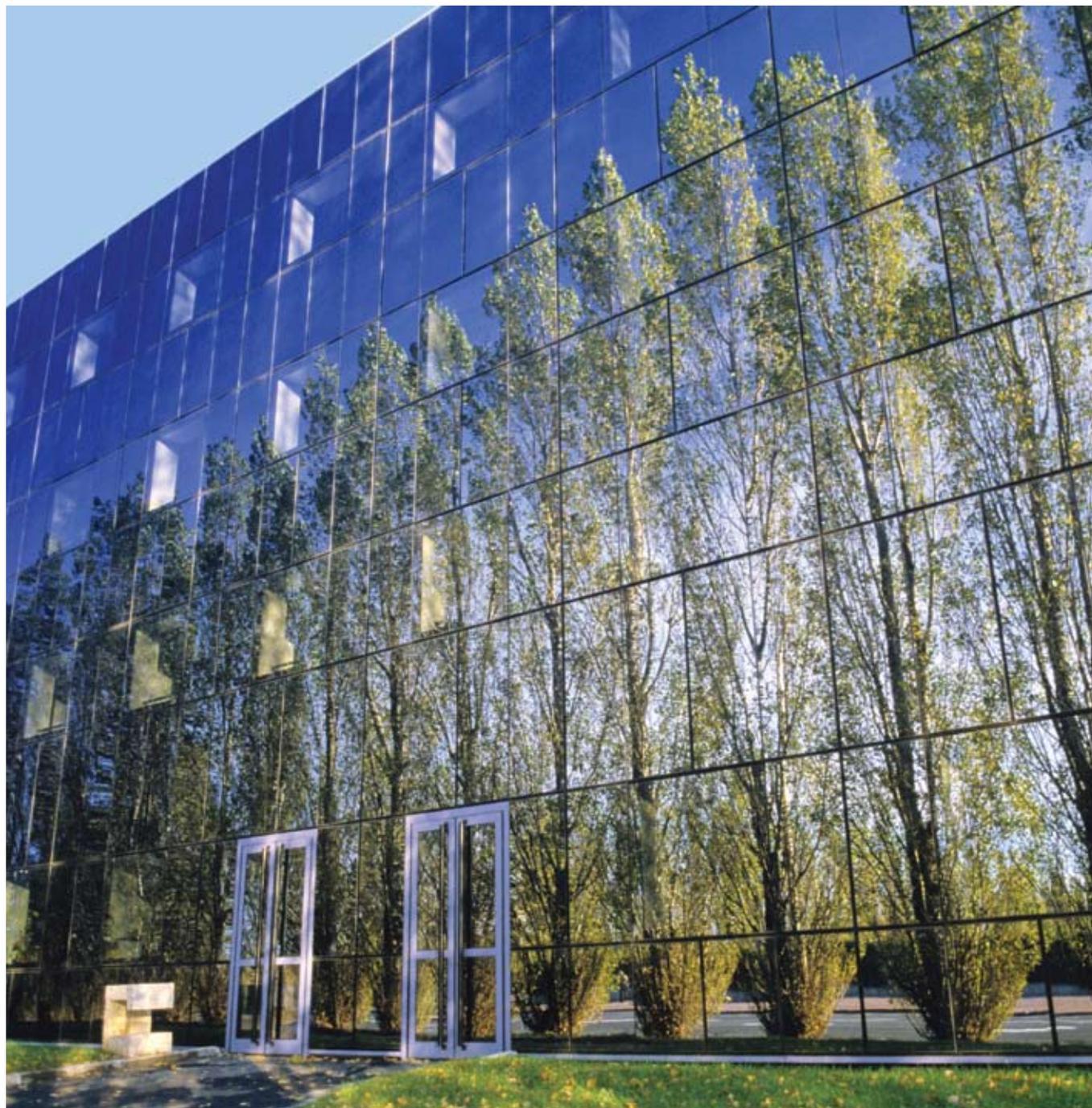
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Water as a Human Right and Economic Good: Policy Challenges for Europe

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Europe has historically been at the forefront of providing sufficient safe water to every person. From the second half of the nineteenth century, the state progressively took over much of responsibility to provide water and sanitation services. One of the primary rationales for the massive investments in the necessary infrastructure to deliver water was public health improvement but this happens to coincide with what we would expect states to do to realise the human right to water.

Over the past few decades, an increasing number of international legal instruments have included the human right to water, such as the Convention on the Rights of the Child, 1989 and the UN General Assembly Resolution 64/292 of 2010. Further, at the national level, a number of countries in the South have recognised either judicially or constitutionally the existence of the right that is now firmly enshrined in their legal frameworks. The leadership position of these countries is yet to be reflected effectively in Europe. This is not to say that pressure has not been building in Europe in this direction. Recently, the 2014 European Citizens' Initiative signed by nearly 1.9 million persons has called on the European Commission to implement the human right to water and sanitation in European law. It is also a human right and public water argument that captured the imagination of Italian voters who voted against water privatisation in the 2011 referendum.

While Europe has not acted with much haste to implement the human right to water, it has been involved in much policy development in the water sector over the past two decades. These policy reforms are multi-pronged but revolve around certain key basic principles. The starting point is that water is scarce. This environmental concern for scarcity provides the basis for suggesting that water needs to be used more 'efficiently'. This has provided the basis for suggesting a new understanding of the nature of water. While water was seen until the 1980s mostly as a common resource held by states in trust for humankind in view of its link with human survival and as a source of life in general, the mainstream policy consensus has been since then that water must be seen as an economic good.



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One of the consequences of regarding water as a commodity is that it needs to be priced for all its uses. This is, for instance, reflected at Article 9 of the Water Directive (2000/60/EC). The consequence of this policy shift has been an increasing focus on the contribution of private sector actors in water management, in particular towards privatisation of water services.

In practice, there have thus been two separate trends in the water sector in the past two decades. On the one hand, the human right to water has been increasingly formalised. On the other hand, Europe has pushed at home and abroad for a complete change of perspective on water that turns it primarily into an economic good. In a context where hardly anyone would openly argue that there is no human right to water, many initiatives have been taken to try to reconcile the human right to water with the conception of water as a privately held economic good. This has led to the mainstreaming of the view that the human right to water is a right to 'access' water that is 'affordable'.

The link between affordability and the human right to water ensures that the same water that is seen as a commodity also contributes to the realisation of the human right to water. The limits of this strategy are becoming increasingly evident in Europe and in the South.

In the South, the inappropriateness of policies that try to link privatisation with the human right to water is being increasingly challenged. India provides an interesting example since the human right to water has been firmly recognised by the higher judiciary while a multiplicity of attempts to commercialise or privatise water services have also been proposed. In Delhi, where pilot privatisation projects have been implemented since 2012, the new government elected in December 2013 decided that it was time to break new ground. It decided to abandon policies that are based on the idea everyone must pay for water apart from the very poor who can be granted 'lifeline tariffs'. Rather, starting from the idea that the right to water is a universal entitlement and in a context where the majority of the population is poor, the government provided that everyone should get 166 litres per day of free water. This fits with a human right commitment that calls on government to provide 'sufficient' water, not just for survival but also for a decent life.

Europe led the way for many decades in providing the realisation of a sufficient amount of safe water for everyone to lead a decent life. It must neither foster policies that may threaten such gains at home nor promote policies abroad that are not in tune with the realities on the ground in the South. Water is too fundamental a human right for policymakers to experiment with it.