



shared water, one framework:

WHAT CANADA CAN LEARN FROM EU WATER GOVERNANCE

By Émilie Lagacé, Gordon Water Policy Fellow

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The full report can be found at www.flowcanada.org/library/documents and on the Gordon Foundation website at www.gordonfn.org.

The views expressed in this report are those of the author.



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INTRODUCTION

More than 84% of Canadians are concerned about the long-term supply and quality of freshwater in Canadaⁱ. This concern is justified—studies show that both the quantity and quality of our water resources are under threat. Statistics Canada found that the amount of renewable water available in Canada’s most populated areas has dropped the equivalent of 3.5 cubic kilometres (or 8.5%) per year from 1971 to 2004ⁱⁱ, suggesting that we are not immune to global changes in the hydrological cycle. In addition, Environment Canada reports that water quality was rated “fair” or worse at 61% of its monitoring sites from 2005 to 2007ⁱⁱⁱ.

Despite these threats to water’s quality and quantity, Canada does not have a consistent, national approach to its management. Our nation’s parliamentary leaders, academic and non-profit sectors have agreed that we need to address current and future water management challenges^{iv}, but the lack of real intergovernmental collaboration on water across Canada has resulted in severely fragmented water policy, turf-wars and one of the lowest levels of environmental performance in the developed world^v.

As we enter a period of unprecedented pressure on water resources, it is becoming clear that inaction may jeopardize the health of our economy, citizens and environment.

It is time for Canadian governments to start working together to recognize water’s essential role in sustaining life, the economy and the health of our ecosystems. Other jurisdictions, particularly the European Union (EU), can offer valuable insights.

Since 2000, the EU has applied a collaborative approach that facilitates action across political and cultural borders by investing in science, knowledge sharing and a common operational approach to water management. This approach is driven by an ambitious policy: the EU Water Framework Directive (WFD). The Directive’s goal is simple and admirable—to improve the quality of the water environment across the EU and establish common standards and practices that safeguard its quantity and quality for the future.

This briefing note—based on the results of an extensive literature review and over 40 interviews in Canada and Europe^{vi}—summarizes lessons from the EU that could be heeded by Canada. The study concludes that there are tangible benefits to collaborative water governance in the EU and that comparable benefits could be achieved in Canada with a similar approach.

WHY COMPARE CANADA AND EU WATER GOVERNANCE?

The European experience in water management offers a good comparison for Canada for several reasons. Although the EU is not a true federal system, responsibilities are often shared between two levels of government (supra-national and national). Jurisdiction over environmental issues is shared between member states and the central European Government. In Canada, responsibility for water management is shared between the federal, provincial, territorial and aboriginal governments.


Similar to Europe, Canada is geographically and socially diverse, with dramatically different landscapes and climatic zones, and cultural differences. Furthermore, the nature of the threats to water quality and quantity are remarkably similar on either side of the Atlantic Ocean.




EUROPEAN UNION VS. CANADA

Collaboration has improved water management across EU member states since the WFD in five primary ways. These advancements are in stark contrast to developments in Canadian national water policy.


 **EU: Strong transboundary cooperation** - The WFD requires that water resources be managed on a river basin scale, which has facilitated cooperation across member states. Where international river basin commissions existed prior to the WFD (e.g., the Danube River), the Directive has enhanced mandates and refined objectives.

 **Canada: Move toward unilateralism** - Many of Canada's most significant water issues exist in basins shared with the United States. However, the effectiveness of the International Joint Commission (IJC), established to resolve disputes over boundary waters, has been increasingly hindered by cuts to capacity and restrictions on its ability to scientifically assess and publicly report on progress. Politically expedient processes are increasingly preferred over sound technical ones offered by the IJC^{vii}. For example, despite being well suited to address disputes between Manitoba and North Dakota on the Devil's Lake outlet, the issue has not been referred to the IJC.

 **EU: Effective working relationships** - Improved communication and partnerships facilitated by the WFD have increased trust and interpersonal relationships between delegates. Central to this has been the Common Implementation Strategy (CIS) process that has created working groups composed of international delegates that facilitate the flow of information and joint research.

 **Canada: Distrust and broken relationships** - Relationships across Canadian jurisdictions are becoming more strained with time, significantly hindering collaboration. In the early 1970s, relationship-building between federal and provincial and territorial governments resulted in national partnership agreements for water quantity monitoring. Today, however, departmental travel budgets are being drastically slashed, and distrust between different levels of government often ensues because of a confusion of responsibilities over water. For instance, the federal Fresh Water Quality Monitoring Program has not established monitoring arrangements with most provinces, severely impeding coordination, cost-sharing and the ability to acquire and exchange reliable data across the countryⁱⁱⁱ.

 **EU: Increased capacity in water protection** - Stronger interpersonal networks in Europe have increased sharing of expertise, and resulted in greater support for those countries with less capacity. For instance, there are working groups and joint research initiatives to help member states enhance expertise in specific areas. As a result, there is a levelling of capabilities across the EU and the countries that were lagging behind are able to catch up to the leaders.

 **Canada: Information isolated in silos** - Knowledge transfer between Canadian jurisdictions is less clear than in the EU, and depends largely on ad hoc circumstances. This makes it difficult for water resource managers to stay informed of the innovative approaches in water management adopted by other jurisdictions. As a result, there is a significant loss in opportunity for jurisdictions to learn from the ideas and programs developed in other areas of Canada.

 **EU: Improved understanding of water resources**

- The WFD is a results-based policy that has triggered significant data collection and reporting efforts by individual member states through online platforms such as the Water Information System for Europe^{viii} (WISE). The system enhances understanding of the state of water resources quantity and quality across Europe, provides insight into local issues and promotes a common valuation of data.

 **Canada: Serious gaps in water knowledge**

- In 2010, the Commissioner of the Environment and Sustainable Development found that Environment Canada is not adequately monitoring the quality and quantity of Canada’s surface water resourcesⁱⁱⁱ. The Expert Panel on Groundwater also observed that data collection is rarely done in a way in which it can be compared across provinces and territories or river systems^{ix}. In addition, data collection programs tend to respond to a specific purpose at a specific time and are thereafter discontinued.

 **EU: More efficient water protection**

- In the EU, collaboration on a common operational approach has prevented “reinventing of the wheel” in each jurisdiction, saving considerable resources in the development of common solutions to similar problems. Member states have also achieved economies of scale by collecting and analyzing environmental quality data centrally.

 **Canada: Unclear responsibilities and fragmentation**

- Most of the efficiencies in EU water management are currently not being captured in Canada. Jurisdictional fragmentation—represented by at least 20 federal agencies with responsibility for water—has led to the duplication of efforts and wasted resources. Each department tends to function in silos, developing their own methodologies and programs instead of working with other agencies to build on potential synergies in policy development. This is especially critical in water where approaches must address an array of multifaceted issues.

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The cooperation that came through the river basin planning process of the WFD reinforced what was already there but in essence [...] it was the glue that solidified the initiatives that were underway.

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PHILIP WELLER,
International Commission
for the Protection of the Danube River

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[Implementation] takes a lot of trust being built up which can only happen through people talking together and getting to know each other. Social networks are absolutely critical here.

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BOB HARRIS,
University of Sheffield

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If you don’t understand [the resource], sooner or later, you’re going to get pushed into issues that, if you don’t have that information [you won’t be able to resolve]. It’s just astounding [that the information required is not there] and yet, you are making decisions.

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TED YUZYK,
International Joint Commission

THE EUROPEAN UNION'S DRIVE TO THE TOP

Why is water governance more collaborative in the EU than in Canada? On the surface, it would appear more difficult to collaborate and agree on water management in the EU, where there are 27 member states and 23 official languages, than in Canada, with ten provinces, three territories and two official languages.

The key difference is that Europe has much stronger cooperative mechanisms in water management developed through an institutional context for environmental governance with creative mechanisms to implement the WFD.

A LEGAL BASIS FOR HIGHER MANAGEMENT STANDARDS

In Europe, the *Single European Act* confirmed that environmental management would become one of the formal policy goals of continental integration. This Act gave the government a legal base to improve environmental governance. As a result, EU environmental policy has become increasingly more effective^x. Because member states are required to transpose EU policies into their own national legislation, environmental policies in individual countries have also been strengthened. By contrast, studies show that the consensus-based work of Canada's environmental intergovernmental forum—the Canadian Council of Ministers of the Environment—tends to result in less ambitious approaches for environmental policies^x.

STRONG ENFORCEMENT

In the EU, the Amsterdam Treaty established significantly persuasive financial penalties for member states that do not comply with EU policy—fines have been as high as 58 million Euros (\$78 million CAD) for non-compliance with fisheries regulations^{xi}. In contrast, limited enforcement of standards and regulations occurs in Canada. Jurisdictions may default on inter-governmental agreements without significant penalty, and have little incentive to enforce their own legislation. Where provinces have agreements with the federal government to enforce national standards, the Canadian government has chosen not to audit provincial enforcement.

CREATIVE IMPLEMENTATION MECHANISMS

Two key mechanisms have supported the implementation of the WFD: funding vehicles and the Common Implementation Strategy (CIS). In Canada, the costs of implementation are often cited as an excuse not to act, but this challenge has not hindered progress in the EU. No new funding was created for the WFD. Instead, full-cost recovery for water services supports implementation. Member states also have access to existing EU funding programs ranging from financing infrastructure to supporting research and demonstration projects. For its part, the CIS is an innovative, structured platform that facilitates cooperative working arrangements between the European Government and its member states. It provides opportunities for regular meetings, open debates and information exchange.

COMMON IMPLEMENTATION STRATEGY

The Common Implementation Strategy (CIS) is a precedent-setting process created to provide a common understanding and approach to the implementation of the WFD. The strategy is led by a strategic coordination group and supported by a series of working groups. The coordination group—composed of representatives from the European Government and national ministries, with participation from non-governmental organizations, industry and civil society—establishes a work program for each of the working groups. The working groups consist of experts from across the EU, who collaborate to develop non prescriptive guidance documents on specific elements of the WFD such as river basin management in a changing climate.

LESSONS FOR A CANADIAN NATIONAL WATER POLICY

Where should we go from here? Findings from this research point to ways Canada can improve its national water policy framework. Based on the EU experience, the recipe would include five key ingredients:

TRUSTING RELATIONSHIPS

Rebuilding relationships between jurisdictions should begin by creating a forum for delegates to meet regularly and get to know one another. Investment in the next generation of water leaders is necessary to ensure the foundation for strong relationships is established when they move into management positions.

AMBITION

The objectives of a national strategy should be set sufficiently high to ensure that: (1) no jurisdiction can sit back and be an “observer” because it believes it has done enough, and (2) objectives cannot be achieved by working in isolation from one another.

MEASURABLE RESULTS

Objectives should be based on results to help Canadians put a much higher value on understanding water resources. Planned appropriately, meeting objectives should translate into increased monitoring and standardized data collection programs, thereby contributing to a much stronger knowledge of surface and groundwater locally and across the country.

MEANINGFUL CONSEQUENCES

Effective collaboration is unlikely to happen in the absence of credible threats of consequences for non-compliance. In the EU, enforcement mechanisms established

outside the WFD and carried out by the central government have proven very effective. The Canadian federal government should build on the authority it has under its legal and constitutional powers to determine the mechanism(s) appropriate for enforcing a national water strategy.

CREATIVE AND RELIABLE SOURCES OF FUNDING

Financial resources are a key factor in enabling participation in collaborative efforts. To ensure their reliability, funding sources should not be solely dependent on central government programs but also include self-generating revenues from innovative mechanisms such as new water pricing regimes.

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(W)hereas the European Union has been able to advance an ambitious environmental policy program, Canada’s interprovincial efforts have yielded modest results.

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WEIBUST 2009

CALL TO ACTION

With over 84% of the population concerned about the long-term supply and quality of freshwater in Canada and the disconcerting findings of expert reports, our leaders must rise to the challenges of water management. Instill a dose of European-inspired political will and collaborative philosophy, and we could have a more coordinated and effective approach to water management in Canada.

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ENDNOTES

- i Ipsos-Reid poll. "2010 Canadian Water Attitudes Study" commissioned by RBC, Unilever and the Canadian Partnership Initiative of the UN Water for Life Decade.
- ii Statistics Canada 2010. "Freshwater Supply and Demand in Canada." *Human Activity and the Environment*: Catalogue no. 16-201-X.
- iii 2010 Fall Report of the Commissioner of the Environment and Sustainable Development.
- iv De Loë, R.C. 2008. "Toward a Canadian National Water Strategy." Final Report prepared for the Canadian Water Resources Association. Guelph, ON: Rob de Loë.
- v Organization for Economic Co-operation and Development 2004. "Environmental Performance Reviews: Canada." Paris, OECD.
- vi The research methodology involved an extensive literature review and 40 interviews conducted in Canada and Europe with officials from governmental and non-governmental organizations, river basin managers, academics, and other private and public sector experts. Due to the necessity to scope the research exercise, aboriginal governance issues in Canada vs. the EU were not explored.
- vii Pentland, R. and Sandford, B. 2009. "The International Joint Commission and the Future of Boundary Water Security." *FLOW Monitor: Canadian Water Policy Watch*. Available: www.flowcanada.org/policy/monitor/past-issues.
- viii To access WISE, visit: www.water.europa.eu.
- ix The Expert Panel on Groundwater 2009. "The Sustainable Management of Groundwater in Canada." *Science Advice in the Public Interest*. Council of Canadian Academies: 1-254.
- x Weibust, I. 2009. "Green Leviathan - The Case for a Federal Role in Environmental Policy." Ashgate.
- xi European Community 2005. "Arrêt de la Cour constatant un manquement d'État. Pêche - Affaire C-304/02: Commission des Communautés européennes vs République Française." European Court of Justice.

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