

## From Marrakech through The Hague to Kyoto: Has the Global Debate on Water Reached a Dead End?

### Part One

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**Abstract:** Although the first World Water Forum was held in 1997, realization by the world community of the vast array of problems facing the water sector dates back to the seventies. Indeed, the Mar del Plata Water Conference that was held in 1977 can be considered the first world water forum. Since that time, a series of international conferences, including the three world water forums that were held in Marrakech, The Hague, and Kyoto, have been organized to discuss the existing and emerging water problems. Such conferences and forums have debated the major issues regarding management and development of water resources, and have adopted a number of resolutions, declarations, and action plans. The debate on many of those issues has sharpened in recent years and the resolutions, declarations, and action plans have multiplied. This article discusses the basic elements of the debate and the areas of differences between the various groups, and assesses the efficacy and impact of the resolutions, declarations, and action plans adopted at those conferences.

This is the first of a two-part article, the second of which will be published in the next issue of this Journal.

**Keywords:** Dublin Statement, Global Water Partnership, Mar del Plata Water Conference, Marrakech Declaration, Millennium Development Goals, New Delhi Statement, Rio Summit, Stockholm Declaration, The Hague Ministerial Declaration, United Nations Convention on the Law of the Non-Navigational Uses of International Watercourses, World Commission for Water in the 21<sup>st</sup> Century, World Commission on Dams, World Water Council.

### Introduction

It is quite noticeable that since the mid-1990s, the world community has placed water on top of the agenda of the issues being debated at the global level. With the serious problems facing the world over water resources, such attention is indeed long overdue. Water is a scarce resource. It is a finite resource with no substitute and upon which there is total dependence. The challenges facing the world community over its scarce and limited water resource are immense. The population of the world has more than tripled from 1.6 billion to 6.1 billion during the last century, competing over the same amount of water. Hydrological variability, industrialization, urbanization, and environmental degradation have compounded those challenges.

The World Commission for Water in the 21<sup>st</sup> Century described in 1999 what it called “the gloomy arithmetic of water.” Nearly 450 million people in 29 countries face water shortage problems, and the figure is expected to jump to 4 billion by the year 2050, with conditions particularly severe

in Africa, the Middle East, and South Asia. About 1.4 billion people live without clean drinking water, 2.3 billion lack adequate sanitation, and 7 million die annually of diseases linked to water. While the world population tripled during the last century, the aggregate use of water has increased six fold. Irrigation, industrial, and municipal uses account for, respectively, 70 percent, 20 percent, and 10 percent of global water withdrawals. These increases have come at high environmental costs. Half the world’s rivers and lakes are seriously polluted, 50 percent of the world’s wetlands have disappeared in the last century, and many rivers no longer flow to the sea. Similarly, many of the most important groundwater aquifers are being overmined, with water tables already very deep and dropping by meters every year (World Water Council, 1999).

The competing demands between users and uses at the local, district, provincial, and international levels, are increasing, and they are increasingly resulting in disputes and conflicts. It should be remembered that more than 300 river basins and a large number of lakes and aquifers

are shared by two or more states. These basins cover about 45 percent of the earth's land surface, account for about 80 percent of global river flow, and affect about 40 percent of the world's population (World Commission on Dams, 2000).

The purpose of this article is to trace the efforts of the international community in placing water on the global agenda, and to offer a critical analysis of the resolutions, declarations, and action plans adopted at the different conferences and forums, particularly the three World Water Forums held in Marrakech, The Hague, and Kyoto. The article also discusses the main elements of the debate during those conferences and forums and the widening gap of views on those elements. Finally, the article examines the efficacy of such resolutions and declarations and the effects of the sharply contrasting views on the elements of the debate, in the long search for solutions to the water problems.

### **Early Global Attempts Addressing the Water Resources Problems**

The establishment of the World Water Council and the Global Water Partnership in 1996 and the holding of the first World Water Forum in Marrakech in 1997 were clear indications that the world community realized the seriousness of the problems it is facing in the water sector and the urgent need to discuss and try to resolve those problems. However, it would be inaccurate to claim that the attention of the world community to the problems facing water resources started only at that time. Indeed, the attempts of the world community to address those problems started in earnest in the 1970s, although sporadic attempts took place some time before that.

The United Nations General Assembly, realizing that disputes on shared water resources were on the rise and getting more complex, asked the International Law Commission in 1970 to study the topic of international watercourses. The Commission started to work on a draft Convention on the law of the non-navigational uses of international watercourses in 1971 (McCaffrey, 2001). A year later, the United Nations Conference on the Human Environment, held in Stockholm in June 1972, addressed the issue of natural resources, including water, and issued the Stockholm Declaration on June 16, 1972. Although water was not given a special prominence during the Conference, a reference to water was included in the Declaration. Principle 2 of the Declaration urged that "the natural resources of the earth including the air, water, land, flora and fauna ... must be safeguarded for the benefit of the present and future generations."

In 1977, the United Nations Water Conference was held in Mar del Plata in Argentina. The fact that the two week conference (March 14 to 25, 1977) was devoted entirely to water resources issues underscored the importance the world community was giving to the matter and

the urgency of the issues related to water. Indeed, the Mar del Plata conference is a significant milestone and a major benchmark in the history of water resources and can accurately be considered as "the first world water forum." The Mar del Plata Action Plan which was adopted at the end of the Conference was detailed and comprehensive, and included a number of recommendations and resolutions addressing various issues. Such issues included assessment of water resources, water use and efficiency, environment, health and pollution control, legislation, and international cooperation and river commissions for shared water resources. Specifically, the Action Plan called on the governments to reaffirm their commitment to adopt programs with realistic standards for quality and quantity to provide water for urban and rural areas by 1990 and for the United Nations agencies to coordinate their efforts in helping the Member States adopt such programs. The Plan also called for preparation of strategies in the institutional development and human resources fields to meet the requirements of the urban and rural areas. On the issue of legislation, the Plan recommended an inventory of the rules, regulations, decrees, and legislative measures in the area of water resources in each country in order to improve and streamline such legislation. Furthermore, the Plan identified areas to be covered by such legislation, such as the means for conferring water rights, powers, and responsibilities of government agencies, as well as defining the rules for public ownership of water projects (United Nations, 1977).

No doubt the Conference helped focus the world's attention for the first time exclusively on the problems facing the global community in the water sector. Indeed, many of the elements of the current debate on water were identified at that Conference. One significant example concerns the issue of the human right to water on which the debate has recently intensified. Resolution II of the Mar del Plata Action Plan specifically stated that "All peoples, whatever their stage of development and their social and economic conditions, have the right to have access to drinking water in quantities and of a quality equal to their basic needs."

One major outcome of the Mar del Plata Conference was the agreement, as part of the Action Plan, to proclaim the period 1981 to 1990 as the "International Drinking Water Supply and Sanitation Decade." This proclamation was endorsed by the United Nations General Assembly in a resolution adopted in November 1980. The proclamation and the resolution underscored the importance of the issue and assisted in acceleration of the efforts in the developing countries to expand the provision of water supply and sanitation services to the underserved populations during that period.

Although concerted efforts were mobilized in that direction, the population growth during that decade neutralized whatever successes that were achieved. The United Nations General Assembly expressed its disappointment

with the overall outcome when it indicated in December 1990 that it was “deeply concerned that, notwithstanding the achievements attained during the International Drinking Water Supply and Sanitation Decade, the current rate of progress remains slow and would leave a significant number of poor people in urban and rural areas without suitable and sustainable services in water and sanitation by the year 2000.”

Aside from the significant increase in population, the top-bottom approach and the lack of public participation in many countries were other factors that negatively affected the outcome of the Decade. Moreover, no actions were proposed or implemented to consolidate and sustain the limited outcome of the Decade.

During the 1990s, a number of regional consultations were held to discuss the lessons of the Decade. Those consultations culminated in the “Global Consultation” which was organized by the United Nations Development Programme (UNDP), and held in New Delhi, India, September 10 to 14, 1990. The meeting issued the “New Delhi Statement” that included four Guiding Principles: (i) protection of the environment and safeguarding of health through the integrated management of water resources; (ii) institutional reforms promoting an integrated approach and including changes in procedures, attitudes, and behavior and the full participation of women; (iii) community management of services backed by measures to strengthen local institutions in implementing and sustaining water and sanitation programs; and (iv) sound financial practices to be achieved through better management of existing assets (United Nations Development Programme, 1990).

The 1990s witnessed more concerted efforts aimed at addressing the existing and emerging water resources problems. The first of those efforts was the International Conference on Water and the Environment organized by the United Nations in Dublin in January 1992. The Conference participants called for fundamental new approaches to the assessment, development, and management of freshwater resources, which can only be brought about through political commitment and involvement from the highest levels of government to the smallest communities. The Dublin Statement which was issued at the end of the conference emphasized four principles: (i) fresh water is a finite and vulnerable resource, essential to sustain life, development and the environment; (ii) water development and management should be based on a participatory approach, involving users, planners and policy-makers at all levels; (iii) women play a central part in the provision, management and safeguarding of water; and (iv) water has an economic value in all its competing uses and should be recognized as an economic good (Global Water Partnership, 2000). A close look at those principles would indicate that they are based to a considerable extent on the New Delhi Statement. It is also worth noting that these “holistic,” “institutional,” “gender,” and “economic” dimensions of the Dublin Principles would henceforth form a

major part of the global debate on how water should be managed and developed.

The Dublin Conference was planned as a preparatory meeting for the United Nations Conference on Environment and Development which was held in Rio de Janeiro, Brazil in June 1992. This Conference is also referred to as the Earth Summit. Agenda 21 “Programme of Action for Sustainable Development” which was adopted at the Summit included a separate chapter (Chapter 18) on fresh water resources. The Chapter, which is, by and large, an elaboration of the Mar del Plata Action Plan, included sections on water management and assessment, water quality and sanitation, agriculture and rural water supplies, climate change, and institutional framework. Each section included a detailed discussion of the recommended programs and activities in that area. The program areas included designing and initiating by the year 2000 of cost estimations and targeted national action programs and creating appropriate institutional structures and legal instruments. Such legal instruments would include legislative and regulatory frameworks. The program areas also included the establishment of efficient water use plans to attain sustainable resource utilization patterns (United Nations, 1992). Unlike the Dublin Principles, Chapter 18 of Agenda 21 referred to water explicitly as a social as well as an economic good. However, in spite of the special attention given to water at the Rio Conference, the Rio Declaration on Environment and Development that was issued at the end of the Conference did not include a specific reference to water. This was indeed an unfortunate omission.

As a sequel to the Dublin and Rio Conferences, the United Nations General Assembly adopted in December 1992 a resolution declaring March 22 of each year as the “World Water Day” in conformity with the recommendation of the Rio Conference, although neither the Dublin nor the Rio conferences were held in March. It may be recalled that the Mar del Plata conference was held between March 14 and 25. Perhaps this was the conference that influenced the United Nations General Assembly decision in this regard. The UN resolution invited the states to devote the day to concrete activities such as promotion of public awareness through the publication and diffusion of documentaries and organization of conferences and expositions related to the conservation and development of water resources and the implementation of Agenda 21. The Resolution furthermore recommended that the Commission on Sustainable Development of the United Nations, in the execution of its mandate, attach priority to the implementation of Chapter 18 of Agenda 21. Henceforth, most of the major international water conferences, particularly the Water Forums, would take place in March and end on March 22, the World Water Day.

Thus, the period from the early 1970s to the mid-1990s witnessed considerable, albeit uncoordinated, efforts to address the issues that the world community was facing, or that were emerging, in the water resources sector. Most

of the principles enunciated at those conferences and included in the different resolutions and declarations would form the basis for the water debate in the coming global water conferences and forums.

### **Paving the Road to Marrakech**

The second half of the 1990s witnessed concerted efforts to consolidate and strengthen the global attempts of the previous decades in addressing water issues. One pointer in that direction was the establishment of two new institutions to deal with water resources issues: the World Water Council and the Global Water Partnership. Establishment of the World Water Council came as a result of the efforts of the International Water Resources Association (IWRA), an organization that was set up in 1972 with a view of advancing water resources planning, management, education, and technology. The Founding Committee of the Council was formed at the IWRA's VIIIth World Congress which was held in Cairo, Egypt, in November 1994. The Founding Committee deliberated and agreed on the mission statement, objectives, and structure of the World Water Council (Water International, 1995). The Council was subsequently established in 1996 as an association under domestic French law and is based in Marseilles, France.

The overall objective of the Council is to act as a think tank on water resources matters. Specifically, the Council is entrusted with five objectives: to identify critical water issues at all levels on the basis of on-going assessments; to raise awareness about critical water issues; to provide a forum for arriving at a common strategic vision on integrated water resources management; to provide advice and relevant information to institutions and decision-makers on the development and implementation of policies and strategies for sustainable water resources management; and to contribute to the resolution of transboundary water issues. The Global Water Partnership was also established in 1996 as a working partnership among all entities – government agencies, public institutions, private companies, professional organizations, and multilateral development agencies – involved in water resources management. The mission of the Global Water Partnership is to support countries in the integrated water resources management for the sustainable use of such water resources.

The line of demarcation of responsibilities between the two institutions may be clear in theory. However, in practice there are areas of overlapping responsibilities, particularly with the expanding work of the Technical Advisory Committee of the Global Water Partnership and its regional offices, including the work on the strategic vision for integrated water resources management. In addition to the Technical Advisory Committee which is part of the Partnership Secretariat, there are seven Regional Technical Advisory Committees as well, one for each of the following: Southern Africa, West Africa, South Asia,

Southeastern Asia, South America, Mediterranean, and Central and Eastern Europe. In 1998 the Technical Advisory Committee (TAC) started publishing its series "TAC Background Papers" which present the Global Water Partnership more as a think tank than as a working partnership.

Unlike the World Water Council, the Global Water Partnership was initially established as a network, hosted by the Swedish International Development Agency in Stockholm, with no formal legal status. However, by 2002, the Global Water Partnership was able to attain such a status by establishing itself as an inter-governmental organization and had, by then, signed a headquarters agreement with the Swedish government. Since 2002, the Global Partnership attained its administrative independence from the Swedish International Development Agency and has emerged as an independent legal entity. The annual Stockholm Water Symposium that was started in 1992, which attracts a large number of participants, has become an important meeting point for the World Water Council and the Global Water Partnership. A number of issues concerning the two institutions, as well as water resources management in general, are discussed and decisions based on these discussions are taken during this annual symposium.

These two institutions have clearly begun to dominate the global work on water resources issues, and have gradually taken the lead in this field from the different United Nations agencies that had hitherto been active in this area in the 1970s and 1980s. Among the United Nations agencies working in the field of water resources are the Food and Agriculture Organization (FAO), the International Fund for Agricultural Development (IFAD), the United Nations Development Programme (UNDP), the United Nations Environment Programme (UNEP), the United Nations Education, Scientific and Cultural Organization (UNESCO), the World Health Organization (WHO), the United Nations Children's Fund (UNICEF), and the World Meteorological Organization (WMO). They also include the United Nations Centre for Human Settlements (Habitat), the United Nations Commission on Human Rights, as well as the five United Nations Regional Commissions. The World Conservation Union (IUCN) and two of the research institutes under the Consultative Group on International Agricultural Research (CGIAR) – the International Water Management Institute (IWMI) and the International Food Policy Research Institute (IFPRI) – are also involved in water. Mention should also be made of the international financial institutions, such as the World Bank and the other regional institutions (which include the Asian Development Bank, the African Development Bank, the European Bank for Reconstruction and Development, and the Inter-American Development Bank) which offer assistance for, and advice on, water resources. Similar work is being carried out by the bilateral development agencies (such as the United States Agency for International Development,

Department for International Development of the United Kingdom, the Canadian International Development Agency, and the Swedish International Development Agency). In addition, a number of international non-governmental organizations (NGOs), such as Green Cross International and International Rivers Network, are also active in this field. It should be added that in 1991 the Global Environment Facility (GEF) was established as a financial mechanism for international agreements on biodiversity, climate change, and persistent organic pollutants. The GEF also supports projects that combat desertification and protect international waters and the ozone layer. The GEF's international waters portfolio, which has been growing steadily, includes surface water, groundwater, as well as coastal waters.

The relationships between the World Water Council and the Global Water Partnership, on the one hand, and the other different agencies working in this field including the United Nations agencies, on the other, seems increasingly to edge on competition, perhaps inevitably so, despite the apparent efforts of cooperation in some fields.

Less than a year after its establishment, the World Water Council organized the First World Water Forum in Marrakech, Morocco, on March 21 and 22, 1997. This Forum was attended by more than 500 participants, and papers on different issues related to water resources were presented and discussed. The Forum issued the "Marrakech Declaration." The Declaration recognized and noted the urgent need for a better understanding of all the complex issues – quantitative and qualitative, political and economic, legal and institutional, social and financial, educational and environmental – that must go into shaping a water policy for the next millennium. The Forum called upon the world community to work together to put into practice the Mar del Plata Action Plan and the Dublin Principles, as well as Chapter 18 of the Earth Summit on freshwater resources. The Declaration called for the initiation of a "blue revolution" to ensure sustainability of the earth's water resources. It also recommended action to recognize the basic human needs to have access to clean water and sanitation, to establish an effective mechanism for management of shared waters and to encourage partnership between the members of the civil society and governments.

The Marrakech Forum mandated the World Water Council to launch a three-year initiative of study, consultations, and analysis that would lead to a global vision for water, life and the environment in the twenty-first century. At the conclusion of the process, the vision would offer policy relevant conclusions and recommendations for actions to be taken by the world leaders to meet the needs of future generations (Ait-Kadi et al., 1997).

Thus, the Marrakech meeting paved the way for an international conference to be held every three years where water professionals from the different regions of the globe, as well as organizations, agencies and institutions, would meet to discuss and try to agree on ways for dealing with

the pressing problems facing the world community in the water resources sector.

### **Aftermath of Marrakech and the Building Blocks for The Hague**

In parallel to the efforts of the World Water Council and the Global Water Partnership, the United Nations General Assembly adopted on May 21, 1997, the United Nations Convention on the Law of the Non-Navigational Uses of International Watercourses. A total of 103 countries voted for the Convention, and only three countries opposed it, with 27 countries abstaining. The adoption of the Convention culminated a long process that started, as we have seen, with the United Nations General Assembly asking in 1970 the International Law Commission to study the question of international watercourses. The process passed through a series of rapporteurs and reports and a lengthy discussion at the Sixth Committee and the General Assembly. The International Law Commission's work was based largely on the work of two scholarly non-governmental organizations in the field of international water law – the Institute of International Law and the International Law Association. The contribution of those two organizations to the codification and progressive development of international water law that started in earnest in the 1950s has been recognized and utilized by the International Law Commission. However, it is quite unfortunate that none of the resolutions adopted by the different conferences and meetings on water resources since the 1970s made any reference to the work of those two institutions, particularly the famous and often quoted Helsinki Rules of the International Law Association. Indeed, the absence of recognition and incorporation of the work of those two leading institutions is quite surprising given the repeated calls in those conferences for cooperation in the field of shared water resources.

The Convention is a *framework convention* that aims at ensuring the utilization, development, conservation, management and protection of international watercourses, and promoting optimal and sustainable utilization thereof for present and future generations. The Convention underscores the obligation to cooperate through, *inter alia*, the establishment of joint mechanisms or commissions and the regular exchange of data and information, and through notification of other riparian states on planned measures with possible significant adverse effects. The Convention also includes detailed provisions on dispute settlement mechanism and procedures (Tanzi and Arcari, 2001). As will be discussed later, the Convention is yet to enter into force and effect.

Although the Convention is designed to deal with the relationship between states over shared watercourses, Article 10 (2) of the Convention introduces the concept of "vital human needs" with regard to water. The Article states that in the event of a conflict between uses of an

international watercourse, it shall be resolved with reference to Articles 5 to 7 of the Convention (dealing with the equitable and reasonable utilization of the shared watercourses, and the obligation not to cause harm), with special regard being given "to the requirements of vital human needs." Although Article 10 (2) uses the term "human needs" and not "human right," the Article has still sharpened the international debate on the issue of the human right to water and has given the proponents of this concept what they believed as strong legal basis for pushing in that direction.

Less than a year after the adoption of the UN Watercourses Convention, another noteworthy development took place. The international conference on "Water and Sustainable Development" was convened in Paris, France, in March 1998. The two day conference culminated in the adoption of the Paris Declaration by the ministers and heads of delegations who attended the meeting. The Declaration made what has by now become an "obligatory reference" to the Mar del Plata Conference, as well as the Rio Earth Summit, Agenda 21 and Chapter 18 of the Agenda. The Declaration further committed the participants to a number of actions, including the integration of all aspects of development, management, and protection of water resources, progressive recovery of service cost, as well as the creation of an enabling framework through legislative, economic, social, and environmental measures. The actions included the mobilization of adequate financial resources from the public and private sectors for expanding the provision of water services, and for an active role for NGOs as well as the local and indigenous communities.

In addition to the reference for progressive recovery of the direct service costs, the Declaration, for the first time, referred to a role for the private sector in the provision of water services. Thus, the Dublin Principle calling for recognition of the economic value of water in all its competing uses has been reinforced and expanded considerably to cover both a call for cost recovery, as well as a role for the private sector. This was the first time a declaration emanating from an international conference had made such a pronouncement, intensifying the debate on those issues.

The mandate given by the Marrakech Declaration to the World Water Council to prepare a global vision for water, life, and the environment in the twenty-first century resulted in the establishment by the Council, a year later in 1998, of the World Commission for Water in the 21<sup>st</sup> Century. The Commission was entrusted with preparing the global vision for water and presenting it at the Second World Water Forum. That set in motion a flurry of global activities, including regional workshops, studies, and consultations resulting in extensive and elaborate reports which were presented and discussed at the Second World Water Forum that was held in March 2000, at The Hague in The Netherlands.

In addition to the regional studies, a series of reports

prepared by the World Water Council and its the World Commission for Water in the 21<sup>st</sup> Century, as well as the Global Water Partnership were presented and discussed at the Forum. Such reports included the World Water Vision's Report "Making Water Everybody's Business" prepared by the World Water Council. In addition, the World Commission for Water prepared and presented a separate report entitled "A Water Secure World," and its Sovereignty Panel, in collaboration with Green Cross International, prepared the report on "National Sovereignty and International Watercourses." Furthermore, the Global Water Partnership presented its report "Towards Water Security: A Framework for Action" (Wouters et al., 2001).

Thus, whereas the Marrakech Forum was meant to establish the institutional and procedural mechanisms for the water professionals to meet and discuss at a global level the critical issues and problems related to water resources, The Hague Forum's emphasis was on the vision for dealing with those critical issues and problems. The Hague Forum was attended by more than 5,000 people, more than ten times the number of attendees at the Marrakech Forum. While the Marrakech Forum was attended largely by elites whose views on the various aspects related to water management are by and large similar, the Hague Forum drew large segments of water professionals, including NGOs, civil society organizations, academics, professional groups, in addition to the United Nations and the multilateral and bilateral aid agencies, and government representatives. As such, The Hague meeting provided an opportunity for all sides to debate the different views on the various aspects related to water resources management, development, and protection. Inevitably, it also led to the polarization of the contrasting views on those aspects. Dams and the role of the private sector became the dividing lines and the most hotly debated, and indeed, divisive issues.

The Forum culminated in the "Ministerial Declaration of The Hague on Water Security in the 21<sup>st</sup> Century" that was issued at the end of the Forum on March 22, 2000. The Declaration stated that the actions advocated by the Ministers and Heads of Delegations were based on integrated water resources management that includes the planning and management of water resources, both conventional and non-conventional, and land. The Declaration went on to set a number of actions, including the agreement to establish targets and strategies to meet the challenges of achieving water security. It included a statement in support of the United Nations system periodic reassessment of the state of water resources and related eco-systems, and on working together to develop a stronger water culture, and increase the effectiveness of pollution control measures. The Declaration called upon the Secretary General of the United Nations to further strengthen cooperation within the United Nations system, and upon the Council of the Global Environment Facility (GEF) to expand its activities in relation to freshwater resources.

Although the Declaration welcomed “the contribution of the World Water Council in relation to the Vision, and of the Global Water Partnership with respect to the development of the Framework of Action,” it stopped short of endorsing either of them. It only “welcomed follow-up actions by all relevant actors in an open, participatory and transparent manner that draws upon all major groups in society.” And although it noted the importance of the range of issues raised, it only promised to “raise them for further consideration in relevant fora in the future, and to consider their implications for our individual national situations.”

The Ministerial Declaration was clearly a political statement devoid of any commitment or specific actions or plans that could be monitored or measured. The Ministers and Heads of Delegations claimed that they lacked the authority to make any commitment on behalf of their governments, including authority to endorse the vision and plan of action of the World Commission for Water, the World Water Council and the Global Water Partnership.

Moreover, a number of NGOs at the Forum called for rejecting the report of the World Commission for Water, challenging the process of preparing it as not participatory and lacking transparency. The NGOs’ Statement went on to criticize the building of dams as having deprived countless number of people of their rights over water and to attack the proposed role for the private sector in water resources management. Similarly, the World Conservation Union (IUCN) challenged the Global Water Partnership Framework for Action, claiming, *inter alia*, that the Framework “continues the misguided notion that ecosystems are in competition with people for water, rather than recognizing that ecosystems provide and restore the water that humanity requires.”

Thus, no concrete agreement on any of the issues presented at the Forum was recorded. In reality, the Forum resulted in the sharp polarization of the views of the different groups of the water professional organizations on the issues of dams and private sector participation and in the widening of the gap on those issues. The only concrete agreement was that the Third World Water Forum would be held in Kyoto, Japan, in March 2003, in line with the practice that seems to be established by now that the Forum would be held every three years, and in line with the United Nations Resolution declaring March 22 as the World Water Day.

### **On the Busy and Rocky Road to Kyoto**

Although the period between the Marrakech and Hague Water Forums was relatively active with meetings and conferences that led to the Hague Forum, the period that preceded the Kyoto Third World Water Forum witnessed a larger number of meetings and conferences and the issuance of more declarations and resolutions.

Less than six months after the Hague Water Forum,

the United Nations General Assembly held its 55<sup>th</sup> session, which was termed the “United Nations Millennium Summit,” at which the heads of State and Governments gathered at its Headquarters in New York from September 6 to 8, 2000. The General Assembly issued on September 8, 2000 the United Nations Millennium Declaration through which the heads of State and Governments reaffirmed their faith in the United Nations and its Charter as indispensable foundations of a more peaceful, prosperous, and just world. The Declaration is divided into eight sections, and addresses eight goals, which together are termed the “Millennium Development Goals.” Those goals establish yardsticks for measuring improvements in the lives of the people of the developing countries. The Declaration sets the year 2015 as the target date for attainment of those goals. The goals are: halve the proportion of people whose income is less than \$1 dollar a day, as well as people who suffer from hunger; achieve universal primary education for boys and girls; eliminate gender disparity in all levels of education; reduce by two-thirds child mortality ratio; reduce by three-quarters maternal mortality ratio; halt and reverse the spread of HIV/AIDS and malaria; ensure environmental sustainability, including reducing by half the proportion of people without sustainable access to safe drinking water; and develop a global partnership for development.

Thus, a clear goal of reducing by half the proportion of people without access to safe drinking water has been set. This is certainly a specific goal that can be monitored and measured. Indeed, it is far clearer to refer to “the proportion of people” as opposed to just “the number of people” as was measured following the end of the International Drinking Water Supply and Sanitation Decade in 1990. This way, the Declaration takes into account the steady increases in population which neutralized the gains of the International Drinking Water Supply and Sanitation Decade, as discussed earlier. However, the Declaration did not include any reference to sanitation, and the goal was confined to water supply only. The failure of the Summit to view water supply and sanitation as closely integrated is indeed unfortunate. It would take two years before this omission is rectified at the World Summit on Sustainable Development in Johannesburg, as will be discussed later.

It should also be mentioned that water has a direct and close link to some of the other Millennium Development Goals as well. Eradication of poverty and hunger cannot be achieved without access to water. Indeed, as has been argued by one expert “poverty in Africa is, in part, a consequence of its unique water resource endowment, which has always been, and remains, a fundamental constraint on the economic performance of African societies and the growth today of African economies” (Grey, 2002). Similarly, reducing child mortality and improving maternal health can not be achieved without access to safe drinking water. Water-borne diseases, whether resulting from lack of safe water for drinking, or lack of

water for hygiene, have been identified as the primary cause for poor health, particularly in Sub-Saharan Africa (Sharma et al., 1996).

In the section of the Declaration dealing with "Protecting our common environment" the heads of State and Governments resolved to adopt in all their environmental action plans a new ethics of conservation and stewardship and to stop the unsustainable exploitation of water resources by developing water management strategies at the regional, national, and local levels that promote both equitable access and adequate supplies. Unlike the specific eight goals discussed above, the Declaration in this section falls into the trap of the generalization of the other declarations and resolutions and sounds to a large extent similar to the Hague Ministerial Declaration. It is for this reason that this section of the Declaration is not included in the Millennium Development Goals.

It is worth mentioning that the Millennium Declaration was signed by 147 heads of State and Governments and was passed unanimously by the United Nations General Assembly. The signing of the Declaration by the heads of State is unusual, but it does not bring any legal weight to it. The Declaration still remains a political statement with no legally binding effect on the signatory states, despite the repeated reference to the Declaration as an "international pact" between the rich and poor nations. The signing only makes it a stronger political statement.

The global water debate continued in another forum in parallel to the work of the World Commission for Water in the 21<sup>st</sup> Century which was mandated by the First World Water Forum. In April 1997, the World Conservation Union (IUCN) and the World Bank organized a workshop in Gland, Switzerland, to review and discuss a World Bank Report on the Bank experience with large dams. Of the 37 participants, seven were from the World Bank, six from government agencies, seven from NGOs, five from IUCN, eight from private dam construction and consulting companies and industry organizations, and four from academia. The Gland Workshop agreed, after a thorough discussion of the Report, on the establishment of a two-year World Commission on Dams by November 1997. The objectives of the Commission were to review the development effectiveness of large dams and assess alternatives for water resources and energy development and to develop internationally acceptable criteria, guidelines, and standards for planning, design, appraisal, construction, operation, monitoring, and decommissioning of dams (World Commission on Dams, 2000). The Commission started its work in May 1998, and launched its report "Dams and Development – A New Framework for Decision-Making" in November 2000 in London, about two months after the United Nations issued its Millennium Declaration.

The Commission noted by way of a general comment that "The key decisions are not about dams as such, but about options for water and energy development. They relate directly to one of the greatest challenges facing the

world in this new century – the need to rethink the management of freshwater resources." The Commission observed that although dams have made an important and significant contribution to human development, in many cases an unacceptable, and often unnecessary, price has been paid to secure these benefits, especially in social and environmental terms.

The Commission indicated at the outset that improving development outcomes requires an expanded basis for decision-making that reflects full knowledge of benefits, impacts, and risks with regard to water and energy. It identified five core values which illustrate its understanding of those issues: equity, efficiency, participatory decision-making, sustainability, and accountability. The Commission also recognized seven strategic priorities for guiding decision making with regard to dams, covering economics, finance, technical, legal, environmental, social, and international water law issues. Those seven priorities comprise: gaining public acceptance; comprehensive options assessment; addressing existing dams; sustaining rivers and livelihoods; recognizing entitlements and sharing benefits; ensuring compliance; and sharing rivers for peace, development and security. The Commission recommended 26 guidelines, derived from those seven priorities, which if applied would lead, in the opinion of the Commission, to a more equitable and sustainable outcome in the future.

The Report of the World Commission on Dams has generated a wide and far-reaching debate over water resources management and development in general, and over dams in particular. The Report is seen by the large NGO community, and some academic circles, as vindicating their point of view with regard to the negative impacts of dams (American University International Law Review, 2001). Henceforth, they would use this report in all the international conferences on water resources and would keep demanding that financial institutions, particularly the multilateral ones, and governments adopt the 26 guidelines recommended by the World Commission on Dams. The outcome of the work of the Commission should not come as a surprise given the significant representation of the NGO and academic community in the Commission. Although the Commission disbanded itself after completion of its mandate, the Report remains a major reference document in the debate on dams and development. In this regard, the legacy of the World Commission on Dams far outlives that of the World Commission for Water in the 21<sup>st</sup> Century which was also disbanded after submission of its report at the Second World Water Forum at The Hague. The process initiated by the World Commission on Dams is now being handled by the United Nations Environment Programme (UNEP) Dams and Development Project (DPP).

The year 2000 continued to be dominated by water issues. On December 20, 2000, the United Nations General Assembly, perhaps with the upcoming Kyoto Water Forum in mind, adopted a resolution proclaiming the year



2003 as the "International Year of Freshwater." The Resolution encourages all Member States, the United Nations system, and all other actors to take advantage of the Year to increase awareness of the importance of freshwater and to promote actions at the local, national, regional and international levels. It further requests the Secretary-General to submit to the General Assembly at its 57<sup>th</sup> session a progress report on the preparations for the International Year of Freshwater.

### Conclusion

The international debate on water that started in earnest at the Mar del Plate water conference in 1977 intensified and sharpened in the 1990s. The achievements of the International Drinking Water Supply and Sanitation Decade were far short of expectation, leading to a global rethinking of the manner for addressing the existing and emerging challenges in the water sector. The establishment of the World Water Council and the Global Water Partnership in 1996, and the holding of the First and Second World Water Forums in 1997 and 2000, respectively, provided unique opportunities for the different water professionals to meet and debate those challenges.

The year 2000 proved to be a busy one as far as water resources was concerned. It started with the Hague Water Forum in March and witnessed the United Nations Millennium Summit in New York in September, the adoption of the Millennium Development Goals, and the release of the Report of the World Commission of Dams in London in November. It ended with the adoption in December by the General Assembly of the United Nations of the resolution proclaiming the year 2003 as the "International Year of Freshwater."

Those attempts at addressing the challenges faced in the water sector would continue in the first years of the millennium. However, by that time the differences on how to address those problems have sharpened. The resolutions and declarations issued at the end of each of the different water conferences and forums attempted to please both sides of the debate, but inevitably ended up in pleasing neither side.

The second part of this article will address those attempts which include the Ministerial Session of the International Conference on Freshwater that was held in Bonn, Germany in 2001. They also include the World Summit on Sustainable Development that took place in Johannesburg, South Africa in 2002, as well as the Kyoto Third World Water Forum that was held in 2003. The second part will also discuss the resolutions and declarations issued at those conferences, and the contrasting views on the basic elements of the debate on water resources management and protection. It will pose, and attempt to answer, the question: are the resolutions and debate leading anywhere?

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The views expressed in this article are those of the author and do not reflect the views of the World Bank or any of the organizations with which the author is associated. The author would like to thank Mr. Kishor Uprety and Ms. Siobhan McInerney-Lankford for helpful comments on an earlier draft of this article. Dr. Salman can be reached at 8448 Clover Leaf Dr. McLean, Virginia 22102, USA. Fax 202-522-1573. Email [ssalman@worldbank.org](mailto:ssalman@worldbank.org).

*Discussions open until June 1, 2004.*

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