

Water and Peace: How Can International Water Agreements be Influenced by the Public?¹

Uri Shamir

Lawrence and Marie Feldman Chair in Engineering

Faculty of Civil Engineering

Director - Water Research Institute

Technion - Israel; Institute of Technology

Haifa 32000, ISRAEL

Abstract

Several publics have interest in a nation's negotiations over international waters and the resulting agreements: (a) those who are or think they may be directly impacted, since they reside adjacent to water sources or systems that are being discussed; (b) national consumer sectors that will be affected, and/or who take the opportunity of the international negotiations to promote their interests; (c) public organizations whose agenda relates to water, mostly "green" organizations; (d) segments of the national public who have a stand vis-a-vis the whole issue of negotiations with neighboring nations, and use the negotiations over water to further their position; (e) water experts not involved in the negotiations, who have an opinion on water resources management in their own nation and the region, and want to have that opinion recognized and acknowledged. The topic of this paper is how such publics can and do have an influence on international water negotiations, on the agreements, and on the implementation of the agreements. We use a "generic" arena of international negotiations over water for illustration, consider its characteristics, and discuss how the public influences the negotiations. To conclude, we bring a few anecdotal illustrations from the water negotiations in the Middle East.

The Negotiation Arena on International Waters

Every case of international negotiation over water is unique, and no two cases are quite alike. And yet, it will be instructive to have in mind a "generic" or "synthetic" negotiation arena over international waters, structured to capture the salient features and serve to convey and discuss the main ideas regarding the influence of the public on international water treaties.

In our case the negotiations are between two parties, i.e. a bi-lateral case. The negotiations are conducted over an extended period, at least several years, under political conditions that vary over time. The political atmosphere oscillates between relative calm bi-national relations, with good-will on both sides being the dominant feature, and times during which, for reasons that may or may not have to do with water, the political atmosphere is tense, sometimes hostile.

In parallel, there is a multi-lateral arena, in which the two parties and some others participate. The others may be nations from the region, neutrals that offer their good offices, or international agencies that wield some influence on the parties. This parallel multi-lateral

¹ International Conference on Participatory Processes in Water Management, Budapest, 28-30 June 1999

arena is more open. Its goals are to create an atmosphere of good will between the two parties, to air issues which are more general and less specific, to bring in "objective input" from outside expertise, in general - to build bridges. The bi-lateral arena, on the other hand, is where the difficult issues, in their specific form, are dealt with. In an ideal setup, the multi-laterals help the bi-laterals, but do not interfere with them. Agreements on principles can be crafted in the multi-laterals, but the specifics of the binding agreements are negotiated in the bi-laterals.

This scenario does not contain the cases of multi-lateral negotiations, such as those on the Danube, the Nile, or the Rhine. And still, some of what will be said below, regarding the influence of the public on international water negotiations and agreements, may be relevant.

There are two possible situations. In one, water is the only issue being negotiated between the parties. In the other, water is but one topic on a much broader palette of matters. We shall consider the former, for clarity. In the latter, tradeoffs between agreements in the various topics are an important consideration, and the participation of the public may be considerably more complex.

The governments of the two parties designate each a negotiating team. The team includes a leader, who is from the political echelon and has little or no professional expertise on water. The team leader is connected directly to the government, and takes its orders from it. The rest of the team is from the water domain - officials and experts. The team also leans on additional expertise, called upon to provide specific information on particular issues.

Each team conducts negotiations in at least four directions: within itself, with its leader who is the link to the political level, with the political level, with the other side. The most difficult negotiations are not necessarily with the other side; often they are within the team and/or with the political level.

Who is the "public" in this case?

Consider the case of planning issues within a country, on water, land development, transportation, nature preservation, or any other similar aspect that affects various constituencies and has an environmental impact. We think of "public" in these cases as individuals and groups of people who are affected, or believe that they will be affected, by the plan, as well as NGOs whose agendas relate to the proposed plan. This would include "neighbors" of a development project (road, treatment plant, garbage dump, industrial plant, etc.) and/or associations for protection of nature, for preservation of historical sites, etc.

Much has been said and written about participation of the public in intra-national cases, and we do not find it necessary to belabor it here. However, the intra-national situation forms the basis for public participation in international matters as well. Some nations have well-developed laws, procedures, mechanisms, regulations and institutions that enable, even encourage, public participation. The public in these countries is accustomed to taking advantage of the opportunity to influence the outcome of decision making. This "educated public" will be inclined to influence international water treaties whenever they feel it necessary. On the other hand, in countries where this democratic culture of public participation does not exist or is as yet poorly developed, one can expect that the public will not influence the international treaties at all, or only marginally.

So, in our generic case, the two countries are democratic, and the public is sufficiently "educated". There is organizational and individual "energy" that is mobilized when the interested segments of the public feel they are affected and wish to exert influence.

Who is the "public" in the case of international negotiations over water? Some are the same as in the intra-national case: neighbors directly affected and "environmental" NGOs. But the spectrum here is often much broader. National consumer sectors or even a whole segment of the population in the country can become the relevant "public". A consumer sector, for example the farmers, may decide to take a position, sometimes a very strong position, with respect to negotiations on international waters. This may be because some of them are directly affected, but no less if they have a long-standing battle to maintain their allocations or price subsidies in their own country. They use the international negotiations to make their point: "if we have water to give to our neighbors (often stated as "enemies"), why is the government cutting our share or raising the price we have to pay for water?" Opposition to international concessions is thus used as a tool in the broader battle.

And then there are publics who oppose the improvement of relations with the neighboring country, and view the negotiations over water as betrayal of the national goals. Public campaigns are waged against the general government's policy by criticizing the actual or apparent "water deals" being discussed.

Interestingly, the "public" in the case of international negotiations over water can even be members of the political establishment. This is clearly the case with opposition parties. They have to resort to means that are used by the public at large to influence the negotiations and treaties. However, even members of the parties that sit in the government but have not been able to swing the national policy in their direction may use tools of "public campaign" to influence the negotiations and their outcome.

In the case of water, there is yet another group of people who try to exert pressure on the water negotiations and the agreements. These are the water experts, who are not included in the formal negotiating team. Some of them feel frustrated for being left out; although they probably realize that not all experts can be part of the negotiating team. Being involved in international adds to a person's prestige, so those left out try to have an influence.

Those experts who have strong opinions will try to get their opinion recognized by the politicians and the negotiating team. Others, with less or no such access, will go to the media, and try to spread their message. This segment of the public - the experts - can have a significant influence, since its members are knowledgeable, to some degree or another, in the specifics of the water sector. A wise negotiating team will provide these experts an opportunity to express their positions, listen to them carefully, and, where appropriate, take their advice.

How do publics influence the negotiations over international waters?

The negotiating teams are instructed to keep the negotiations secret. Only the political echelon can issue statements. The media hover constantly around, trying to extract information, "pump" the team members, "pull them by their tongues". Occasionally, one or another of the team says something inadvertently, and immediately the media are all over it. More often, the media publishes stories based on rumors or assumptions, sometimes on a bit of real information, sometimes primed intentionally by an interested party. This feeds the

public appetite for drama, and provides ammunition to interested publics, who then react in favor or against something real or apparent, attempting to influence the politicians.

The political leaders tend to exclude elements of the public from international negotiations, for several reasons. First, the negotiations are supposed to be based on broad national interests, not on parochial and narrow considerations. Also, interference of the public is perceived as disruptive to the overall process.

Public campaigns are important means to influence international negotiations over water and the resulting treaties. The path goes from the party who "planted" the story, to the public and its representative - the media - which then influence the politicians, and back into the negotiations arena. These means can be used for "good" and "bad" purposes alike. However, the government itself can use these means equally well, sometimes even better than the public.

Another way is for an interested party to insert a representative into the negotiating team. This amounts to using the political route to enter directly into the corridors of power. This is a most effective way, but one reserved only for those who have that kind of clout. If this is not available, interested parties can go to the political leaders, and try to influence their position. This, again, is a legitimate use of the political mechanism, open to those who have that kind of power.

Interested parties can also try to influence the negotiating team directly. They commission independent studies, and if the results support their stand they will then try to present them to the negotiating team directly or via the media. This mode of operation can exert substantial pressure on the negotiating team, which prides itself on being professional and knowledgeable. Results that contradict the position taken by the negotiating team, in reality or apparently, and which come from reputable sources, can have a significant influence on the negotiating team

Negotiators have several "circles" within which they actually negotiate:

- Their own negotiating team. These are the water professionals and administrators who run the water negotiations. This can be one of the toughest circles to deal with. Members of the team may tend to "play a role", to be the toughest, or the "most reasonable" (at least in their own eyes), and arguments within the team can become heated. The culture of discussions set by the team leader(s) is most important. It determines the effectiveness of the team with its national objectives. It also sets the tone for the negotiations with the other side. This is the circle in which external publics have a chance to exert their influence.
- Negotiating with the "Heads of the Delegation". When negotiations over water are but one part of a broader negotiation arena, then there are superiors who have an agenda which includes areas besides than water, and they (the supervisors) have objectives which have to be balanced across domains. It may turn out that convincing the Head of the Delegations is a difficult and frustrating experience. It is frustrating because the water negotiator assumes that the way she/he sees the national interest will be appreciated and accepted by the supervisor - and this may not be the case at all.
- The water negotiator's own political leader is yet another counterpart in negotiations. The message may get to the top political level only via the Head of the Delegation, but often the water negotiators have at least some degree of access to the political level. The politician is influenced, to one degree or another, by the various publics who seek to

influence the agreements, so it is often here that the water negotiators encounters opposing views, and sometimes extreme and poorly-founded ideas and suggestions. And yet they must address these, since the political boss poses them as requiring a serious response.

- And then there obviously is the counterpart on the other side of the table. Oddly, this is sometimes the easiest negotiating task. The lines are drawn, interests and positions are assumed to be clearly defined, and so the agenda is set. You do not need to guess what the other side is driving for. The agenda of the negotiations across the table is negotiated and agreed. While it is constantly attacked and modified, still there is some sort of a fixed protocol what can be and cannot be tabled.
- Finally, there is the public arena within the team's own country. The "negotiations" have some special features. First, there is no fixed agenda, and the public can pick any point or angle, and raise it. There is also no fixed mode for reaching a conclusion of a point. There is no verbal or written agreement, and the public can return to issues that seem to have been put to rest earlier. The public does so not only during the negotiations and signing of the agreement, but even after it has been signed. There are no "rules of the game", and the public can write the rules as it goes along. The life of the negotiating team in this arena can be quite difficult indeed.

Some notes about the Middle East Water Negotiations and Agreements

The Madrid Process in 1991 began the home stretch of the Middle East Peace negotiations. They are far from being concluded, and much remains to be accomplished. And yet, the Jordan - Israel Peace Treaty, signed in October 1994, and the Oslo II Agreement between the Palestinians and Israel, signed in September 1995, are very significant landmarks on the road to comprehensive peace in the region.

Water played an important role in both cases. It was one of many areas discussed, but still commanded a high-profile among these topics, in both cases. All parties in the region consider water a strategic issue. The scarcity of water resources, shared by all in the region, although more so by some than by others, has led to statements that wars of the future will be fought over water. Historical evidence, and a personal belief that the water problem can be handled without becoming an obstacle to peace, leads me to refute these statements. And still, negotiations over water in the two cases were tough, full of twists and turns, hindered at times for various reasons.

The full story has not been told yet. And it is not complete, since implementation is an important aspect. In the remainder of this paper we mention some of the events which illustrate the influence of the publics on the agreements and their implementation. The stories are told mostly from the Israeli perspective, but some are from the other side as well.

The Israeli-Palestinian agreement

Oslo II is an Interim Agreement, and should therefore not be viewed as final. Still, it stands for several years, and must therefore make sense in itself. Also, it may provide some indications with respect to the final settlement. Water was one of many issues being negotiated. The water agreement was reached earlier than many others, a sign of good will between the negotiators of both sides, and the realization that the parties are closely "intertwined" geographically, and therefore joint or at least closely coordinated management is necessary.

Article 40 in Oslo II deals with water. It is quite complex and detailed, and sets up both a Joint Water Commission and Joint Supervision and Enforcement Teams. Many parts of the public on both sides expressed great interest in the issue of water, in the negotiations, and in the agreement reached.

Israelis who opposed the advance towards a settlement with the Palestinians, at least in the form it took during the Rabin Government, expressed "doomsday predictions" regarding what would happen to Israel's water. The Palestinians began by stating that all of the water in the Mountain Aquifer belonged to them, some 600-700 mcm/year. This is about one-third of Israel's water resources. Another forecast was that giving the Palestinians control over land in the West Bank, which is the recharge area for the Mountain Aquifer, will endanger the quality of its water, since the Palestinians would not prevent pollution, either through inability to control it, or, some even said, by design.

This caused a considerable concern in the Israeli public, and for a long time the water negotiations were conducted under these two threats: the Palestinians would take the entire resource, and they would pollute it. No matter that the two actions together make no sense; they were still both argued strongly.

As it turned out, Oslo II contains an agreement that the future needs of the Palestinians in the West Bank amount to 70-80 mcm/year, and that their supplies in the West Bank and Gaza would be augmented immediately by 28.6 mcm/year. Some of these have already been supplied. Other components not yet.

Another public influence was brought to bear by the Israeli residents in the West Bank and the Gaza Strip, who are directly affected by the agreements. The Israeli negotiating team was under instruction to safeguard their water interests. At the same time the team had to consider the effect that precedents set in the interim agreement will influence the negotiations of the final status, which meant that some broad-ranging objectives took precedence over the immediate interests of these residents.

On the Palestinian side, there was, and probably still is, considerable resentment to the preferential treatment which the Israeli settlers received. This is expressed primarily by noting the difference in per capita consumption between the Palestinian and Israeli populations, and pointing to swimming pools in Israeli settlements while their Palestinian neighbors had little or no water supply. This brought very strong public pressure on the Palestinian negotiators, which was expressed clearly in their negotiating stance.

When the Oslo II agreement on water was became known to the public, the fact that the Palestinians got much less than their original claim helped the acceptance on the Israeli side. On the Palestinian side there is still frustration that even those items agreed have not been fully implemented. This causes public anger and frustration, which has been especially strong during the three years of the Netanyahu government.

The Jordan-Israel Treaty

Jordan and Israel have a long history regarding the water resources of the Jordan and Yarmouk Rivers, and more recently of groundwater in the Arava Valley between the Dead Sea and Eilat/Aqaba. Envoys from the US - Johnston, Habib, and Armitage - suggested schemes for allocation of the Jordan and Yarmouk waters. None led to an agreement.

In the early 1980's, a new mechanism emerged. "The Picnic Table Talks" on the bank of the Yarmouk River began discreetly. Israel met Jordan's requests for augmenting the diversion of water from the Yarmouk into Jordan's King Abdallah Canal (KAC), which feeds agriculture in the Jordan Valley and from which water is raised to the City of Amman. The talks on the ground, conducted under direct control of the political leaders of both countries, set the tone for later negotiations and agreement. Information was exchanged, trust was built, and personal relations developed.

The Madrid process began in 1991, and talks proceeded from then to 1994, when the Peace Treaty was signed. While the negotiations were conducted, first in Washington and then in the region, all the publics mentioned above were involved, to one degree or another, on the Israeli side. Five regional water associations had some involvement, two to the south of Lake Kinneret (The Sea of Galilee) and three in the Arava Valley. The chief Israeli negotiator comes from the Jordan Valley Association. He acted a national negotiator, but one cannot claim that the region had no foothold in the negotiating arena. The other four Associations went directly to the negotiating team, and also through the political echelon. In either case, they did have input to the process.

Israeli professionals also kept commenting and making proposals, directly and through the media. Some offered doomsday forecasts: what would happen to Israel if it conceded any of its water to Jordan, etc. Politicians who might have had a direct influence on the negotiations made public statements instead, thereby trying to influence the political system from outside.

On the Jordanian side, the professional associations of engineers tended to be in strong opposition to the entire peace process, and criticized their negotiator and his team. He later became Minister of Water and Irrigation, and in summer 1998 was dismissed by the King after an event in which low water quality was supplied to Amman, water which was provided by Israel to Jordan from the Jordan River at the outlet from the Kinneret. Elements of the Jordanian public, including those professional engineering associations, who oppose the peace process, used the contamination event to raise claims against the arrangements between the two countries, and accuse Israel for the event, and put pressure on the King to dismiss the Minister.

Epilogue

The political atmosphere in the Middle East in the last three years has not been conducive to progress towards conciliation and peace. A better atmosphere is expected now, after the Israeli elections. This is yet another way - the most powerful one - in which the public affects the negotiations and their outcomes: through the ballot box.