

Who is (de)regulating the world's rivers?

The World Commission on Dams, the HSAF process, and the NGO response

Tobias Schmitz, Both ENDS, April 2009

In 1997 a worldwide consultation process was initiated by the World Commission on Dams to discuss the increasing controversy surrounding the construction of large dams. Headed by the then South African water affairs and Forestry minister Prof. Kader Asmal, the WCD consulted 53 public private and civil society organisations, bridgeheaded to many other organisations through a 68 member civil society forum, consulted 1400 individuals from 59 countries, held regional hearings on large dams, etc. Out of this process there emerged the World Commission on Dams report in 2000 which contains a set of concrete recommendations for prospective dam builders in terms of both process and content.

The WCD report has never obtained official status in international law and its contents were strictly 'advisory'. However, being the first and only globally consulted framework for action on large dams it carries a level of legitimacy which few other processes can boast of. By the same token, however, it is not formally linked into any international institution (although UNEP was tasked with taking it forward) and carries no weight in international soft or hard law. In many ways the WCD process has fallen asleep.

Then in 2007, Together with a few governments, financial institutions and environmental organizations, the International Hydropower Association (IHA, a body consisting predominantly of civil engineers with commercial interests in the hydropower sector) created the Hydropower Sustainability Assessment Forum (HSAF) to come up with a new approach in 2007. The stated goal of this forum is to develop a "broadly endorsed" protocol to measure the sustainability of hydropower projects by the end of 2009.

Strangely, the HSAF protocol did not take the widely consulted WCD report as a point of departure, in fact in many respects, it appeared to be tantamount to a denial of the fact that the WCD process had even taken place. Why otherwise would an international consultative group start a process to develop a sustainability protocol 9 years after this had already been done by a far more authoritative group?

Between 2007 and the present, the HSAF discussed the consultation at several meetings and events, and invited more than 6,000 people by e-mail to participate in it. About 180 people accessed the online consultation questionnaire, but only 30 people provided detailed feedback. The feedback primarily came from the hydropower industry and financial institutions, but not from NGOs and governments.

Presently the HSAF process finds itself in a dilemma. To gain legitimacy it needs to consult broadly, but by consulting broadly outcomes may emerge that do not directly suit the dam industry. In the run-up to the 5th World Water Forum, the HSAF tried to involve a range of NGO's in the drafting of its protocol, but it received resistance from these NGO's, which argued that the cart was being put before the horse: one cannot develop standards and consult them, rather, as the WCD process demonstrates, one needs to consult and then develop standards.

The dam industry is afraid of any new standards, but would still like to have a tool that allows them to assess whether or not a certain project will go forward. (They would like "gain without pain", as one observer put it.) The NGOs argued that HSAF is an inappropriate body for developing new standard, but that any new tool which the Forum develops must be based on the existing standards (and most importantly, the WCD framework). (For the dam industry, this would probably amount to "pain without gain".)

In Istanbul, at the 5th World Water Forum, things came to a head. Amongst other things, NAPE, JVE Togo, International Rivers and Both ENDS criticised the HSAF process for developing standards before consulting them and for not taking the WCD guidelines as a point of departure. We left Istanbul in deep disagreement with the dam developers, but at least the topic of WCD was back on the map.

Currently a process is underway to bring new life into the World Commission on Dams process and to strive for internationally acceptable standards for dam building that carry weight in international law. For now, Both ENDS has locked shoulders with NAPE Uganda, JVE Togo and International Rivers to take this process forward.