

BLUE PEACE BULLETIN

VOL 9/ SEPTEMBER 2019

WATER AND VIOLENCE: INTERVIEW WITH DANILO TURK



The Global High Level Panel on Water and Peace called for protection of water resources and infrastructure from violent conflicts and terrorist acts. The Panel submitted its report to the United Nations and the international community in September 2017. On the second anniversary of the release of its report, we interview Danilo Turk, Chairman of the Panel and former President of Slovenia, on various aspects of the Panel's recommendation on protecting water resources from violent conflicts.



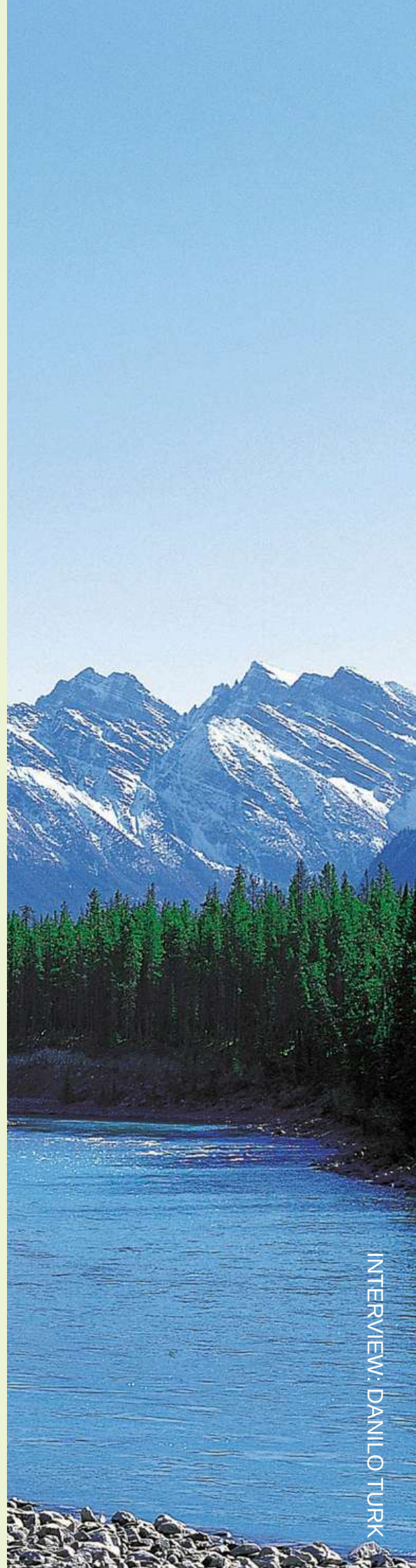
BACKGROUND

The Global High-Level Panel on Water and Peace was launched on 16 November 2015. It was co-convened by 15 countries - Cambodia, Colombia, Costa Rica, Estonia, France, Ghana, Hungary, Jordan, Kazakhstan, Morocco, Oman, Senegal, Slovenia, Spain, and Switzerland. The Panel which was independent was given the task of outlining concrete proposals and recommendations to enable water to be used as an instrument of peace. The Panel's mandate concluded in 2017 after two years of functioning. The Panel met four times across 4 continents - in Switzerland, Senegal, Costa Rica, and Jordan. During each meeting, the Panel also met and consulted with experts in the region.

In September 2017, the Global High-Level Panel on Water and Peace launched the final Report in Geneva and in New York. The report highlighted 7 key recommendations of the Panel on:

1. Rethinking of international water cooperation
2. Protection of Water in Armed Conflicts
3. International Water Law and Trans-boundary Water Cooperation
4. Quantity and Quality: Strengthening of the Knowledge-Based and Data-Driven Decision Making and Cooperation for Security and Peace
5. Inter-Sectoral Water Management and Decision Making
6. Financial Innovation for Water Cooperation
7. New Mechanisms of Water Diplomacy.

The international community has witnessed violence against water resources in armed conflicts by state and non-state actors in most parts of the world in recent years whether it be in Syria, Iraq, Yemen, Somalia or Ukraine to name a few. The Global High Level Panel therefore chose to address this issue and suggest measures of protection to be adopted. In an effort to further the discussion on the recommendation relating to the protection of water resources and infrastructure against acts of violence, Strategic Foresight Group has developed the Blue Peace Bulletin series.



Strategic Foresight Group (SFG): Why did the Global High Level Panel on Water and Peace (GHLP) choose the topic of protection of water infrastructure?

Danilo Turk (DT): Water infrastructure is fundamental to all forms of legitimate water use. Its importance cannot be overestimated – in peace and in armed conflicts. In some of the recent armed conflicts, water resources and in particular water infrastructure has become an object of attack. This practice in modern warfare is deplorable. It represents the abandonment of humanity and must be strongly criticized. Much of the atrocities in Darfur were in fact a result of war over water. In Syria, water resources and installations were often attacked by non-state actors and, according to the UN, at least on one occasion (the al-Feijeh water spring) by the government forces as well. Large numbers of civilians were threatened by the take-over of the Tabqa Dam on Euphrates by Daesh. Eventually Daesh was defeated and the dam was not destroyed, but the mere threat to the downstream civilian population was a reason for alarm – and for protection of water infrastructure in the future conflicts. In Yemen, the destruction of water infrastructure by different parties to the armed conflict led to the devastating outbreak of cholera. Examples like these led our Panel to pay particular attention to protection of water infrastructure. Following the Panel’s report of 2017, titled “A Matter of Survival”, UNICEF has reflected on its own experience as a leading UN humanitarian agency, assisting victims of armed conflicts, in its report “Water under Fire” (March 2019).

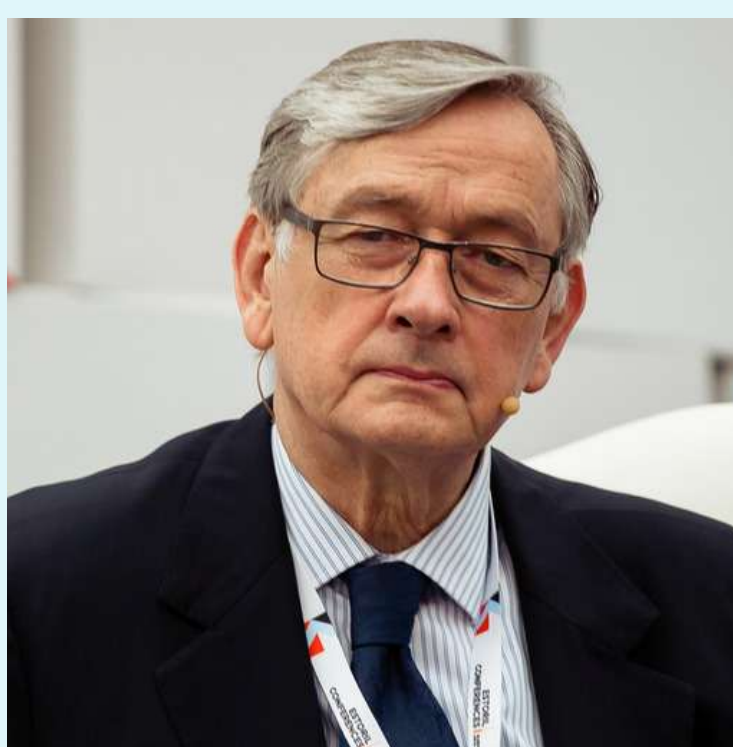
SFG: There are several provisions in International Humanitarian Law (IHL) which address the issue of protection of water resources and infrastructure. They have been listed in the report of the GHLP such as Article 54(2) of Protocol 1 of the Geneva Convention which prohibits states from attacking or destroying ‘drinking water installations and supplies and irrigation works’ or Article 56 of Protocol 1 of the Geneva Convention which prohibits attacks against dams, dykes. However, the implementation of these provisions of IHL is lacking. What do you think could be a solution to this issue of lack of implementation?

DT: The world doesn’t need many new laws with regard to protection of civilians in armed conflicts. The real issue is implementation of existing laws and that requires an array of instruments. A “solution” you look for would require a number of ingredients. Firstly, we need an understanding of the nature and seriousness of the problem. The International Committee of the Red Cross (ICRC) has recently analysed the evolution of urban warfare in many of the ongoing armed conflicts and pointed out the problem of “reverberating effects” of attacks targeted at the critical infrastructure, such as water and electricity. They affect civilian populations beyond the immediate area of attacks and beyond the immediate damage to the infrastructure during the attacks. Schools and hospitals are particularly affected and the consequences last longer. Therefore, secondly, the UN Security Council should accept special attention to these questions and develop policy that ensures adequate protection. Thirdly, in areas where UN forces or UN agencies operate they should be informed about sensitive infrastructure, including water infrastructure as “vital infrastructures” in advance. Reporting an emerging threat to water infrastructure must reach the Security Council in a timely fashion and the Security Council and other relevant actors should act, as much as possible, in a preventive manner. Fourth, in times of peace, the “vital infrastructures” have to be adequately

protected against attack, including possible terrorist attacks. And then, the interpretation and application of International Humanitarian Law also requires further work. In the follow-up to the Report of the GHLP on Water and Peace, a special document was prepared for this purpose, The “Geneva Principles on the Protection of Water Infrastructure”, a comprehensive and systematic interpretation of the International Law protecting water, in particular in armed conflicts. The Geneva Water Hub – the think tank based in Geneva has already organised a number of consultations on the “Geneva List” and they should find a way into the practice of decision makers – both at the national and international level.

SFG: There are about 600 fresh water agreements that came into existence from 1820 to 2007 as per Oregon State University’s Fresh Water Treaties Database. However, there are few notable agreements that are directly linked to water and security. Should there be a separate global or regional agreement/framework relating to the protection of water resources?

DT: It is quite understandable that these agreements do not make a direct reference to security. It is in their very nature that they serve as instruments of cooperation among states who wish to strengthen stability and security. A good indicator of this lies in the fact that some of the most prominent agreements were concluded after wars and have the function of strengthening stability and peace in areas that had been affected by war. The recent Sava River Agreement among successor states of former Yugoslavia is an example. Some other agreements, such as the agreement on the Senegal River, were concluded with the strong understanding that water cooperation is a factor of security and peace – it has a preventive purpose. Explicit references are not necessary



and might actually complicate the formulation of an agreement. For example: how should the security concerns be described in a treaty and what kind of specific prescription should be offered? Do both or (in the case of multilateral treaties) all parties see the security issues in the same fashion? It seems more prudent to avoid addressing these questions directly. It is wiser to build a water cooperation regime on the basis of a broad understanding of its security purpose and then develop specific instruments gradually. In Europe, the gradual (and historically very long) evolution of the cooperation in the Danube and Rhine basins illustrates that. In addition, threats to security are changing – in our era an important priority is preparation for possible natural disasters that might displace many people. Prevention or mitigation of such events would be a major contribution to strengthening of security. And finally, in areas where regional water agreements have not yet been concluded – such as the region of the Middle East, we see the security problem in the absence of water cooperation. A regional water cooperation arrangement involving Turkey, Syria, Iraq and Iran as well as Jordan, Lebanon and Israel would go a long way in the direction of durable stability and peace in the region. However, the necessary political conditions for such a sophisticated approach are emerging only slowly, too slowly.

SFG: The control of Taqba Dam was taken over from ISIS by Syrian extension of the Kurdistan Workers Party (PKK). While ISIS is a terror group, PKK has been defined as militia/armed non state actor/peoples seeking self-determination as well as a terror group. In a complex scenario where groups are not defined nor have legitimacy, what can be done towards an effective engagement process?

DT: This is an important example of the complicated links between water and security. I was following the news about the takeover of the Tabqa Dam from Daesh by YPG and have seen deep differences of opinion about the politics of that event. Nevertheless it was understood that YPG is a much more responsible actor than Daesh. The immediate threat to the downstream population had subsided after the dam was taken over by YPG. Then the question of the next steps comes into the picture. Here we do not yet see a clear way forward. It is good that a modicum of understanding on the importance of the “de-escalation zones” in Syria has taken hold. It is also good that the constitutional process was put in

place. However, its future and the pace of progress depend on the Syrian players now, as well as that of the neighbouring states and global powers. The signs are not yet promising although the situation seems close to irreversible and a relapse into a full-fledged armed conflict doesn't seem likely. This is a situation in which each outside observer can imagine the best way forward, however without an illusion that imagination will be the real path to be taken. In my own, personal opinion, a degree of federalization of Syria will be unavoidable. If that path is taken by the Syrian actors and is accepted by the key outside players, then water cooperation, for example on the Euphrates would have to become part of the eventual arrangement. The river is a kind of a divide between east and west Syria and of vital importance to both. Furthermore it is vital to the upstream and downstream regions of Syria as well as the two neighbours – Turkey upstream and Iraq downstream. Everybody has good reasons to cooperate. But will that happen and lead to a water arrangement? I cannot say.





SFG: The GHLP report mentions ways for the UN to engage in the subject matter including through the UNSC. There has been some momentum in this regard such as with the United Nations Security Council (UNSC) Debate on 'Water, Peace and Security' held in November, 2016. In the two years after the report do you see better opportunities for the UN to take this subject forward?

DT: The situation in the Security Council has changed since November 2016 – and not for the better. The whole world can see that and be worried by deterioration of the relations among the permanent members (P5) of the UN Security Council. This makes it more difficult to find imaginative approaches for the future. Such approaches require a higher level of cooperation, in particular among the P5. The oscillations in their relations in the past three decades showed that progress could be achieved when their cooperation is good but that that regression is always possible. The experience of the “Iran Nuclear Deal” (JCPOA) is very telling and the pattern seen there has a wider, adverse impact. But the non-permanent members also have a role to play. They should continue coming up with imaginative proposals because sooner or later the time for new approaches will come. In the period 2016-2018 there were three debates on water in the Security Council – initiated by Senegal, Bolivia and The Netherlands, respectively. I am sure that these initiatives will continue. In the meantime, think tanks and other non-governmental actors have to conceptualize the ideas expressed in discussions in the Security Council. I mentioned the Geneva Principles on the Protection of Water Infrastructure as an example already. We need more of such input.

SFG: The GHLP had recommended that Peacekeeping missions could take water and violence into consideration. There was some work done in this direction. On 28th June 2018, UNSC Resolution 2423 (S/RES/2423 (2018)) was adopted which extended the mandate of the UN peacekeeping mission in Mali (MINUSMA) to include climate change as a risk factor. Do you feel that this would be a trend that would continue for the future and would expand into water as well?

DT: The question requires a thought in two directions. First, peacekeeping operations as such: Here the tendency is in the growing complexity of these operations which have evolved from purely military activities such as control of ceasefire lines to much more complex operations. They include the task of providing a security environment that allows conduct of a variety of humanitarian and development oriented activities by the UN agencies and by other international and local actors. Water supplies to civilian populations are among the basic needs and are, depending on the circumstances, given a priority. In some situations, special projects for water were made part of the international assistance during an active armed conflict where a UN peace operation was in place. Assistance to the repair of the water system of Sarajevo, capital of Bosnia and Herzegovina during the armed conflict 1992-95 is a case in point. The second direction is broader and relates to peace building: While most of the peace building activity takes place after the armed conflict, there is a need, sometimes quite fundamental to focus on water infrastructure even before the conflict ends. The current armed conflicts in the Sahel region are linked with water – people who lose access to water are not only a humanitarian problem, but often a source of recruitment by armed groups. So it is necessary to engage in a peace building activities in areas not yet affected by armed conflict and provide assistance necessary for the people to have access to water. Once the conflict subsides, water infrastructure becomes one of the main priorities of post conflict peace building.



SFG: There are protracted armed conflicts in several parts of the world including in Yemen, Somalia, Myanmar to name a few and they all have examples of water being targeted deliberately. What can be done to engage with the international community to take possible collective measures towards protection?

DT: Targeting of water resources and installation is a violation of international humanitarian laws and must be clearly condemned as such. The international community is currently not well prepared for an effective reaction to such violations. International humanitarian organizations represent a noble exception but they too often lack what is called the necessary “humanitarian space” for their own activity. Obviously, humanitarian activities are not a substitute for an effective political or military action that is usually necessary in situations where water is being targeted by armed groups. This is why the GHLPWP has paid so much attention to the role of the UN Security Council. The Council has the authority to act or authorize action necessary to prevent or limit targeting of water. However, as the examples you quoted suggest, the politics of each armed conflict is burdened by the political interests by states, both those on the Security Council and states involved in the conflict. This often paralyzes international decision making. International pressure, including media pressure could help, although the media too do not seem to be entirely unburdened of the political agendas.



SFG: The issue of climate change and security has garnered a lot of attention in the last few years. European Governments especially seem particularly inclined towards this issue. [On 11th July 2018, an open debate on ‘Maintenance of international peace and security: Understanding and addressing climate-related security risks’ was held in the UNSC (S/PV.8307) under the presidency of Sweden.] In the light of this do you think it would be best to bring the subject of protection of water resources and infrastructure within the larger umbrella of climate change or does it warrant a separate recognition?

DT: We need both. The decision makers active in the area of peace and security have to be aware of the links between climate change and security – for example by understanding the causal links between global warming, droughts and floods, the displacement of populations, migration flows and the resulting political tensions and armed conflicts. But these causal links are fairly general and indirect and have to be analysed in specific geographic contexts. This is necessary in order to make international decision makers able to address the more acute questions of water and peace. So, the “umbrella” of climate change can be helpful but should not be expected to offer sufficient basis for practical decision making in the field of security. Water, on the other hand, is of great and immediate relevance in the context of many of the pre-conflict situations and of many ongoing armed conflicts. Water is also of great importance in the post conflict peace building as return of refugees and restoration of normalcy are impossible without proper solutions of problems of water. These issues must be addressed directly – as I tried to explain in my answers to earlier questions. An additional and largely unexplored question is whether a looming water disaster can be addressed in the conflict prevention mode. This is a more difficult question that will have to be studied in more depth.

SFG: On November 2018, the European Council adopted the Council Conclusions on Water Diplomacy highlighting the importance of ‘

diplomatic engagement on water, as a tool for peace, security and stability’. What are your thoughts about EU policy to take the process ahead?

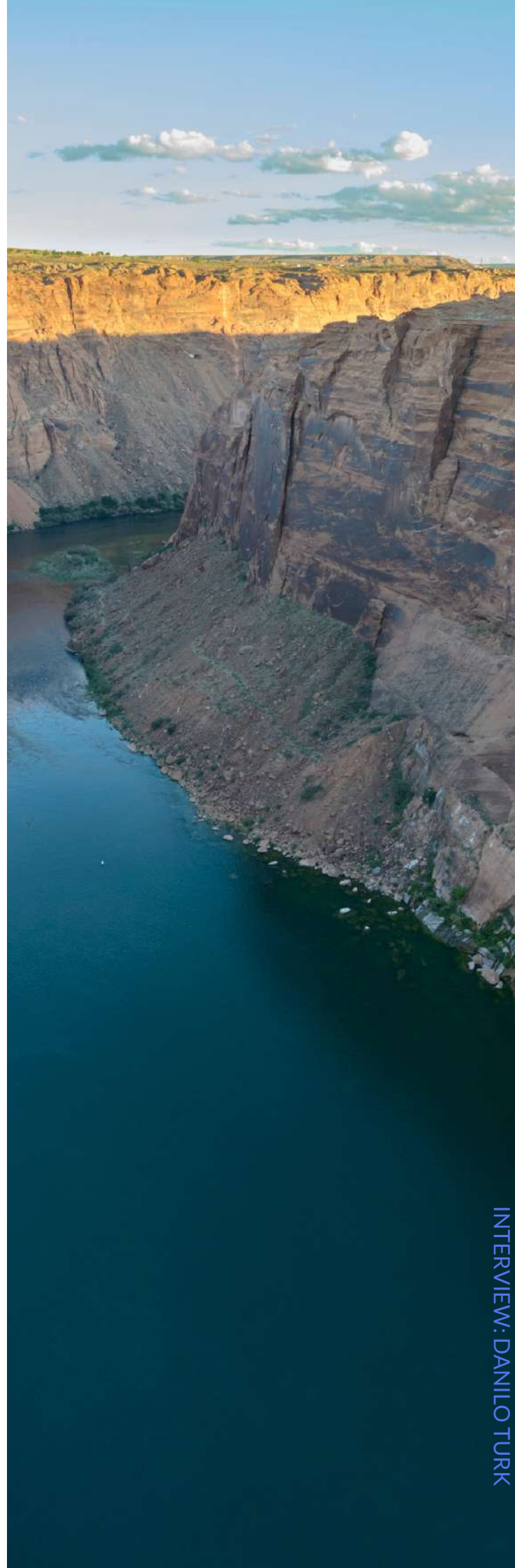
DT: EU has recently formed its new leadership. The new leaders will have to review the entire range of tasks, priorities and instruments that are at the disposal of the EU. All this represents a “broad front” of potential future activities. The EU is the world’s most important donor and supporter of development, it has great experience and its assets can be used in a variety of ways. Let me mention only four of them. First, it could accept water assistance as an important priority of the whole of its development assistance. In every country EU is engaged with its development programs and water projects there could be a priority. Second, trans-boundary water cooperation and measuring water quantity and quality. The EU has the potential to assist countries in other parts of the world with expert assistance and advice. Moreover, trans-boundary water projects should be supported in every possible way, including by stimulation of joint investment plans of the riparian countries and financing of preparatory work leading to water cooperation projects. Third, the EU could generate a push for a more serious study of underground water and cooperation of states sharing trans-boundary aquifers. This area of cooperation is not properly developed, neither among the EU members or more broadly. However, the lowering of water tables and the high dependence of people on underground water requires attention and international leadership, something the EU could provide. And fourth, the EU could engage more strongly within the global organizations, including the UN which will have to decide on how to approach the question the role of global institutions in water management. This short list could be expanded. However, the most important task will be to get the priorities right and this work will start in the second half of 2019, when the

SFG: The assembly of state parties to the International Criminal Court (ICC) activated the jurisdiction of the court over the ‘crime of aggression’ as of 17 July 2018. Could this strengthen future cases on violence against water?

DT: The issue of aggression is a tricky one. Abstract definitions exist but do not help much because each example of the actual use of force tends to be somehow legitimised – either as self-defence or in some other way. And aggression does not start with water. There is little evidence that water directly triggers armed attacks at the beginning of armed conflicts in a way which can be described as “aggression”. Nevertheless, attacks on water, use of water as a weapon and even water disasters play a tragically disruptive role in conflict prone societies, in particularly in ethnically factionalized societies. Therefore they have to be addressed both with preventive diplomacy and, in the case of armed conflict by International Humanitarian Law. In strictly legal terms, water is much more a problem for the “ius in bello” than for the “ius ad bellum” where the prohibition of aggression has its place.

SFG: The International Law Commission (ILC) has been working on draft articles for a new convention on ‘crimes against humanity’. Is it an opportune moment for the ILC to also study the inclusion of violence against water resources in the draft articles?

DT: A short answer is – yes. Here the Geneva List of Principles on the Protection of Water Infrastructure can be really helpful. The Geneva List offers a systematic interpretation of the existing international law, including but not only humanitarian law, relating to protection of water. When this law is violated, it is necessary to decide about the nature of the violation. In situations in which these violations became massive and systematic one can advance the argument that crimes against humanity have occurred. This is not theory or legal sophistry. Just take a look at the war in Yemen where destruction of water infrastructure produced a mass outbreak of cholera and a number of other tragic consequences for the civilian population.



One could and, in fact should describe this as a crime against humanity. One day such situations should have to be brought to the International Criminal Court for judgment. Hopefully the work of the International Law Commission will help expediting this development.

SFG: What have been some of the achievements that you have seen post the recommendations of the GHLP and what could be next concrete measures that you would propose towards protection of water resources?

DT: The report has helped in raising the awareness about the global drama of water. This was clearly visible last year in all the international events related to water and in particular at the High Level Political Forum of the UN. That Forum discussed water as a central element of the Sustainable Development Goals and the Agenda 2030. The International Decade of Water Action started by the UN General Assembly in March 2018 is also a result of the

same awareness. This awareness raising has to continue and intensify. At the same time, one has to understand that international water cooperation belongs to those issues that are easier to discuss than to do. So, the practical policies still leave much to be desired. I hope that the EU water diplomacy will provide a further push forward. Financing of trans-boundary water projects represents another area where further progress is much needed and possible. My friends in the Geneva Water Hub are engaged in an in depth research on the ways to mobilize financial resources for trans-boundary water projects. The work on the Blue Fund for the Congo River is continuing. And there is progress in the building of the Global Observatory on Water and Peace as a network of actors in this domain. Progress has been made in West Africa, the Middle East and in the Americas. So, in short, we are in the midst of the process. We see the seeds planted by the Global High Level Panel on Water and Peace producing the first shoots and we can hope for a good growth and, eventually, a good harvest.



Strategic Foresight Group is an international think tank based in Mumbai, India. Since its inception in 2002, it has worked with governments and national institutions of 60 countries in four continents. It is known for conceiving several pioneering policy concepts to help decision makers to respond to challenges of the future in three spheres: peace and security, water diplomacy, global paradigm shifts.

Its ideas have been discussed in the United Nations Security Council, United Nations Alliance of Civilizations, Indian Parliament, European Parliament, UK House of Commons, House of Lords, World Bank, World Economic Forum (Davos) and other important public institutions. The initiatives and analysis of the Strategic Foresight Group have been quoted in over 3000 newspaper articles and news media sources from almost 100 countries in all continents.

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