Developments under the Ramsar Convention: Allocation of Water for River and Wetland Ecosystems

Alejandro Iza

The use of water can be divided, in general terms, into consumptive and non-consumptive uses. Consumptive uses, also known as out-of-stream uses, include the abstraction of water for agricultural, domestic and industrial uses, and the storage of water. Non-consumptive, or in-stream, uses are those relating to communication and navigation, as well as aesthetic, environmental and recreational values.

Until recently, very little attention was paid to environmental in-stream values, in other words, to the allocation of an adequate volume of water for river ecosystems to maintain their functions. Large-scale water abstraction for domestic, irrigation and industrial purposes, and the construction of dams, combined with water scarcity in many regions, have led to a decrease in the quality and availability of water for the environment. In addition, climate change and its consequences, such as drought and desertification, have exacerbated this phenomenon. These different factors, considered individually or in combination, affect not only the course of the river downstream and its biological diversity, but also downstream wetlands, their resources and the communities living from these resources. Furthermore, a significant change in water patterns might also impact negatively on the estuarine, marine and coastal zone and their biological diversity.

The issues described above give rise to the concept of water for the environment as a ‘user’ of water, as well as a management problem to determine the institutional arrangements needed in order to administer competing water uses. This problem constitutes the core of what is known as environmental flows. In a world of increasingly competing water demands, provision of environmental flows will become more and more relevant. Countries will be confronted with an imperative need to find suitable solutions to deal with different interests, activities and priorities.

NOTION OF ‘ENVIRONMENTAL FLOWS’

The Final Report of the World Commission on Dams (WCD Report) defines ‘environmental flows’ as:

[the] specific release of water from a dam to ensure the maintenance of downstream aquatic ecosystems and key species. The flows may include seasonal or annual flows and/or regular or irregular pulses to meet ecosystem needs. They may also be linked to livelihood needs of downstream affected people.¹

This definition places an emphasis on dam releases. However, legal and managerial issues concerning environmental flows should not only encompass water releases from a dam – as the report suggests – but also the control of abstraction from surface as well as groundwater. Furthermore, environmental flows are not just a matter of water quantity but also of water quality. This consideration is not well anchored in the report’s definition.

The Murray Darling Basin Commission characterizes environmental flows as:

any river flow pattern provided with the intention of maintaining or improving river health. Better use of water currently available and new water made available for the environment, are forms of environmental flows.²

This definition seems to include all the environmental flow aspects described above, and extends the scope of the definition to water quality issues beyond the dam releases.

The World Bank stresses the water allocation dimension of the environmental flows notion and defines it as ‘the water that is left in a river ecosystem, or released into it, for the specific purpose of managing the condition of that ecosystem’.³ This definition goes

³ World Bank, Environmental Flows: Concepts and Methods, Water Resources and Environment Technical Note C (World Bank, 2003). According to the World Bank, several terms can be used to describe flows for the ecological maintenance of rivers: (a) environmental flows, encompassing all the components of the nect i.e. is dynamic over time, recognizes the need of natural flow variability, and addresses social,
beyond dam releases and seems to include, apart from environmental aspects, social and economic aspects as well.

The International Union for Conservation of Nature and Natural Resources' (IUCN) guide on environmental flows\(^5\) defines an environmental flow as:

> the water regime provided within a river, wetland or coastal zone to maintain ecosystems and their benefits where there are competing water uses and where flows are regulated.\(^3\)

This definition, which applies not only to rivers but also to other water bodies like wetlands and coastal zones, considers both quantity and quality aspects and specifies that the concept, defined as a regime, applies only in cases where the water quantity is regulated and different users are competing for their share of the water.

Environmental flows is a new concept that derives from viewing rivers in an holistic manner, looking at a wide range of aspects related, not only to water quality and quantity, but also to land uses, soil protection, species conservation, and integrating surface, ground and marine waters. In this sense, it should be seen as part of the paradigm for water resources management, i.e. integrated water resources management (IWRM),\(^6\) and within the context of an ecosystem approach.\(^7\)

The legal basis for providing environmental flows is dispersed in several treaties (river treaties, non-river treaties, as well as in the law of the sea),\(^8\) instruments of non-binding character and national legislation.

**INTERNATIONAL INSTRUMENTS**

Due to the novelty of the notion, it is, in general, uncommon for treaties and laws to address directly the provision of environmental flows. It is necessary therefore to explore whether treaty provisions, although not directly referring to environmental flows, have, nevertheless, a relationship with this issue and could be used to address the issue at both national and international levels.

There are several watercourse agreements containing provisions for the regulation of river flows. These provisions are mainly related to the production of electricity, protection of fisheries, flotation of logs, protection against flooding or the maintenance of the self-purifying capacity of the waters. However, none of these agreements address the regulation of flows for the protection of the chemical, physical and ecological integrity of a river system, in other words, environmental flows. There are, however, a few exceptions.

The United Nations Convention on the Law of Non-Navigable Uses of International Watercourses (UN Convention),\(^9\) not yet in force, establishes that watercourse States shall protect and preserve the ecosystems of international watercourses,\(^10\) prevent, reduce and control pollution,\(^11\) prevent the introduction of alien or new species,\(^12\) and take measures with respect to an international watercourse in order to protect and preserve the marine environment.\(^13\) Under the heading ‘Protection and preservation of the marine environment’, the UN Convention includes estuaries. Maintaining environmental flows is particularly relevant in the context of estuaries, since an inadequate level of freshwater reaching the estuarine zone can have deleterious effects on the estuarine and coastal zone environment.

There is also indirect reference to the provision of environmental flows in the Convention on the Protection and use of Transboundary Watercourses and International Lakes (Helsinki Convention),\(^14\) as well as

---


\(^{10}\) Ibid., Article 20.

\(^{11}\) Ibid., Article 21.

\(^{12}\) Ibid., Article 22.

\(^{13}\) Ibid., Article 23.

\(^{14}\) Convention on the Protection and use of Transboundary Watercourses and International Lakes (Helsinki, 17 March 1992), available at [http://www.unece.org/env/water/pdf/watercon.pdf]. The convention entered into force on 6 October 1990. The text states, inter alia, in the obligation to take measures to prevent, control and reduce transboundary impact (Article 1(2)), the use of transboundary waters aiming at their conservation and protection of the environment (Article 2(2)(b) and (c)): the duty to cooperate in the preparation of strategies, programmes and policies to protect the watercourse environment or the environment influenced by the watercourse (Article 2(6)).
in agreements adopted under its framework, such as the Convention on the Protection and Sustainable Use of the Danube River (1994).\textsuperscript{15}

More specific provisions can be found in the Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin,\textsuperscript{16} the Convention on the Cooperation for the Protection and Sustainable Use of the Waters of the Portuguese–Spanish River Basins,\textsuperscript{17} and the Framework Agreement on the Sava River Basin.\textsuperscript{18}

**THE RAMSAR CONVENTION AND GUIDELINES**

Regarding the Convention on Wetlands of International Importance Especially as Waterfowl Habitat (Ramsar Convention),\textsuperscript{19} one should look at the convention’s provisions, as well as relevant decisions from the Conference of the Parties (COP), which has adopted a series of resolutions providing useful guidance for the allocation of water for aquatic ecosystems.

The Ramsar Convention’s primary objective to protect wetlands for bird habitats has been systematically expanded by the COP. In effect, the Preamble to the Ramsar Convention recognizes the ‘fundamental ecological functions of wetlands as regulators of water regimes and as habitats supporting a characteristic flora and fauna, especially waterfowl’. The Ramsar Convention provides for an holistic approach to wetland conservation within water systems. Rivers are included in the broad definition of wetlands\textsuperscript{20} and the COP has recognized the important hydrological, biological or ecological role played by them in the functioning of river basins.\textsuperscript{21} Whether or not all rivers can be considered wetlands, it is true that river ecosystems include diverse types of wetlands and their associated biodiversity.

There is a complex ecological relationship between rivers and their associated wetlands. Wetlands act to store water, supply and discharge groundwater, and as reservoirs of potential floodwaters.\textsuperscript{22} Changes in the water regime of the river (such as water diversion upstream, the construction of dams or barrages, deforestation in the upper catchments leading to soil erosion) increase water velocity and decrease water retention, and affect associated riverine and coastal wetlands as well as their flora and fauna. Careless management of the river waters and, among other aspects, of the water flows can therefore have significant impacts on the wetlands depending on, or associated with, these waters.

The Ramsar Convention has recognized these relationships and proposed a series of measures for their regulation. The cornerstone of the Ramsar Convention is the wise use of wetlands,\textsuperscript{23} which has been defined by the COP as the ‘sustainable use of wetlands for the benefit of mankind in a way that is compatible with maintaining the natural properties of the ecosystem’.\textsuperscript{24} Guidelines for the implementation of the wise-use notion (Wise-Use Guidelines) were first adopted in 1990\textsuperscript{25} and complemented in 1993.\textsuperscript{26} Parties are called to establish national wetlands policies; address; actions to improve institutional arrangements and legislation; increase knowledge and awareness of wetlands and their values; review the status of, and identification for, priorities for all wetlands; and address problems at particular wetlands sites. The Operational Objective 2.1 of the *Ramsar Strategic Plan 1997–2002*\textsuperscript{27} calls on the contracting parties to review and, if necessary, amend national or supra-national legislation, institutions and practices in all contracting parties, to ensure that the Wise-Use Guidelines are applied.


\textsuperscript{16} Agreement on the Cooperation for the Sustainable Development of the Mekong River Basin (Chiang Rai, 5 April 1995).

\textsuperscript{17} Convention on the Cooperation for the Protection and Sustainable Use of the Waters of the Portuguese–Spanish River Basins (Albufeira, 30 November 1998), printed in Boletín Oficial del Estado (Spain) No 37 (12 December 2000).

\textsuperscript{18} Framework Agreement on the Sava River Basin (Kranjska Gora, 3 December 2002).

\textsuperscript{19} Convention on Wetlands of International Importance Especially as Waterfowl Habitat (Ramsar, 2 February 1971), printed in 996 UNTS, 245.

\textsuperscript{20} Ibid., Article 1 states: ‘For the purpose of this Convention wetlands are areas of marsh, fen, peatland or water whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six metres’.


\textsuperscript{22} See, for example, A. Bullok and M. Acreman, *The Role of Wetlands in the Hydrologic Cycle*, 7:3 Hydrology and Earth System Sciences (2003), 358–389.

\textsuperscript{23} Ramsar Convention, Article 3(1) states: ‘The Contracting Parties shall formulate and implement their planning so as to promote the conservation of the wetlands included in the List, and as far as possible the wise use of wetlands in their territory’.


In 1996 during the Sixth COP (COP-6), delegates recognized that planning at the river-basin level involves the integration of water resources management and wetlands conservation, and adopted a resolution on this issue. In the resolution, contracting parties are called to, among other things, encourage the study of traditional systems of water management and their relevance for the wise use of wetlands, encourage more studies on the economic value of water within wetlands, and ensure that the Ramsar National Committees are involved in national water planning and the development of river-basin management strategies. It does not say much about the allocation of water for ecosystems; nevertheless, the resolution can be considered as a starting point for further direct and indirect intervention in this area.

During COP-7, further guidance for promoting the wise use of wetlands was adopted, including, *inter alia*, guidelines for reviewing laws and institutions, and guidelines for integrating wetland conservation into river-basin management. The guidelines on integrating wetlands into river-basin management deal with several aspects of environmental flows management:

- incorporation of wetlands management issues into existing water or river-basin management policies and *vice versa*;
- development of comprehensive national water policies or national river-basin management policies;
- development of new legislation to facilitate the establishment of river authorities, introduction of economic incentives and disincentives, and regulation of activities that may negatively affect water management;
- assessment of the wetlands status and their biological diversity in each river basin and adoption of better protective measures;
- review of regulations and procedures for the conservation of wetland biodiversity, especially fish and other aquatic species, protect endangered species, and prevent over-exploitation;
- conducting of studies to determine the minimum and ideal flow regime required to maintain riverine wetland ecosystems;
- establishment of optimum flow allocations and regimes to maintain key wetlands and other key ecological functions of river basins;
- use of the precautionary principle in those situations where available information on biological parameters and physical habitat is inadequate for a definitive decision on the required optimum flow;
- development of sustainable water-allocation plans for various resource users within the river basin, including allocation of water to maintain wetlands; and
- regulation and monitoring of the impacts of major infrastructure developments.

The first set of guidelines is the response to Action 2.1.1, Operational Objective 2.1 from the Ramsar Strategic Plan 1997–2002 taken by the Ramsar Bureau. The IUCN Environmental Law Centre (ELC) was commissioned to prepare guidelines and a background paper on reviewing laws and institutions. Guidelines were considered at a workshop involving seven case studies and then a resolution was drafted for consideration by the twenty-first meeting of the Ramsar Convention’s Standing Committee. The Standing Committee went forward and introduced them for consideration at COP-7 in San José in Costa Rica.

The second set of guidelines derive from Resolution VI.23 mentioned above, and the specific request to the contracting parties to ‘integrate conservation and wise use of wetlands into decision making on land use, groundwater management, catchment/river basin and coastal zone planning’.

Both groups of guidelines provide orientation to the contracting parties to the Ramsar Convention on how to integrate wetlands into river-basin management; in other words, the management of wetlands in a holistic manner.

The relationship between these guidelines and the subject matter of this article lies in the fact that a sort of precondition for the provision of environmental flows for aquatic ecosystem, such as wetlands, is not only the perception of these wetlands within the bigger picture of river-basin systems, but their integration with watercourses in terms of their conservation and management. In a very simplistic way, wetlands will be entitled to receive water from rivers only if wetlands are seen as part of a system that starts in glaciers or mountains, and ends in the sea, and includes, not only a river channel, but also lakes, ponds, peatlands, coastal lagoons and so on (i.e. they are interdependent).

---

31 Ibid.
32 See Ramsar Strategic Plan, n. 27 above.
33 Ibid., para. 2.2.
At COP-834 parties adopted Resolution VIII.1, entitled ‘Guidelines for the allocation and management of water for maintaining the ecological functions of wetlands’. This resolution was adopted by consensus, but Turkey entered a reservation with regard to several paragraphs, in particular those referring to the WCD Report mentioned above, noting that, in its view the provisions of the resolution extend beyond the mandate of the Ramsar Convention with regard to the management of transboundary water resources.

The resolution urges the contracting parties to the Ramsar Convention to give priority to the application of the guidelines (contained in an annex to the resolution), and to adapt them to suit national conditions and circumstances. Further, it encourages parties with wetlands lying in shared river basins to apply these guidelines within the context of the management of water allocations in transboundary basins.

According to the guidelines, the allocation of water for wetland ecosystems should be based on the following guiding principles: sustainability; clarity of process; equity in participation and decision making; credibility of science; transparency in implementation; flexibility of management; and accountability for decisions. The resolution further provides specific actions that should be undertaken in order to operationalize the seven principles referred to. The guidelines themselves relate to:

- policy and legislation;
- valuation of wetland ecosystems;
- environmental flow assessment downstream of dams;
- determination of water allocations for a particular wetland ecosystem; and
- implementation of water allocations to wetlands.

With regard to policy and legislation, they stress the need to:

- adopt an enabling environmental policy, supported by legal frameworks, clarifying the legal status of water and water allocations;
- review water policies and legislation to establish the legal status and priority of water allocation for wetlands in relation to other uses;
- harmonize environmental and water policy and legislation to ensure consistency in the principles and approach to determination of water allocations for wetland ecosystems;
- conduct economic valuation of water allocation issues;
- build public awareness of the value of wetland ecosystem services; and
- promote the involvement of stakeholders in the decision-making process.

Resolution VIII.2 on the WCD Report urges the contracting parties to the Ramsar Convention to undertake systematic environmental flow assessments to mitigate socio-economic and ecological impacts of large dams on wetlands. As was the case with Resolution VIII.1, this resolution was adopted by consensus with a reservation from Turkey. Turkey contradicted the authority of the WCD Report and maintained that it was not a universally accepted document and subject to criticisms from many countries. It further pointed out that the report’s references to the UN Convention (not in force) affected its credibility. Turkey emphasized that the WCD Report should not be a reference for the implementation of the Ramsar Convention.

Since the majority of rivers empty into the marine environment, the biological integrity of a stream influences the integrity of the receiving marine environment and the coastal area. A loss of stream flow could affect the biological integrity of the stream and, thus, result in a degradation of the marine environment into which the stream empties. Some sort of concerted action at this scale is needed to address these linkages. In this context, Resolution VIII.4 urges the contracting parties to promote the integrated coastal area and river-basin management (ICARM) approach,35 and to stimulate the preparation of ICARM plans. In this context, it is worth noting that Resolution VIII.32, on conservation of mangrove ecosystems, which recognizes, among other things, their importance for coastal protection and water quality, and requests the parties to review and modify, as appropriate, their national policies and strategies that could have harmful effects over these ecosystems, implements measures to protect and restore their values and functions, and cooperate at the international level to agree regional and global strategies for their protection.36

Agriculture is probably the biggest water consumer and, consequently, the primary sector that competes with the environment for water. The UN World Water Development Report 2003 states that ‘the demand of food increases with population, and hence does the

34 The Eighth Meeting of the Conference of the Contracting Parties was held in Valencia, Spain, 18–26 November 2002.
35 This approach requires the adoption of goals, objectives and policies, as well as the establishment of governance arrangements, which recognize the relationship between the river basin and ocean systems with a view to their sustainable development; see Resolution VIII.4, Principles and Guidelines for Incorporating Wetland Issues into Integrated Coastal Zone Management, Eighth Meeting of the Conference of the Parties (Valencia, 18–26 November 2002), Appendix 2, available at <http://www.ramsar.org/key_res_viii_04_e.htm>.
water required for agricultural production. The area of irrigated land more than doubled in the twentieth century. COP-8 intended to address part of this issue and, after contentious discussions, passed a resolution on agriculture, which is far from being comprehensive in the sense of producing guidelines or strong recommendations.

The Brazilian delegation at COP-7 did not support the adoption of this resolution and made a formal reservation. According to Brazil, the resolution addressed the multifunctional character of agriculture, that is to say, issues of incentives, which, in Brazil’s view, should be dealt with by the World Trade Organization and not within the Ramsar fora.

The resolution recognizes the role of agriculture as a major user of water and, in some cases, as a major polluter, and calls upon parties to ensure that Ramsar site management plans are developed within wider catchment management approaches, which recognize the need for appropriate implementation of agricultural practices and policies compatible with wetland conservation and sustainable use. In addition, it urges parties, when reviewing their agricultural policies, to identify possible subsidies or incentives that may have negative impacts on water resources in general and wetlands in particular.

Groundwater plays an important role in maintaining the flow of rivers and lakes (so-called base flow) and contributing to the water balance of wetlands. A lack of understanding of groundwater’s role in the water cycle and improper regulation of activities affecting groundwater have contributed to their depletion and pollution in many parts of the world.

In line with the guidelines for the allocation and management of water discussed above, COP-8 adopted Resolution VIII.40 entitled ‘Guidelines for rendering the use of groundwater compatible with the conservation of wetlands’. This resolution urges the contracting parties to study the impacts of groundwater on the conservation of wetlands, review programmes of subsidies to ensure they do not have negative consequences for the conservation of wetlands, and give more attention to the role of groundwater in maintaining the ecological functions of wetlands. According to the Ramsar Strategic Plan 2003–2008, parties will develop for consideration at COP-9, which will take place in 2005 in Kampala, Uganda, guidelines on the sustainable use of groundwater resources to maintain wetland ecosystem functions and the maintenance of the groundwater component of the hydrologic cycle. It is expected that the future guidelines will be complementary to the ones adopted under Resolution VIII.1 and provide additional guidance for addressing the role of groundwater in the allocation of water resources for aquatic ecosystems.

Resolution VIII.9 relates to environmental impact assessments (EIA). EIA is an essential tool for evaluating the likely environmental impacts of a development project proposal and, thus, its relevance for any project that might have an impact on the provision of water for aquatic ecosystems is evident. This resolution, entitled ‘Guidelines for incorporating biodiversity-related issues into environmental impact assessment legislation and/or processes and in strategic environmental assessment adopted by the Convention on Biological Diversity (CBD) and their relevance to the Ramsar Convention’, does not endorse the guidelines, which were adopted by the COP of the CBD. It only urges the contracting parties to the Ramsar Convention to make use of them, as appropriate. However, EIA is given special attention in the Ramsar Strategic Plan 2003–2008. Parties will, if not yet in place, develop and implement EIA legislation, in order to ensure that an EIA is conducted in wetlands, including Ramsar sites, in cases when adverse effects may arise, inter alia, out of changes in land and water uses, or due to invasive species. This objective is also in line with the objective of the Ramsar Convention to carry out a review of legislation and institutions and, when necessary, amend or modify legislation and institutional frameworks to preclude unwise use of wetlands.


Ibid. This is included in an annex under the title ‘CBD Guidelines for incorporating biodiversity related issues into environmental impact assessment legislation and/or processes and in strategic environmental assessment’.

CBD Decision VI/7 on Identification, Monitoring, Indicators and Assessment, the annex of which contains the guidelines for incorporating biodiversity-related issues into environmental impact assessment legislation and process, and in strategic environmental assessment, was adopted at the Sixth Meeting for the Conference of the Parties to the Convention on Biological Diversity (The Hague, 7–19 April 2002). It is available at <http://www.ramsar.org/key_res_viii_09_e.htm>.

See Ramsar Strategic Plan, n. 45 above, at Operational Objective 2.2.2 and 2.2.3.

Ibid., at Operational Objective 2.2.1.

39 Ibid., para. 8.
40 Ibid., para. 19.
41 Ibid., para. 21.
42 See, for example, UNESCO, n. 37 above, at 78.
43 See Resolution VIII.34, n. 38 above, at para. 12.
44 Ibid., para. 14.
45 Resolution VIII.9, Ramsar Strategic Plan 2003–2008, Eighth Meeting of the Conference of the Parties (Valencia, 18–26 November 2002), at Operational Objective 2.2.2 and 2.2.3.
46 Ibid., at Operational Objective 2.2.1.
CONCLUSION

There is no standard regulatory regime for the provision of water for aquatic ecosystems. To fill this lacuna, an effective future regime must include, among other things:

- an express provision for the management of water resources at the river-basin level;
- the promotion of the management of surface water, groundwater and coastal water in an integrated manner;
- provisions clarifying the status of the basic human right to water;
- the establishment of quantitative and qualitative objectives for aquatic ecosystems;
- provisions on the water requirements of aquatic ecosystems;
- provisions on the setting aside of specific watersheds, rivers and wetland ecosystems for the protection of biodiversity, and maintenance of ecosystem functions;
- language encouraging the harmonization of water resources laws with related regulatory regimes affecting watershed management, such as agriculture, energy, industry and mining, in order to promote the integration of land and water management at the watershed level;
- the adoption or strengthening of EIA in the project-planning and decision-making procedures relating to water-resources development and land-use activities;
- the adoption or strengthening of strategic environmental assessments as a planning tool for policies, programmes and legislation;
- an open and transparent system of subsidies, clearly establishing roles and responsibilities; and
- with regard to transboundary waters, provisions for encouraging cooperation with countries sharing the waters, and promoting coordination with the authorities dealing with the sections of the basins beyond the country boundaries, including text related to equitable sharing and cooperation, protection of the environment, and matters relating to water quality, the control of alien species, decision making, dispute-settlement procedures and information sharing with other river-basin States.

The legal basis for such a regime is dispersed in several instruments. This is so because environmental flow is a new concept that reflects a general obligation to protect the river ecosystems, and encompasses the complexity of perceiving and managing rivers, land and sea in an holistic manner.

The guidelines adopted by the last two Ramsar Conferences have made a substantial contribution to the clarification of some of the issues pertaining to a legal regime on the provision of water for aquatic ecosystem and have provided useful guidance to implement them.

Given the expansive character of the Ramsar Convention, and bearing in mind that it establishes obligations that affect both international and national rivers and wetlands, it is expected that it will continue the trend of developing a regime encompassing the fundamental aspects of aquatic ecosystem management.

The utility of the Ramsar guidelines is given by the fact that they address a range of issues related to integrated river-basin management (such as coastal zone, EIA, groundwater, legal and institutional frameworks, etc.), and thus contribute to the further development and clarification of the notion of environmental flows, which is part of it. Nevertheless, the usefulness of the guidelines should not be overestimated since they are only recommendations to the contracting parties. Specific legislation will be needed to give them real practical meaning.

Dr Alejandro Iza is a legal officer at the IUCN – Environmental Law Centre in Bonn, Germany who specializes in water resources and wetlands issues. Dr Iza completed his LL.M. at the University of London and Doctor of Laws at the University of Buenos Aires. He is a former lecturer at the Faculty of Law, Universidad de Buenos Aires, Argentina, and Faculty of Law, Universidad de Belgrano, Argentina.