

COMPARATIVE STUDY ON THE IMPLEMENTATION OF WATER DIPLOMACY: FOCUSING ON THE INDUS AND MEKONG RIVERS

Introduction

Water is an integral part of life inasmuch as it supports livelihoods, prosperity and social stability worldwide. The critical importance of water is enshrined in the eight targets of Sustainable Development Goal (SDG) 6, which emphasises equitable access to and sustainable management of water resources (SDG 2015-2030). The achievement of SDG6 targets requires transboundary water cooperation as set out in target 6.5. However, in the face of growing water scarcity and water mismanagement, transboundary water issues can cause social unrest and spark conflict. Asian Water Development Outlook 2013 reports that water security in Asia and the Pacific is under threat from conflicting water needs, demographic pressures, industrialisation and urbanisation, and climate change, and that such challenges are likely to escalate tension among riparian countries (ADB 2013).

The former UN Secretary General Kofi Annan once ventured that “Fierce national competition over water resources has prompted fears that water issues contain the seeds of violent conflict” (United Nations 2002). Water-related conflict has become one of the most complicated issues in international affairs and security, and has been listed among the top five global risks (World Economic Forum 2020). Research shows that a plethora of conflicts commonly arise in cross-border river basins (Molen and Hildering 2005; Petersen-Perlman, Veilleux and Wolf 2017; Gholizadeh and Niknami 2020). Disputes have broken out over the Nile, Indus and Mekong rivers, among many others. This paper examines and compares the causes of water conflicts and the settlement mechanisms used to resolve them in the Indus and the Mekong river basins.

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Overview of the Indus and the Mekong rivers *Indus River*

The Indus River supports a population of about 215 million people and is the eighth longest river in the world. It originates in the Himalaya Mountains of the western Tibetan Plateau and flows largely through Jammu and Kashmir in the north-western part of the Indian subcontinent. The Indus River and its tributaries are crucial for both Pakistan and India as they are major sources for agricultural water. However, because more than 70 percent of Pakistan’s population depend either directly or indirectly on agriculture, the Indus is much more crucial for Pakistan (Abbashi et al. 2019).

Conflict between India and Pakistan over the water resources of the Indus Basin is not a contemporary issue. Water-related tensions started in 1947 after the subdivision of the Indian subcontinent into two independent countries, India and Pakistan, and have intensified ever since. There are several reasons for the continuation of the conflict. First, the ongoing territorial dispute over Kashmir has soured India-Pakistan relations, disincentivizing cooperation

Figure 1: Map of the Indus Basin



Source: Zawahri, N. A. (2009). India, Pakistan and cooperation along the Indus River system.

(Haq and Sofi 2019; Qureshi 2017a). Second, the growing list of terror incidents in India has worsened diplomatic relations, especially after the Mumbai attack in 2008, which India claimed was carried out by Pakistan-backed terrorists, an accusation denied by Pakistan (Parashar 2020). Third, and possibly the most pressing reason, is Pakistan's claim that India, in the upstream, selfishly controls river flows, disrupting agricultural activities and affecting lives and livelihoods in Pakistan (Qureshi 2017a; Wani and Moorthy 2014).

Mekong River

The Mekong River is the world's 12th longest river. It flows from the Tibetan Plateau to the Mekong Delta through six countries: China, Myanmar, Laos, Thailand, Cambodia and Vietnam. The Mekong

River Basin is one of the largest and most biodiverse in Southeast Asia and provides livelihoods for and feeds more than 60 million people. Over the past decades, Mekong countries have harnessed the benefits of the Mekong's water resources for economic development and industrialisation, allowing them to catch up with more advanced developing countries, reduce poverty and deepen regional integration.

The clashes that flare up over the Mekong River are multifaceted, notably because several countries are involved in Mekong River water diplomacy. Geopolitical rivalry and the ongoing tug of war between powers, especially the involvement of the United States in the region, are considered underlying causes of conflict (Chang 2013). In the process, numerous Mekong cooperation initiatives

have been established by China (Mekong-Lancang Cooperation), the United States (US-Mekong Partnership, upgraded from the Lower Mekong Initiative), Japan (Mekong-Japan) and South Korea (Mekong-South Korea), as well as many other regional and international institutions.

Although Mekong countries, especially those downstream, have benefited significantly from cooperation initiatives, especially through project-based activities, the Mekong region has become a strategic battleground for foreign powers (Hirsch, 2016). Added to that, growing scepticism about China's unilateral dam building in the basin without proper discussions with downstream countries has exacerbated and exposed unequal power relations and mutual distrust in the region (Chang 2013).

Water diplomacy framework to resolve water disputes

Amid increased tensions over shared water, disputes must be countered by effective and sustainable solutions to foster regional integration and cooperation for mutual growth and prosperity. Water diplomacy, a relatively new field of diplomacy, has therefore come to play an increasingly important

Figure 2: Map of the Mekong Basin



Source: Ministry of Natural Resources and Environment 2015
www.mekongeye.com/wp-content/uploads/sites/2/2016/04/MDS-Final-Project-Report-Eng.pdf

role in addressing transboundary water conflict. It is a strategic approach that involves multi-stakeholder dialogue and political engagement to enhance peace, stability and prosperity (Hefny 2011; Molnar et al. 2017). Building on Hefny (2011) and Molnar et al. (2017), this study defines water diplomacy as an attempt to mitigate water conflict, build trust and promote cooperation, regional integration, peace and security by integrating a wide range of instruments including arbitration, legal and practice-based knowledge. The next two sections explore various mechanisms and frameworks used to resolve water conflicts in the Indus and the Mekong river basins.

Indus River Basin

Dispute over the waters of the Indus basin was aggravated after India gained independence in 1947. After an almost decade-long negotiation led by the World Bank to resolve and mitigate the dispute, the Indus Water Treaty (IWT) was adopted in 1960 (Alam 2002). Under the IWT, the rivers in the Indus Basin were partitioned, with the eastern rivers given to India and the western rivers to Pakistan (Sarfranz 2013). The IWT obligates both countries to (1) not restrict water flows or cause potential harm to the other party, and (2) cooperate with each other to exchange hydrological data (Sarfranz 2013).

For over 50 years the IWT provisions have remained intact and applicable, even during the 1965, 1971 and 1999 India-Pakistan wars (Ranjan 2016). It is widely considered one of the most successful treaties for handling water disputes for two reasons. First, its immense success is attributed to the willingness of India and Pakistan to address water-related issues as a technical problem rather than a geopolitical motive. In so doing, they agreed to establish the Permanent Indus Commission (PIC), comprising one high-ranking engineer appointed by each party. The idea was to establish a working group so that the two countries can jointly develop and administer the rivers in compliance with the IWT. Second, in the event that PIC cannot make mutually acceptable decisions or resolve water-related conflicts between the two countries, third party mediation comes into play or the countries can refer to the Permanent Court of Arbitration (PCA).

Notwithstanding that IWT and PIC were established to govern the Indus river, India has constantly constructed more dams, antagonising Pakistan and triggering clashes (Qureshi 2017b).

Although PIC has settled many issues between Pakistan and India, there were two issues it was not able to resolve (Sarfranz 2013). As a condition of the IWT, Pakistan's concerns about India's Baglihar and Kishenganga dams were to be looked into by a neutral expert appointed by the World Bank and then by the PCA (Rao 2017). Regarding the Baglihar dam conflict, while Pakistan opposed the dam construction due to its grand scale infrastructure, India contested that this dam would not affect the water flow. With this disagreement, neutral expert was then brought in and decided that the project did not cause harm and required only minor changes for the construction. For the second case, the concerns were on the disruption of the river flow and the depletion of the reservoir levels. Albeit the court final judgement that states can construct dams, India needs to be responsible for the river minimum flow, prevent the depletion of the reservoir levels (except in a case of emergencies), and protect the environment (Balraj K. Sidhu, 2013; Rao, 2017).

PIC has functioned consistently well for five decades regardless of territorial conflicts and hostilities between the two nations (Sinha, Gupta and Behuria 2012). This remarkable achievement is largely due to the transparency and impartiality with which PIC carries out its mandate (Zawahri 2008). Besides, under the IWT, PIC is required to undertake a general tour to inspect the rivers every five years; this does not include the annual meeting of PIC or any special meetings requested by the commissioner of either party (Zawahri 2008). In addition, except for the International Bank for Reconstruction and Development, the IWT does not allow the involvement of public or international institutions (Khan 1990). Strict adherence to the rubrics has meant that conflicts between states in the Indus Basin have been resolved peacefully using diplomatic means, specifically negotiation, consultation and reconciliation by PIC, mediation by the World Bank, and adjudication by PCA.

Mekong River

The Mekong River is a focus of ongoing conflict. Looking at the history of cooperation between the riparian countries of the Lower Mekong River (i.e. Cambodia, Laos, Thailand and Vietnam), conflict first erupted after the creation of the Mekong Committee in 1957. Because of ideological conflicts in the region and civil war in Cambodia,

the cooperation framework established under the Mekong Committee did not function well (Sunchindah 2005). In 1995, with support from the United Nations and international communities, the Mekong Committee was transformed into the Mekong River Committee (MRC) with the same member states, and with China and Myanmar as dialogue partners. The current MRC has the mandate to oversee and implement policy decisions, coordinate the plans of member states for balanced and socially just development, protect the region's environment and ecological integrity, and examine the sustainability of developments on the mainstream and its tributaries including dam construction (Gerlak and Haefner 2017). In addition, in 2003, the Procedures for Notification, Prior Consultation and Agreement (PNPCA)¹ was adopted by all parties to the Mekong Agreement.

The MRC has mediated several disputes over water between member states. In the event of a deadlock by the commission, resolution is to be negotiated by the respective governments in accordance with Mekong Agreement. Unlike those promulgated in the IWT, the Mekong Agreement does not highlight the quest for arbitration.

The MRC also serves as a platform for water diplomacy aimed at facilitating water negotiations in the region. A case in point is China's construction of many dams on the mainstream of the Mekong River in the upper basin. To ensure transparency in water data, provide evidence and calm downstream-basin countries, the MRC collects hydrological data from upstream areas for scientific and regulatory purposes and shares it with member states, international development partners and NGOs (Schmeier 2011).

China only recently signed an agreement pledging to share year-round hydrological data with Mekong countries (MRC 2020). Previously, China was willing to provide the MRC water-level and rainfall data from two hydrological stations on the Mekong mainstream for only five months during the flood season (from June to October). To show more active collaboration and interest in the Mekong subregion, in 2015 China launched the Mekong-Lancang Cooperation as a multilateral cooperation mechanism, which includes all the

riparian countries in the Greater Mekong Subregion (Biba 2018).

Despite its apparent importance, the MRC seems to have little power and has had little success in dispute resolution (Kittikhoun and Staubi 2018). This perhaps is due to the different vested interests of the member states in utilizing the river and gripping strong hold on their country's national interest (Gerlak and Haefner 2017; Sok 2020). In the case of Xayaburi and Don Sahong dams proposed by Laos in 2010 and 2014, respectively, the MRC was not able to convince member states to follow the PNPCA and had to delay construction (Gerlak and Haefner 2017). Moreover, the lack of political commitment of certain member states has left the MRC unable to proceed with its water diplomacy and legal frameworks. For instance, because of conflicts of interest among political leaders, Thailand did not vote for the agreement on Transboundary Environmental Impact Assessment, Water Sharing and Water Quality proposed by the MRC (Campbell 2011). Because a unanimous vote is required, this agreement could not be concluded.

Conclusion

Water is needed for life to exist. However, as a consequence of increasing water demand, water mismanagement, mistrust, climate change and especially involvement from major powers, water has become a source of conflict. Water-related disputes mostly relate to transboundary waters shared by two or more countries. As this study shows, through water diplomacy, conflicts over shared waters can be prevented and minimised.

Upholding the regional frameworks is believed to help secure peaceful settlements over the shared use of water between riparian states. Establishing an oversight body or a commission to serve as a mediator to monitor and resolve conflicts by providing scientific evidence, promoting trust and fostering cooperation is equally important. As illustrated, water-dispute mediation and resolution in the Indus and Mekong river basins depend on water diplomacy through PIC and MRC, respectively. While PIC presents an overall better success in peacefully resolving water issues over the Indus River, MRC seems to have limited power and success in water conflict resolution. Based on these two case studies, the following suggestions merit consideration.

¹ PNPCA is a general principle undertaken by the commission to ensure the flow, quality of water for the basin. The projects include, but not limited to, hydropower, massive irrigation system, among others.

1. It is essential that riparian states build mutual trust and strengthen political commitment to promote synergies, coordinate policies and optimise cooperation on shared waters for mutual benefit. To that end, equalisation and reasonable consumption of water as articulated in international law and regional legal agreements should not be violated.
2. Drawing on successful conflict resolution under the longstanding IWT, water challenges in the Mekong could be minimised and better managed if external actors were less involved and the securitisation and militarisation of the Mekong region suspended. Considering “Mekong Initiative Fatigue” syndrome, meaning a growing number of initiatives, especially those with a focus on dialogue bases led by different state actors, it further complicates the Mekong issues and ignites political rivalries. It would be more beneficial for the Mekong downstream countries, if those initiatives are mainly for the cooperation and development purposes.
3. MRC member countries need to deepen cooperation with upstream neighbours China and Myanmar, especially in the areas of drought management and climate change. China and Myanmar have been dialogue partners since 1996 but until recently have shown little interest in using the MRC as a platform to boost collaboration. It is important to have all six countries on the same platform with effective cooperative mechanism.
4. Mekong countries should agree to treat water disputes as a technical issue, as happens under the IWT, rather than a geopolitical issue. They should also avoid the temptation to involve power rivalries in dispute resolution as doing so could lead to increased securitisation and militarisation of the Mekong region, which would risk making water issues even more complex.

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