

UN Year of Water Cooperation:

Journey from cooperation to conflict

Passes through big dams, pollution, over exploitation & undemocratic governance

Even as India and China are locked in one upmanship game in Brahmaputra basin, India and Pakistan are competing for development of hydropower projects in shared Indus river basin and India-Bangladesh are struggling to sign the Teesta water treaty, the United Nations General Assembly decided in a resolution adopted at its meeting on Dec 20, 2010, “to declare 2013 the International Year of Water Cooperation”¹. It may also be noted that UN proclaimed the decade 2005-2015 as the International Decade for Action, “Water for Life”. Indeed as we see below, the issues of cooperation and conflict over water go way beyond how normally these issues are seen largely in international context.

The United Nations General Assembly decided in a resolution adopted at its meeting on Dec 20, 2010, “to declare 2013 the International Year of Water Cooperation”. The UN has already proclaimed the decade 2005-2015 as the International Decade for Action, “Water for Life”.

The declaration a welcome move if we are able to take credible and effective steps towards cooperation at every level in managing water in an equitable and sustainable way. Cooperation here should mean participation at every level. It becomes increasingly relevant when demand for water is increasing due to rising population, urbanisation, industrialisation, increased per capita use and increased losses due to climate change. The available and utilisable supply of water is either stagnant or decreasing due to increased pollution, increased temperatures, changing rainfall pattern, melting of glaciers² and over exploitation. Moves towards centralised and undemocratic governance and privatisation of resources are not particularly helpful as these are not participatory and hence do not promote cooperation. The prevailing and emerging situation is a sure fire recipe for increasing conflicts, not cooperation.



Protest against India's Tipaimukh Dam in Bangladesh Photo: www.bdinn.com

Water: Some key characteristics Here we should be mindful of some basic characteristics of water. It is not just a commodity for market. Water is an ecological entity embedded in larger ecology that includes the climate, land, forests, biodiversity in every element of nature where water is present, whether underground and above ground. This includes, but is not limited to: Glaciers, rivers, wetlands, lakes, aquifers, soil, snow and water vapour in the air. In fact our understanding of the interplay of water in the larger eco-system is still far from

¹ For full text of resolution see: http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/65/154

² Melting of glaciers would mean less storage of water in the glaciers, more run off in the monsoon and less water in the non monsoon months.

complete. When we use water from any source, we should be mindful of its impact in the larger ecosystem. The UN resolution for declaring the 2005-2015 decade was not called “water for life” for nothing. Life here includes not just life of every human being but life of the biodiversity in the entire planet.

Increasing potential of water conflicts in India There is evidence of increasing conflicts related to water in India at various levels. This is officially recognised in the 12th five Year Plan of Government of India: “... conflicts across competing uses and users of water are growing by the day.”

The latest draft of India’s National Water Policy acknowledges this in the very first paragraph: “With a growing population and rising needs of a fast developing nation as well as the given indications of the impact of climate change, availability of utilizable water will be under further strain in future with the possibility of deepening water conflicts among different user groups.” The role of demand side management becomes key when one of the key factors in increasing conflicts is increasing demands. However, in a growth-oriented and market-dominated situation, demand is sacrosanct, demand management is an anathema. There is little serious attention today towards demand management in India.

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At non government level, Forum for Policy Dialogue on Water Conflicts in India³ has been in existence since 2004, first surveying, recording and understanding water conflicts and then moving towards conflict resolution. A recently released report on water situation in India⁴ by UNICEF, FAO and Saci-Waters says: “Water conflicts are broadly classified into the following seven categories. These are conflicts over equitable access, competing uses, water quality and pollution, dams and displacements, privatisation of water, industrialization and inter-state conflicts.” The conflicts over competing uses would include sectors like urban, rural, industrial, commercial, agriculture, ecosystem and also inter-generation users. Other kinds of conflicts include: Intra basin and inter basin conflicts, international conflicts and conflicts between the state and people.

Solutions from the Government Some of the solutions that the 12th five year plan and the new draft of India’s National Water Policy have put forward in this context include: A water regulatory authority in each state “that would enable resolution of water conflicts”, a groundwater management act, a national water commission, a national water framework law and a permanent interstate water disputes tribunal. The 12th Five year Plan also calls for “a well-defined 3-tier structure of nested institutions” including Water User Associations to federations at block level for tanks and command areas.

Only time will tell how credible these initiatives are in achieving greater cooperation rather than creating more conflicts in water sharing. It should be added that the Draft National Water Policy of 2012 has many elements that are likely to create more conflicts. Some such

³ For details see: <http://waterconflictforum.org/>

⁴ http://www.unicef.org/india/Final_Report.pdf

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Water Regulatory Authority On water regulatory authority in each state, the 12th Plan document has a lot of hopes: “We need to evolve an institutional framework backed by a legal regime that facilitates setting up of regulatory bodies that would enable resolution of water conflicts.” There is only one state in India where there is a properly functioning state water regulatory authority. That authority has not been able to show any results in this regard for the government to make such a sweeping recommendation for all states to have a regulatory authority. Just to illustrate, let us see how the Maharashtra Water Resources Regulatory Authority has preformed. In the current year (2012-13) Maharashtra is facing on of the worst droughts of 40 years as per Union Agriculture Minister Shri Sharad Pawar. Major dams of the state like Jayakwadi (Godawari basin) and Ujani (Krishna basin) were almost empty in the beginning of Nov 2012, when some of the upstream dams were full. More disturbingly, the upstream dams like Koyna and Tata dams were releasing millions of cubic meters of water everyday, out of the Krishna basin, into the high rainfall Konkan region⁵. There was demand for water from the downstream areas, resulting in conflicts about water



releases from the upstream dams, but MWRRA did nothing to resolve this and conflict. The track record of MWRRA from its constitution in 2005 is no different.

Police destroying unauthorised pumps on Palkhed canal in Maharashtra as MWRRA proves to be ineffective in addressing water sharing Photo: SANDRP

Groundwater India’s real water lifeline today is groundwater and there is urgent need to ensure steps to ensure its sustained existence. The groundwater is facing serious depletion and quality issues. Regulation, demand side management, protection of existing groundwater recharge systems and enhancement of the recharge needs to be taken up urgently. The groundwater regulation has to be a community led, bottom up effort. Lack of such regulation is leading to numerous conflicts. The new groundwater regulation suggested in the 12th Five Year Plan is certainly welcome move in this context.

Urban Water Sector For Urban Water Sector under 12th Five Year plan, the 12th Plan document has given detailed agenda, most of which is well meaning. Unfortunately, the document and the report of the 12th Five Year Plan working group on Urban Water issues shows absolutely no interest in tackling the urban water governance issues. Without democratising the urban water governance, none of the suggested objectives can be achieved. This sector is likely to be a source of many water conflicts in future.

⁵ For details see: http://sandrp.in/dams/PR_STOP_westward_diversion_from_Krishna_basin_220113.pdf

Industrial Water Sector Increasing industrial and commercial water footprint in terms of water use and pollution due to the industrial effluents is likely to be another big source of conflicts in future. On this issue, the 12th Five Year Plan document suggests following measures: compulsory water audit and its public validation, bench marking of water use efficiency and strengthening of regulatory mechanisms. The first thing that strikes about these



measures is that they have already been tried without success. Secondly, there is no attempt at learning any lessons from the failure of the past mechanisms of water pollution act and also state and central pollution control boards to achieve any success. Most significantly, it is going to be difficult to reduce the scope of conflicts without a credible role for the local communities who will suffer due to over exploitation of water and pollution.

Farmers protests against allocating water from Pavana Dam to urban areas in Maharashtra Photo: Mid Day.com

Weak regulation can create new water conflicts India's Union Ministry of Environment and Forests is supposed to provide various clearances to the development projects proposed across the country. It is also the monitoring agency that is supposed to ensure compliance with the environment management plans, clearance conditions and environmental laws. It provides environment clearances (two stages), Forest clearances (two stages), clearance for Clean Development Mechanism projects (see below), coastal zone regulation clearances and



also wildlife clearances. The process of clearances include appraisal of the proposals, their impact assessments and management plans, including public consultation processes. These regulatory efforts are supposed to help take an informed and participatory decisions about the trade off involved in such development projects.

Farmers protest in Odisha against diverting Hirakud waters to the industry Photo: Down to Earth

A recent analysis⁶ of the functioning of the Ministry's Environment Appraisal Committee on River Valley Projects showed how weak is the functioning of this crucial environment regulatory system. Such weak regulatory system can lead to serious and huge conflicts. A very good example of this is the ongoing Assam Arunachal Pradesh conflict on the issue of

⁶ See for details: http://sandrp.in/env_governance/TOR_and_EC_Clearance_status_all_India_Overview_Feb2013.pdf and http://sandrp.in/env_governance/EAC_meetings_Decisions_All_India_Apr_2007_to_Dec_2012.pdf

downstream impacts of the under construction Lower Subansiri project. This is possibly India's largest current anti dam movement that has led to agitation by over 14 indigenous and farmers groups in Assam, stopping the work on the 2000 MW Lower Subansiri hydropower project since December 2011.

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Flood management According to the 12th Five Year Plan, in the period 1953–2010, on an average, an area of 7.208 mha and a population of 3.19 million were affected by floods every year. The average annual flood damage to crops, houses and public utilities at constant (2010–11) prices works out to about Rs 6976 crores. This is excluding damage to private investments for which no estimate is available. The Plan document has raised questions about the quality, timing and access of the flood forecasting information from the Central Water

Commission.

It has also emphasized the need for non structural flood management options and better management of created infrastructure. The recommendation of better reservoir management is also welcome. However, its recommendation for more flood cushion in all reservoirs is seriously problematic and shows government's failure to learn any lessons from the past. It has also failed provide any mechanism for transparency and accountability of the institutes like the Central Water Commission.

INDIA AND NEIGHBOURS Considering that the countries in the region share the Himalayan watershed on which numerous big and small rivers and millions of people and biodiversity depend, there is an urgent need to have a regional Policy for the common good of the people of the region. In view of the crisis of climate change this need has become even more acute. Today, there is no such policy and each country is developing projects on its own, and many of the so-called development projects are actually accelerating climate change impacts and conflicts. One instance of this was cited above in terms of the race to the bottom in development of hydropower projects and dams. Hundreds of such projects are constructed, or are under construction or are being planned across the countries in the region⁷. These projects, along with their paraphernalia of roads, townships, mining, tunnelling, muck dumping, blasting, diverting of rivers and dams are cumulatively having huge, though as yet unquantified impacts on the glaciers, forests, aquatic and terrestrial biodiversity, communities and thereby impacting the climate as well. All this makes the need for a common river sharing policy very urgent.

Considering that the countries in the region share the Himalayan watershed on which numerous big and small rivers and millions of people and biodiversity depend, there is an urgent need to have a regional Policy for the common good of the people of the region. In view of the crisis of climate change this need has become even more acute.

⁷ See *Mountains of Concrete: Dam Building in the Himalayas* by Shripad Dharmadhikary, Dec 2008, published by International Rivers

Flood forecasting: One of the areas where information sharing is immediately required is in the area of sharing information about forecasts related to floods in the shared rivers. The governments in the region seem to have a number of agreements to share information in this regard, including Pakistan-India, Nepal-India, Bhutan-India, Bangladesh-India and China-India. Unfortunately, the shared information in this aspect is not in the public domain. We need to push to ensure that such shared information must be in public domain. What use is the flood forecasting related information if it is not shared among the people who are going to face the disastrous impacts of the floods?

Transparency and Participation in governance in shared river basins There are elaborate, mostly bilateral inter-governmental mechanisms on governance of water and rivers in a number of cases in the South Asia region. A brief description of such mechanism is available on the website of the Ministry of Water Resources, Government of India⁸. These pertain to



the bilateral arrangements of India with Pakistan, Bhutan, Bangladesh, Nepal & China. These arrangements include basin commissions, minister level committees, officer level committees, project specific commissions and so on. Unfortunately, there is practically no transparency in the functioning of these mechanisms, nor is there any role for any concerned actors outside the government. In governance of rivers, waters and related projects, there should be no doubt that people in general have the right to know what is going on in these committees and commissions.

Protest against NHPCs Lower Subansiri Dam Photo: doolnew.com

Recently the need for such public participation was acutely felt in the aftermath of the Kosi Disaster on the Indo-Nepal border in August 2008. During the initial period of this disaster, there was the usual blame game between India and Nepal, showing how the bilateral committee had failed to achieve the maintenance of the embankment that breached with the flow of water in the river was less than 1.5 lakh cusecs (Cubic Feet per Second) even as the design capacity of the embankment was over 9 lakh cusecs. In the days that followed, it become further and acutely clear that if there had been some non government people on the Indo Nepal Kosi committees, that may have ensured that the embankment is properly maintained, and the embankment may not have breached at least on that particular occasion.

Possible Chinese diversion The Chinese government has often declared its intention to divert the Brahmaputra (basically Siang River, one of the main tributaries of the Brahmaputra) river to North China before the river enters India It has declared its plans to build at least four hydropower projects on the river. The work on the water diversion project is yet to start and China has denied that the project is being taken up. However, at the same time, the Indian government is pushing more big hydro projects in Arunachal Pradesh, claiming that these will help establish India's prior use rights over the waters of these rivers when China does decide to take up its North South diversion project. However, such a push for big hydro in Arunachal Pradesh under the bogey of Chinese plans is only likely to worsen the situation for the people of Arunachal Pradesh and also for downstream areas in India and Bangladesh and create new water conflicts. Moreover there is no international mechanism that would help India to claim

⁸ See: <http://wrmin.nic.in/index2.asp?sublinkid=365&langid=1&slid=368>

its prior user right. The UN 1997 convention mentioned below could have been of use, but India has yet to ratify the convention. The best course for India is to push China for a water sharing treaty.

Examples of cooperation at community level that helps in conflict resolution There can be very many different kinds of examples to show how the cooperative efforts at community level can help resolve issues including conflicts. A few examples are listed here.

- **Cauvery family** Cauvery is best known for the Karnataka Tamil Nadu inter-state water sharing conflict. Not so well known are the efforts of the Cauvery Family, the name given to a group of farmers' leaders and academics from Tamil Nadu and Karnataka who have initiated a non-official dialogue to arrive at a shared solution. This group actually brought together the farmers from both sides to have a dialogue on Cauvery water sharing, appropriate cropping patterns, sharing awareness about problems of farmers from both sides and so on. Unfortunately, neither the states nor the centre gave the necessary space for this effort in the official meetings.

Unfortunately, there is practically no transparency in the functioning of the bilateral water related mechanisms in South Asia, nor is there any role for any concerned actors outside the government. In governance of rivers, waters and related projects, there should be no doubt that people in general have the right to know what is going on in these committees and commissions.

- **Dong community in Assam** The Dong system from Baska district, Assam demonstrates how a community organises itself to manage water by an intuitive solution for water resource planning and management by reducing service delivery intermediaries and improving community welfare. Community participation being the essence of its existence, the dong system has also cemented kinship ties. Various dong committees, spread across a river, work with mutual understanding and co-operation to minimise the conflicts⁹.

- **Assam Bangladesh flood info sharing** The *River Basin Friends* is a people's network of more than 300 organisations located in the Ganga-Brahmaputra-Meghna basin. Official flood forecasting from the central government is often insufficient to predict impacts at the local level, and the information cannot usually reach people in vulnerable locations. So *River Basin Friends* began its own initiative to commence an early flood warning mechanism which reaches people all the way downstream in Bangladesh. It has more than 1,000 members of different disciplines, living in different parts of the basin, each of whom helps circulate flood forecasting messages from upstream locations to downstream locations, using phones and email. People in the central hub in Assam collect information from different sources, and the peoples' network in upstream locations of the Brahmaputra basin process and analyze it. The final flood early warning messages are then formulated for different vulnerable locations and disseminated to these locations. This has been going on quite

The weaker sections (tribals, Dalits, women, marginal farmers) or weaker stakeholders (environment, rivers) have always been losing at the negotiating table. Centralising of authority and decision making being more and more away from local stakeholders, it makes possibility of more conflicts being created, and resolution of the conflicts more difficult. Local water management can help reduce and help address conflicts at the initial stage.

⁹ http://www.unicef.org/india/Final_Report.pdf

effectively at least for the last three years. More in-depth study of this remarkable initiative needs to be done, as it has the potential to provide lessons for many other communities¹⁰.

Conditions for water cooperation We need to understand key conditions that would help achieve better cooperation in water sector. Some key conditions in this regard include: Clearly defined priorities for water use, rules of allocation of water to different users, water allocation mechanisms among various sectors, democratic rules of governance of such mechanisms, understanding the importance of ecosystem resources, Conservation of ecosystem resources including Wetlands, forests, rivers, lake, biodiversity; clearly defined and legally enforceable Right to Water and mechanisms to enforce the same.

Good governance in this context would include key aspects like transparency, accountability and participation. There is need to have legal and institutional set up to achieve these goals.

World Commission on Dams: Framework for cooperation in water management The report of the World Commission on Dams: *Dams and Development – A New Framework for Decision Making* provides a useful framework or starting point to achieve cooperation in water management. It calls for going “beyond looking at water as a finite commodity to be divided and embrace an approach that equitably allocates not the water, but the benefits that can be derived from it”, for agreements based on principles of equitable and reasonable utilisation, no significant harm, prior information, free prior and informed consent of affected communities. The report says that “Storages and diversion of water on transboundary rivers has been a source of considerable tension between countries and within countries.” Some key strategic priorities of the report include: gaining public acceptance, recognising entitlements, sustaining rivers and livelihoods. The recommendations of the report are applicable from community to international levels. It would be good if the United Nations recognises the principles in the report in this year of water cooperation and provides some institutional support for their implementation.

UN Role Sixty percent of the world’s freshwaters are transboundary. So there should be little doubt that water cooperation is critical to avoid conflicts and ensure effective and sustainable use of shared resources. Over the years, the United Nations have been coming out with various programs and principles on water resources management. However, none of them have legal and institutional back up. Its 1997 Convention on the Law of the Non-Navigational Uses of International Watercourses is yet to come into force¹¹ as it has yet to receive ratification of the required 35 countries. Significantly, India abstained from voting for the convention at the UN and also has yet to ratify it.

Another arm of the United Nations, namely UNFCCC, is actually encouraging and incentivising destruction of environment and more water conflicts. Under United Nations Frame Convention on Climate Change, the Clean Development Mechanism (CDM) provides incentives for projects including Big Hydro in developing countries that are supposed to be sustainable development projects and are additional. In most cases they are neither.

Another instrument in this context is the UNECE (UN Economic Commission for Europe) Convention on the Protection and Use of Transboundary Watercourses and International

¹⁰ *A Dam-Made Disaster: How Large Dams and Embankments Have Worsened India’s Floods* by Himanshu Thakkar in “Before the Deluge: Coping with Floods in a Changing Climate”, International Rivers, 2007

¹¹ See for details: http://treaties.un.org/Pages/ViewDetails.aspx?src=UNTSOnline&tabid=2&mtdsg_no=XXVII-12&chapter=27&lang=en#Participants

Lakes (Water Convention)¹² is currently the only international legal framework in force governing the management of transboundary water resources. It turned into a global convention in Feb 2013, having received sufficient number of ratifications. The UNECE website says in this regard: “This is a groundbreaking development as the Convention was originally negotiated as a regional instrument by countries of the United Nations Economic Commission for Europe. It is also a major milestone of the International Year of Water Cooperation celebrated in 2013... more than 30 countries from outside the UNECE region already actively participate in activities under the Convention. Several countries have already indicated their interest in becoming Parties... will create a strong legal base for present and future Parties to the Convention to join their forces to protect transboundary waters and the benefits deriving from them... Moreover it will strengthen political support to transboundary water cooperation.”

UNFCCC and CDM: Source of fresh conflicts Another arm of the United Nations is actually encouraging and incentivising destruction of environment and more water conflicts. Under United Nations Frame Convention on Climate Change, the Clean Development Mechanism (CDM) provides incentives for projects in developing countries that are supposed to be sustainable development projects and additional. Hydropower projects constitute the largest no of projects of India that are being certified as CDM projects and are slated to get hundreds of millions of dollars as free gifts. Each of these projects are affecting environment, destroying rivers and their biodiversity, pauperising the local communities.

The Union Ministry of Environment and Forests that is the designated national authority to certify that the projects are sustainable development has completely failed to see through the fact that none of them are acceptable to the local communities as sustainable development projects. The Executive Board of the UNFCCC has failed to ensure that only those projects get CDM credits that would not have been implemented without the benefit of CDM projects, all hydropower projects are essentially non additional, business as usual projects. The local communities that suffer all the adverse impacts not only get no benefits from such projects, they have absolutely no role in the decision making about either the projects or their CDM status. It is clear that both the Union Ministry of Environment & Forests and UNFCCC have created a situation that is leading to environment destruction, unsustainable profiteering and pauperisation in the name of climate solutions. In this UN Year of Water Cooperation, UN must stop such schemes.

The world leaders and media have been quoting *ad nauseam* the now infamous quote from the former United Nations Secretary General Boutros Boutros Ghali to the effect that next war may be fought for water. Many would call this unwarranted war mongering, that too from a UN personnel. There is a lot the UN needs to do to achieve greater water cooperation across the world to wash off this war mongering image. May the UN succeed in this effort!

Himanshu Thakkar (An edited version published as cover story in March 2013 issue of Terra Green magazine)

¹² See for details: <http://www.unece.org/index.php?id=32154>