

INDUS WATER TREATY: CHALLENGES AND PROSPECTS

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Abstract : The Indus River in South Asia flows without acknowledging political bounds. It flows over Tibet, India, Pakistan, and Afghanistan and lastly falls into Arabian Sea near Karachi in Sindh province. Indus is one of the most ancient rivers of the Indian Subcontinent. After the partition of 1947 it became reason for dispute between two newly born states, India and Pakistan. The upper riparian of river flows through India, however, it forms main source of freshwater for Pakistan. Considering the rift over the sharing of river water and its strategic location in South Asia, it becomes an important case to understand the water sharing disputes between India and Pakistan. The present paper aims at understanding the background of water sharing dispute, reasons and proposals of Indus water treaty. Paper also looks into the challenges which treaty has faced over the course of its implementation and promises which it offers to the region.

Key Words- India, Pakistan, Indus Water Treaty

I. INTRODUCTION

“WHEN on September 19, 1960, the Indus Water Treaty (IWTr) was signed by Nehru and Ayub Khan in Karachi, it was to be hoped that once and for all the troubled waters between India and Pakistan were to become quiet and peaceful, not only the Indus waters which were the direct object of the treaty, but also the other waters flowing between the two great countries, waters which henceforth might have been dealt with in the same cooperative spirit. But neither of these hopes can be held out any longer—as if, when crossing the boundaries between India and Pakistan, the apparently clear and blue waters of the Indus carried with them a permanent and poisonous germ of discord, no less than the yellowish waters of the huge Ganges-System in East Pakistan...” (Külz, 1969)

Same as other rivers across the world, the Indus River in South Asia flows without acknowledging political bounds. It flows over Tibet, India, Pakistan, and Afghanistan and lastly falls into Arabian Sea near Karachi in Sindh province. Indus is one of the most ancient rivers of the Indian Subcontinent. At one point of time in history the river fed a sprawling civilization- the Indus valley civilization. Before partition Indus was source of livelihood for millions of people living nearby. But after partition of 1947 it became reason for dispute between two newly born states, India and Pakistan. The upper riparian of river flows through India, however, it forms main source of freshwater for Pakistan. Pakistan felt its sustenance in danger because of Indian control over the tributaries that flowed water into Pakistani portion of Basin. In 1948 Inter Dominion Accord was established as temporary agreement in which India was called for releasing adequate water to Pakistan region for a minimal fee in order to address country's urgent demand. Still permanent settlement was highly required when tension was again evoked in 1951. Neither side, although, was willing to compromise on their positions respectively. Pakistan was willing to take up the issue to International Court of Justice in 1952 but India had discarded the idea by stating that this matter requires bilateral settlement. At this point of time World Bank came up as mediator and extended a broad plan for the joint development of the Indus river system. “After prolonged talks between the two governments, the constructivist approach of Nehru and Ayub Khan assisted by the good offices of the World Bank, led to the signing of the Indus Water Treaty in 1960.”(Iyer, 1999)

II. INDUS WATER TREATY 1960-

The water sharing issue was very complex and contentious in the shadow of Kashmir dispute, that a devising a mechanism to peacefully share Indus water had become a difficult task. Therefore it took almost nine years (1951-1960) of negotiation earlier, India and Pakistan signed the Indus Water Treaty (IWT) in collaboration with the World Bank and with financial aid from the United States of America and United Kingdom.

According to the Indus Water Sharing treaty, the three western rivers – the Jhelum, the Chenab and the Indus itself were allocated to Pakistan and three eastern rivers – the Ravi, the Beas, and the Sutlej were left for India. India came in the upper riparian of the river. So it had to face certain restriction, India was not suppose to built huge storages on the rivers that were allotted to Pakistan. There were also restrictions regarding extension of irrigation. Since Pakistan was in the lower riparian it had to face relatively less significant restrictions. The two countries agreed to share data on project operation, extent of irrigated agriculture and so on. Certain institutional arrangements were also made. A permanent Indus Commission was to be set up which would comprise one commissioner each from India and Pakistan. The treaty supported the idea of periodical meetings and exchanges of visits. As for the conflict resolution, the differences were to be settled within the commission. If it could not be settled at that level the two governments were to intervene. In the case of deadlock an arbitration mechanism was devised by the treaty. Under the treaty Pakistan was to receive international financial assistance for development of irrigation work to use the water allocated to it. India also paid a sum of approximately Rs. 100 crores. (Iyer, 1999) Indus water treaty of 1960 provides simply division of rivers as solution to the water sharing dispute between India and Pakistan. According to analysts this one point has both positive as well as negative aspect. On the one side it grants both states to seek their own individual interest, without much requirement for cooperation in the field of water. On the other side, it limits cooperation on integrated water basin management, information sharing and disaster management measures. Until now conflict between India and Pakistan have invoked due to different interpretation of Indus water treaty by both sides other than the absence of provision in the treaty.

III. DISSATISFACTION OVER TREATY IN INDIA AND PAKISTAN-

It is prevalent in both India and Pakistan that a treaty has been successful. However there is also hint of dissatisfaction with the treaty in two countries. There are quarters that opine that the division of water has been unfair. However, both the countries seem to be at loggerheads regarding the points raised by each other. Apart from this issue of sharing of waters, India claims certain projects planned by India run into doldrums because of Pakistan's objection.

For instance the Salal hydroelectric project on the Chenab was thoroughly discussed at the commission level and subsequently by the two governments. It was ultimately accepted by Pakistan, with some changes in 1970s. However, other projects such as Baglihar, Wullar, and Kishenganga are still stagnant due to deadlock. (Iyer, 2005)

The disagreement between India and Pakistan has a reason because of unidirectional interpretation of the Indus Water Treaty. According to the analysis given by Danish Mustafa of the United States Institute for Peace (USIP), Pakistan interprets the technicalities of Indus water treaty far literally than the Indians. Indian side tries to interpret treaty in its own way by emphasizing a techno economically sound project design.

In certain cases this preposition by India has led to the twisting of certain annexures in the Indus water treaty. This was the case in the Baglihar dam project when it was found that India was facing some technical design problems. To overcome these problems India had to circumvent certain provisions of Indus water treaty. Mustafa elaborates - "given the high seasonal flow variability... (And)...some of the highest silt loads in the world; projects often simply cannot be technically or economically viable without a liberal interpretation of the limitations on regulating Structures..." (Trivedi, 2011)

3.1 Major Challenges- Dams on the Indus –

Nearly all the quarrels over Indus water treaty between India and Pakistan are basically dam projects that were build or being constructed by one of the country. Two countries have different interpretation on Indus water treaty; hence both the countries have different concerns and interests. We can trace nuances of dispute clearly by discussing them in coming under heads.

3.1.A.SALAL DAM – The first conflicting issue that came after signing Indus Water Treaty in front of both countries was issue of construction of Salal Dam by India on Chenab river. India under the provisions of treaty put forward its plan to the Permanent Indus Commission for getting it approved by Pakistan in 1968. This hydroelectric project was vital for agricultural demands of state of Punjab and country's economic wellbeing. Pakistan officially disapproved the design of Salal project by claiming that this project did not meet the provisions of hydroelectric project prescribed under the treaty. A gamut of options including arbitration was discussed during negation. And lastly India concurred to bring in changes in designs of the Salal Dam. This is how the first conflict over Indus water treaty had been resolved after lengthy and intense negotiation.

3.1.B. WULLAR BARRAGE/ TULBUL NAVIGATION PROJECT- The second challenge faced by treaty comes from construction of Wullar Barrage. It had been termed as Tulbul navigation by India and Wullar Barrage by Pakistan. In 1984 conflict began when India started construction of the Wullar Barrage and Tulbul Navigational project at the mouth of Wullar Lake on the Jhelum River. In 1986 Pakistan went to Indus commission to seek judgment in this case and work was stopped by India in 1987. The focal conflicting point in this issue was that Pakistan sees it as storage work and India had confirmed that it is a navigational project. After prolonged talks between both parties, still this project remains the oldest and longest water dispute between both parties.

3.1.C. KISHANGANGA HYDROELECTRIC PROJECT - Another contentious issue over Indus water treaty was Kishenganga, a 330 MW hydroelectric project. It requires diversion of Kishenganga River (known as Neelum River in Pakistan) to a tributary. Bunar Madumati Nullah by a 22km tunnel. Pakistan dissented by claiming that this project will effect Neelum-Jhelum link project that Pakistan started in 1988. Another diversion of water of kishenganga to Jhelum will destroy neelum valley in Pakistan. And it was thought that this project can decrease availability of water in Pakistan. Due to grave critique, India decided to make some changes in this project in april 2006 and presented a reviewed plan in July 2006. Pakistan objected this second plan and claims that still this project has limitations. Despite of all efforts through bilateral talks both parties failed to reach a consensus.

3.1.D. BAGLIHAR HYDEL POWER PROJECT - Baglihar hydroelectric power project is amongst the nine hydropower projects established by India over Chenab River. The design of project was presented to Pakistan in 1992 and at that particular time Pakistan raised its objections over design of the of the dam and called for stopping of its construction. Although the construction work remained as the both parties exchanged further information's over project. In dealing with this case for the first time, the neutral expert clause in this Indus Water treaty was used. Raymond Lafitte, a Swiss civil engineer in May 2005 was appointed as neutral expert by World Bank. He presented his detailed report in Feb 2007. Both the parties approved of the final verdict. Yet the implementation part was not properly done.

3.2.Indus Water Treaty- Internal Problems- Indus water treaty also gets affected by regional and internal issues. One of the most crucial such issue is the view of the people of Jammu and Kashmir. They see the treaty as an infringement on their rights by both India and Pakistan. The people in northern areas of Pakistan are also not very supportive of hydro power projects in Pakistan such as Mangla Dams. Secondly, nationalistic elements in India are of the opinion that Indus water treaty gives extra advantages to Pakistan. Thirdly, Pakistan itself has internal difficulties in sharing the water of Indus River among its four provinces. Finally, environmental and ecological changes such as melting of glaciers require greater attention from two sides. (Wasi, 2009)

IV. INTERNATIONAL RELATIONS THEORY AND INDUS WATER TREATY

Different international relations theories would explain Indus water treaty from different perspective. The Realist argues that the water dispute between the two countries will lead to a war. On the other hand, according to Liberal theorists, this situation will lead to cooperation rather than war. This contention will hold because there is no absolute gain involved in the situation. A river is a natural resource which will follow its own course irrespective of the international boundaries. None of the two countries can claim the whole resources because of geographical reasons. This leaves no other choice than the sharing of the resource i.e. they will concentrate on relative gain rather than absolute gain. In my opinion theory of complex interdependence given by Joseph Nye and Robert Koehane beautifully applies to the situation. According to Joseph Nye the concept of interdependence will apply in two paradigms viz ocean politics and financial issue. However a closer scrutiny of water sharing equations between India and Pakistan would reveal that the theory completely fits in the situation of water sharing. The three main contentions of the theory find a manifestation in the water sharing situation between India and Pakistan. Although there have been four wars between India and

Pakistan, neither of the countries have used force in the matter of water sharing. In fact, even after four wars the treaty that was signed in 1960 has never broken down. This explains the first preposition of theory of Complex Interdependence which says that there will be minimal use of military force. A plain reading of the text of the Indus water treaty reveals that the issues have not been hierarchically arranged. This is the second contention of the theory i.e. Absence of hierarchy among issues. According to a third contention of the theory there should be multiple channels of contact among societies. This contention only manifests itself in the India- Pakistan partially. However if the requirement proposed by this contention could be fulfilled, it may lead to the resolution of the issue.(Nye & Koehane, 1977)

V. CONCLUSION- There is an urgent need of setting up of multiple channels of discussion. Track –one and Track- two diplomacy can come handy in this situation. Channels of discussion from the level of government to the level of people, represented by nongovernmental organizations should be set up. This can be the base for the Indus water treaty-II , as advised by an expert B.G. Varghese. Two countries should budge from looking at the problem only from political angle and try to do some basic geological collaborative research work to reach rational, scientific and concrete solution. Complementing the above there should be group of experts which can hold independent meetings and can scientifically discuss the solutions to the problem. This group should be more or less politically neutral. The extremist elements on both sides should avoid water rhetoric's and proper and efficient use of water should be promoted. There are adequate sources of water in the South Asia still the people are suffering from lack of availability of water this is mainly because of utter dispute in the sub continent. South Asian Association for Regional Cooperation as a regional organization can become an effective forum for resolution of such kind of disputes.

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