

Influencing and Challenging Power Asymmetry in Transboundary Waters

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ALL COMMENTS WELCOME

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It seems obvious. Transboundary waters are highly political. And politics are ruled by power. Yet, traditional and emerging forms of interaction in the Mekong, Jordan, Ganges, Nile and so many other transboundary waterways reveal that the international community turns a blind eye to the power plays over water. Too many have silently submitted to the false notion that more equitable, sustainable and efficient transboundary water cooperation is not possible. As the methods by which the 'hydro-hegemon' dictates the rules of engagement in the basin continue to go overlooked, this prophecy become self-fulfilled. Unchallenged, the hydro-hyegemon can act as basin bully and pursue its interests unilaterally by strong arming less powerful states. Some of the resultant forms of "cooperation" are actually quite unfair and ultimately perpetuate, not resolve, conflict (Zeitoun and Mirumachi 2008). Less powerful states face two options: they can collectively thrive under the direction of a basin leader or they can adapt to unequal agreements.)

Power asymmetry is unavoidable. But its more destructive manifestations need not be. This essay suggests two broad strategies to confront power asymmetry in transboundary water interaction: through its *influence* or its *challenge*. The aim is to inform policy leading to the establishment of effective transboundary cooperation.

Soft sticks, big impacts

'Power' means so many things to so many people that its very essence is contested (Evans and Newnham 1998). Transboundary water policy-makers and analysts should therefore be ready to question their own conceptions of power, especially in terms of riparian position. Ongoing Turkish or Chinese dam building projects on the Tigris and Mekong rivers demonstrate the advantage an upstream state has over its downstream neighbours, particularly when they are able to self-finance large storage infrastructure. But this is not always the case. The same highland position enjoyed by Ethiopia on the Eastern Nile or by Nepal on the Ganges has not translated into the same mega-projects. The great bulk of these river flows are controlled by the much more powerful downstream Egypt and India. Power trumps topography.

Power in water conflict is not commonly exercised through the use of military force. Various combinations of 'soft' power are more often the weapon of choice used to assure compliance of co-riparian states. China's financial assistance to Cambodia in sectors unrelated to the Mekong has been credited for ensuring official Cambodian acquiescence to China's building of potentially devastating upstream dams (Menniken 2007, see also Molle, et al. 2009). Similarly, the absence of official protest from Syria and Iraq to Turkey's Southeastern Anatolia Project (GAP) infrastructure may be linked with Turkey's efforts to share information and technology with the downstream states (Daoudy forthcoming 2009). Such use of 'carrots' to

induce cooperation is more welcome than the use of the 'stick', of course. States can resort to threats, however, and coerce their neighbours to submit to an agreement whose terms may return to haunt them. This can also prevent the creation of a more sustainable agreement based on meeting common interests.

Bargaining power is the perhaps the most common form of 'soft power' used in transboundary basins. All legitimate actors in a relationship have bargaining power, if in unequal measure. A recent World Bank report on the development of the Palestinian water sector development details how such power is used at the Israeli-Palestinian Joint Water Committee (JWC) (World Bank 2009). Unlike the equitable transboundary efforts occurring at the community and municipal levels (Mehyar et. al., this volume), the structure of the JWC allows the Israeli side to effectively veto even the most basic Palestinian projects inside the West Bank. This is perhaps more accurately described as a means of 'dressing up domination as cooperation' (Selby 2003). Inextricably bound to the broader Palestinian-Israeli conflict, Palestinian bargaining power proved insufficient to bring about any improvement of the highly asymmetric status quo during the five water meetings of the 2008 'Annapolis' round of negotiations. The Palestinian side was prevented from putting a 'positive-sum outcome' solution designed to end the conflict on the table, even though it would have met the interests of both sides (Kawash 2008). No carrot was needed or on offer from the Israeli to get what it wanted. It's bargaining power proved sufficient to deflect any and all initial attempt to reach a common negotiation agenda.

Engaging with new ideas

Much like the American 'à la carte' approach in opting which international environmental policies to endorse (Falkner 2005: 586), it is the basin hegemon's choice to engage in multi-lateral or unilateral transboundary water interaction. Turkey's Southeastern Anatolia (GAP) project, Egypt's Toskha irrigation scheme, Israel's National Water Carrier and India's National River-Linking Project, for example, have all been undertaken with little concern for their impact on riparian neighbours. In this sense, the 2005 and 2009 releases of Tigris and Euphrates flows by Turkey (Rashid 2005, Terra Daily 2009), and basin-wide discussions supported by Egypt (the negotiations for a Cooperative Framework Agreement through the Nile Basin Initiative) may be viewed as a step toward engagement and collective action. Some argue that the multi-lateral collective approach only materialised because they are in the hegemon's interest. This may be true but it is beside the more relevant point: The collective approach is on offer only after the resource has been captured. Working with this insight is key to the establishment of effective cooperation.

The luxury of cherry-picking when and with whom to engage over transboundary waters issues does not necessarily extend to the weaker side. A non-hegemon (Syria and Iraq, or Ethiopia, in the above cases) can only create wriggle-room through attempts to shape the arrangements offered by the hegemon to be mutually beneficial. Bangladeshi efforts to improve data-sharing or to reach an equitable arrangement with India are a case in point (see Sadoff and Grey, this volume). But examples like the Palestinian positive-sum solution proposed to Israel show that such pro-active efforts are scarcely acknowledged by the international water community, much less acted upon. Instead, the proposals are often

written-off by independent mediators as unworkable and ‘unpragmatic’. Short-term perspectives and exclusive consideration only of arrangements that will benefit or be accepted by the basin hegemon (leader or bully) can compromise their sustainability.

Quality: the forgotten face of cooperation

Transboundary water policy-makers must prioritise the *quality* of cooperation in their thinking. The existence of a water treaty, data-sharing or other minor forms of intervention do not necessarily reflect effective cooperation. Consider the acclaim given to the conclusion and resilience of the water clauses of the 1994 Israel–Jordan Peace Treaty (e.g. Shuval 2006, Sosland 2007). The skewed terms of the arrangement in the hegemon’s favour is acknowledged as an acceptable trade-off as part of a broader goal of peace between former enemies (Haddadin 2001). In the language of negotiations theory, this is a great case of “issue-linkage”.

The treaty’s longevity, however, is less important than its failure to confront the real conflict between the parties over the distribution of the shared water and the benefits it generates. The ambiguity in the treaty that hinders its impact was deliberately built into it to benefit the more powerful side (Fischhendler 2008). The asymmetric outcome endures alongside growing physical water scarcity as Jordan reaches for increasingly distant sources to satisfy its water demand (the Red Sea, or the fossil water of the Disi aquifer).

The question for policy-makers is: Why is more equitable sharing not possible as part of the peace agreement? More fundamentally, does the existence of a treaty mean that parties are really “cooperating” in a way the most of us would understand it or wish it to be?

Some treaties stand for so long that their words and the evolving (or devolving) reality on the waterfront are hopelessly distant. The existence of the Mahakali Treaty between India and Nepal (Gyawali 2001), for example, cannot hide the lack of coordination between the two states. Its presence was nowhere felt when the 2008 Kosi flood caused widespread destruction on both sides of the border (D’Souza 2009). In this sense, a bad treaty may even be part of the problem. Though a treaty may temporarily reduce the intensity of a conflict, the existence of an unfair and ineffective treaty can prevent a more equitable arrangement from being established.

Other forms of ‘soft’ power help to explain these unseen faces of ‘cooperation’. These include the ability to frame issues by limiting discussion about them (Zeitoun, et al. forthcoming 2009). Unquestioned and loosely-defined understandings of ‘cooperation’ become the norm.¹ In the Nile, for example, substantial amounts of water are used in the West Nile Delta or Toshka projects in Egypt. Since the abstractions fall outside of the mandate of the Nile Basin Initiative, however, they remain unmentioned and institutionally invisible. Unquestioned and loosely-defined understandings of ‘cooperation’ become the norm.²

¹ Similar to what Molle (2008) refers to as a ‘nirvana concept’.

The 2006 Human Development Report asserts that “given the different strategic, political and economic contexts in international basins, it makes sense to promote and support cooperation of any sort, no matter how slight” (UNDP 2006: 228). This perspective is not thought-through. It does not make sense to support cooperative efforts that perpetuate inequitable and unsustainable arrangements – and risk further reducing the chance for dialogue through abandoned or ‘paper tiger’ (Bernauer 2002) treaties. Alternative strategies that recognise power asymmetry are required, and are being developed.

Dealing with Power Asymmetry

Power asymmetry in transboundary water settings can be confronted in two ways: it can be strategically *influenced* or it can be *challenged*. While neither strategy yields completely new ideas, mainstreaming them explicitly into policy and programme design may offer a clearer path towards more effective cooperation.

There are two ways to *influence* power. The first is to derive positive-sum outcomes. The identification or encouragement of ‘win-win’ or ‘positive-sum’ outcomes can satisfy all parties and in essence render power asymmetry irrelevant. The concept of benefit-sharing (Sadoff and Grey 2002) is one such potential method. The idea is entirely rational from a neoliberal perspective, where one seeks the optimal use of a river. Place infrastructure in the preferred hydrological spot to produce benefits like hydro-electricity or food which can be shared with riparian neighbours. The rationale is compelling, but remains untested.³ Governments run complex states that do not or cannot generally act ‘rationally’ at all times so the jury is still out on whether water-derived benefits will be shared equitably when the water itself cannot be. The distribution of benefits themselves will at some point be subject to power plays.

The second theoretical way to influence power asymmetry is to create conditions to encourage basin bullies to transform into basin leaders. Hydropolitics are always subordinate to the broader political context (Allan 2001), which means that to improve cooperation over water requires international diplomacy (e.g. Kjellen 2007). Experience suggests that basin bullies can be susceptible to the powers of persuasion, and may be less likely to force an arrangement if they are held accountable to an objective standard, or risk being ‘named and shamed’. The partial success of the ‘contraction and convergence’ model to induce influential climate-change policy-setters to reduce national carbon emissions (GCI 2000) shows that inviting powerful states to being part of the solution rather than part of the problem should be pursued.⁴ State-level ‘environmental peacemaking’ efforts, such as those led by the Woodrow Wilson Center’s Environmental Change and Security

³ Benefit-sharing has been explored in theoretical terms from the Kagera to the Mekong (Jägerskog 2006, Phillips, et al. 2006), and it is being applied to the Nile conflict (Phillips and Woodhouse 2009).

⁴ Application of the ‘contraction and convergence’ concept to transboundary waters is attributed to Dr Richard Taylor, of University College London.

Program (e.g. Kameri-Mbote 2006), indicate that independent mediators are key to this approach.

Power asymmetry can be *challenged* in two ways: one can either level the ‘players’, or level the ‘playing field’. To help level the players, capacity-building programmes can improve the technical, administrative or negotiation abilities and empower non-hegemons. This can increase their bargaining power and enable them to play a more effective role in transboundary water interactions. It also helps them generate their own solutions to collective challenges. As the formerly weaker actors take on more responsibility, they gain respect and power. activities of the EMPOWERs project in Egypt, Jordan and Palestine may serve as examples of increasing the weaker side’s bargaining power, at least at the national level.

Transboundary water arrangements set out according to coercive terms determined by a hegemon cannot endure in the long term. Yet transboundary water settings are generally not level, and the only rule of the game is the ‘law of the jungle’. The only option then is to work to level the playing field. The international water community may want to steal another page from the ongoing climate change negotiations, which explicitly favour (at least on paper) the so-called ‘non-Annex I’ developing states. It does so by placing a greater burden on the stronger (and more carbon producing) Annex I states (see e.g. Bates, et al. 2008). Effective legislative and the regulatory context already level the playing field at the sub-national level in many countries. At the international level, the 1997 UN Convention serves as a useful guide to fair water-sharing even though the 35 states required to make it binding have not yet all signed. Support for the Convention’s call for more ‘equitable and reasonable’ water use is growing, and is supported by the International Law Commission’s 2008 Draft Articles on groundwater. The agreement by the governments of France, Spain and a dozen others at the 2009 Istanbul 5th World Water Forum to promote such standards is a further positive development.

But not all steps currently being taken are moving us forward. The push for ‘hydro sovereignty’ at the same World Water Forum appears to be a reversion to the discredited ‘Harmon Doctrine’ that the US abandoned over a century ago. Resistance by the powerful riparian states to the WWF campaign to establish a legal and fair water sharing principles reminds us that not all hegemons are leaders. This makes the role of third-parties all the more crucial. We are confident that the international water community can take on this responsibility. They must keep their eyes open to recognise and confront the reality of power asymmetry, basin bullies and coercion in order to achieve effective cooperation.

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