

India-Bangladesh cooperation on transboundary rivers

Revisiting the unrealised opportunities and unmitigated challenges



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As pointed out earlier, water shortages are a very serious problem in many parts of Bangladesh during the dry season (January-May), particularly in north-west and south-west Bangladesh. The most critical period is March-April. The main reason is low flows of water coming from India into Bangladesh through the transboundary rivers. However, regarding the sharing of the transboundary rivers, negotiations have been going on between Bangladesh and India for decades but, as noted earlier, except for the Ganges, no agreement on any other river has so far been reached, despite the commitment expressed in the Ganges Treaty by the two governments to "... ..conclude water sharing Treaties/Agreements with regard to other common rivers" (Article IX of the Ganges Treaty). Negotiations on the Teesta have been continuing for over seven years, but an agreement/treaty is yet to be forged.

Recently, a joint expert committee has been set up by the Indo-Bangladesh Joint Rivers Commission (JRC) to advise on how to proceed further. It seems that this step may slow down, instead of accelerating, the process. Regarding other rivers, no progress worth mentioning seems to have been made. What is needed now is to set a timeframe within which the agreements on the common rivers should be concluded.

Given increasing population and expanding economic activity, the demand for water has been increasing in all the coriparians. Hence, the sharing arrangements for the exist-

ing flows of all the rivers must be established on an urgent basis so that each country can conduct their water management planning exercises in the knowledge that so much water is available during the lean season from the transboundary rivers. For Bangladesh, an increased quantum and its assured availability during the lean season in each river, particularly the larger ones, are critically important for useful water management planning.

In the Ganges Treaty, the principles of equity, fair play and no harm to the other party have been enshrined in relation to the development and utilisation of the waters of the Ganges. These principles are also embodied in the Helsinki Rules. Now that these principles have been accepted by the two states in one Treaty, it should be only natural that these are employed and agreements/treaties signed relating to the sharing of the other transboundary rivers. Moreover, Bangladesh and India are historically friendly neighbours, which should ideally help things along. But, all depends on how things click between the governments of the two countries.

**The Ganges augmentation**

Recognising that the Ganges flows during the dry season are not adequate to meet the requirements of both India and Bangladesh, it was agreed in the 1996 Ganges Treaty (Article VIII of the Ganges Treaty states: "The two governments recognise the need to cooperate with each other in finding a solution to the long term problem of augmenting the flows of the Ganga/Ganges during the dry season.") and also earlier in the 1977 Ganges Agreement that the Governments of India and Bangladesh would take steps to augment the dry season Ganges flows. Different proposals were

tabled by the two countries following the 1997 Agreement. India proposed transfer of water from the Brahmaputra to the Ganges above or below Farakka; and Bangladesh proposed construction of seven high dams in Nepal, which could be multipurpose (water flow augmentation, electricity generation, irrigation water.) Neither side agreed to the other's proposal. The issue was taken on board again by including a clause on augmentation in the 1996 Ganges Treaty. But, again, no progress has since been made in this regard.

In the meantime, India and Nepal have been working together to forge bilateral cooperation for the con-

struction of some of the very same high dams in Nepal as were proposed by Bangladesh. One such project is the Sapta Kosi High Dam, on which the detailed project report is reportedly under preparation. The Ganges augmentation through this project is necessarily regional, involving Nepal as well.

The Sapta Kosi high dam is proposed to be located at Barakshetra in Nepal. The Kosi originates in Tibet (China) and its total catchment area is about 62,000 sq. km. and it is endowed with abundant water resources, with an average annual yield of about 50 billion cubic meters. The alternative dam heights under consideration are 239 meters and 269 meters. The displacement issue in all its aspects will be addressed appropriately by necessary pre-planning.

From the point of view of Bangladesh, Sapta Kosi project is very promising, its location is closest to Bangladesh, only 110 km. from Thakurgaon. Available data suggest that it will augment the dry season Ganges flow by up to 2000 cumeç and will also generate between 3000 and 4000 MW of electricity. Reportedly, the project may be in operation in less than a decade and a half from now. By then the demand for water will increase in both the countries, and an equitable sharing of augmented flows will allow availability of larger quantities of water to both the countries. The principles of equity and fair play, enshrined in the Ganges Treaty, demand that Bangladesh's legitimate concerns and claims as a coriparian are taken on board along with those of India and Nepal, as the project is prepared so that the project design incorporates Bangladesh's equitable share in the augmented water flows and the electricity generated (for purchase). Bangladesh should be prepared to share the legitimate costs in relation to the negotiated benefits.

**Other potential areas of cooperation**

Various studies have identified and analyzed many other areas of potential cooperation between Bangladesh and India as well as (GBM) regionally in relation to the transboundary rivers. These include the following important ones.

**Inland Navigation:** Given major rivers and their distributaries and tributaries criss-crossing the GBM region, inland navigation has a great potential in the region as a mode of transport, by itself and in conjunction with other modes of transport (railways, roads). An agreement already exists between Bangladesh and India for cross-national transportation of Indian goods through the following two routes: (a) Kolkata-Mongla-Chandpur-Chilmari-Dhubri (up the Jamuna); and (b) Kolkata-Chandpur-Bhairab-Zakiganj/Karimganj (up the Meghna). These routes, however, are used rather scarcely and the volume of traffic remains extremely low. The reasons cited for this include siltation, lack of channel depth, and river bank erosion. If it is decided to realise the enormous potential of the navigational system, appropriate steps will need to be taken to address the bottlenecks. The development of the Chittagong and Mongla ports to serve as the hub of regional maritime trade can give a boost to this mode of transportation across Bangladesh and India, and

involving Nepal as well.

Nepal can benefit immensely in terms of augmenting its international trade by using a navigational route to the Mongla port in south-west of Bangladesh. But, obviously, Nepal can do so only if India allows Nepal's traffic to move through its territories smoothly.

**Catchment management:** The rivers in the GBM region are intricately interlinked. The development and management of water in the region may, therefore, be best achieved within a regional cooperative catchment management framework. This will enable a comprehensive planning and programming by

the countries involved to address common issues such as combating land and river bank erosion, generation and distribution of hydropower, preservation of aquatic ecosystems, transboundary sediment transport, soil conservation, arsenic contamination, and flood-drought-salinity management. Given the large number of India-Bangladesh trans-boundary rivers, a cooperative catchment management approach adopted by the two countries for joint implementation could be of immense benefits to both. It seems advisable to start cooperation in this framework by selecting a small or medium river to implement the agreed activities, which will also generate experiences towards improving the framework for action.

**Water quality:** The quality of water in many transboundary rivers has been deteriorating, particularly so in the downstream. In fact, there are many large and small urban centres along these rivers in both India and Bangladesh, which discharge contaminants into the rivers. The river waters are as a result polluted in both the countries, although pollution is often more acute downstream as polluted waters travel down from upstream. Bangladesh and India can undertake joint activities to improve water quality in the common rivers. If other GBM regional countries, which are all upper riparians to India, are also involved in the task, the results in terms of improving and maintaining water quality could certainly improve further.

It should serve a very useful purpose if the coriparians jointly develop water quality standards and establish water quality monitoring systems to ensure that those standards are achieved and maintained.

**Climate change and water regime:** Grave concerns have been voiced by several recent studies that climate change as a result of global warming will cause adverse consequences for the water resources in the GBM region. The Intergovernmental Panel on Climate Change (IPCC)-Third Assessment has highlighted the possible implications of climate change in the region including its water resources through, for example, increased intensity of rainfall and increased drought. However, the complicated and multi-thematic nature of the climate change and its consequences are not properly understood yet.

The sea-level rise, also a result of global warming, may inundate and devastate low-lying coastal areas and impede the drainage of flood waters into the sea. Severe floods may occur more frequently as

a result of climate change related intense rainfall on the one hand and slow drainage due to sea-level rise on the other. These floods could be of wider coverage, longer duration, and larger height compared to those experienced in the past. The socio-economic and infrastructural losses could be enormous.

In the area of climate change and its management, Bangladesh and India can benefit a lot by cooperating and pooling resources and expertise committed to the task, to develop feasible adaptation strategies to be employed in each country and jointly by the two countries, as may be appropriate.

no justification for not pursuing national interests through cooperation, as appropriate. Given many win-win cooperation possibilities, as shown by various studies, with respect to the transboundary rivers and more generally in the water sector, it is not at all clear why Bangladesh and India have not been coming together to undertake those activities within a cooperative framework. It seems to be the historical burden of mindsets given to mistrust, prevailing in both the countries among certain political and bureaucratic quarters, that is holding back progress not only in the water sector but also in building cooperation in general between the two countries.

**Further complication**

Very recently, however, lots of misgivings have arisen in Bangladesh in respect of cooperation-building with India, following the Indian Prime Minister's announcement on 15 August 2003 that the Indian scheme of interlinking rivers would be implemented on an urgent basis. The scheme includes transfer of water from the Ganges, Brahmaputra, and Teesta river systems to the drier areas of India. This, if materialised, will, as perceived in Bangladesh, further reduce the dry season flows of many Indo-Bangladesh transboundary rivers, adversely impacting on the dry season availability of water in the areas dependent on these rivers in both Bangladesh and India. Hence, not only in Bangladesh but also in India, the scheme has come under searching criticisms. Further reductions in the dry season flows will particularly hit Bangladesh, given its downstream location. In the JRC meeting held at end-September 2003, the issue was raised by the Bangladesh delegation. The Indian side explained that the 'scheme' was still a concept only.

In a post-meeting press conference, the leader of the Indian delegation assured Bangladesh that the feasibility reports in respect of the relevant sub-projects (which are obviously those in the GBM basins), when ready, would be shared with Bangladesh. Reportedly, feasibility reports for at least two link sub-projects in the Ganges basin have been completed for sometime now. But these have not yet been shared with Bangladesh as far as the author's knowledge goes. Transparency on the part of India regarding the scheme, as it is developed, in terms of exchange of study results, views, and perspectives with Bangladesh and proceeding on the basis of equity and fair play ensured for Bangladesh would help minimise the misgivings and improve the political and social environment for forging mutually beneficial cooperation between the two countries.

**Concluding remarks**

If the existing and emerging water-based cooperative opportunities are not seized and the challenges are not addressed within a fair cooperative framework by Bangladesh and India in earnest, obviously the two countries would continue to suffer self-abnegation. Consequently, the people of the two countries, particularly the large number of poor people among them, will remain deprived of the benefits of cooperation between the two countries.

Behind his handsome appearance lay an extraordinary head. I met him for the first time in the later part of 1964 in the Old High Court Building. A judge in addition to his intellectual powers needs to be a man of integrity, made of a strong moral fibre in order to be impartial to the various disputing parties who came to him for justice. He cannot afford to be intimidated by any side.

I had not expected as a junior officer, the warm welcome which he extended to me. When one is in the proximity of a truly great man, one senses a feeling of election in oneself. My conversation with him was encouraging as he remarked that an officer who could prove his worth stood a chance of being elevated to the bench (High Court). He added that the profession of a judge is an extremely independent ethical calling where one can obey

Lest we forget

Justice Murshed

The indefatigable crusader

NURUL ISLAM KHAN

He rapidly appeared in the limelight and almost immediately became everyone's idol. Mr. SM Murshed the then Chief Justice of East Pakistan High Court, had just been delivered beginning with the following quotation from Shakespeare's 'Measures for Measure'

"O! its excellent.

To have a giant's strength; but tyrannous

To use it like a giant!"

This powerful quotation from Shakespeare and its apt use stirred many in the course of their mundane lives. But for these, who then ruled, for the high and mighty these aphoristic lines were extremely disconcerting. It created a stir all over Pakistan and across the borders. Prolonged martial law had sapped the vitality of the nation, and had created impediments in the emergent of new, creative ideas. In the then West Pakistan, Mr MR Kayeni, whose wit and ironical humour had assailed the martial law authorities, had expired after a short illness in Chittagong, while on an intellectual sojourn. Martial law had left in its wake a political system which was incompatible with the workings of free and liberal politics. But for the energetic, there was plenty to do as free enterprise prospered; many jute mills, textile mills and industries emerged in the then East Pakistan. But that is a different matter.

Just as Basic Democracy made the holding of free general elections impossible, the might of the military behind the supreme commander Gen. Ayub Khan held every one in awe. But many rulers, after long periods in office make the grave error of believing themselves and their power to be indestructible. They became intolerant to criticism and endeavored to crush the opposition. The period I speak of was a time when the government had a powerful control over the legislature. The Judiciary was the only independent institution in the country and the sole avenue for establishing the principles of justice and some semblance of the rule of law.

But this necessitate men of courage and integrity who could move the conscience of the nation. No one else fitted in a fuller manner than Justice Murshed.

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his conscience and above all derive an immense amount of moral satisfaction.

I was very pleased with these statements and began work in earnest, Justice Murshed on occasions appreciated my works. As an Addl. District and Session Judge we summarily dismissed six appeals against my judgements in civil cases. There is a great distance between the High Court and the District Courts not only because of the physical distance but also due to the fact that the pronouncements of the district courts rarely came to the notice of Justice Murshed. Being inspired at 31, I became the country's youngest District Judge in Comilla and later as law Secretary to the Government of East Pakistan, I was the youngest man on record to hold this post.

It is my firm belief that under his (Justice Murshed) guidance and the value he placed on the work of the Law court, there was a source of inspiration for us and it made us all eager to work. He knew all the District Judges, personally on a first name basis, and treated them with affection. He knew all those district judges who could quickly dispose of cases. This is extremely relevant in a discussion of Justice Murshed's qualities because he was personally responsible for restoring a sense of purpose and vitality in the lower (district) judiciary.

He keenly appreciated the frustrations and the difficulties of lower court judges and undertook numerous tours of district courts. During these visits he called upon them to fearlessly defend truth and justice in his lively speeches delivered in excellent English. These visits would thus cause the local administrators, not only to be attentive to the Chief Justice but also the local judiciary. The prestige of the local judiciary was greatly enhanced by these tours.

Has the nation extended full recognition and respect to this great man of indomitable courage? A time will come in the near future when this question will need to be answered. Are we to remain a nation without a history of its great men? Are we to forget our great men? I do not believe this to be possible. We must live with the memories of the great figures who are no longer with us. I feel it is worth recalling Justice Murshed on his death anniversary today.

"Men are we, and must grieve when even the shade,

Of them which once was great is passed away"

-- W. Wordsworth



NurulIslam Khan is a retired Secretary