

India–China–Brahmaputra

Suggestions for an Approach

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India justifiably feels uneasy about what plans China may have for the Brahmaputra in Tibet. It needs to raise the issue whenever there is evidence of planned diversion. But given our vulnerability as a downstream nation it is clear that we need to reconsider our own thinking about rivers, and be consistent between what we do internally and what we expect our neighbours to do, and between our behaviour towards our downstream neighbours and the behaviour that we expect from China vis-à-vis ourselves.

From time to time there are alarming media reports and articles about Chinese plans to divert the waters of the Brahmaputra (or Yarlung Tsangpo) northwards. Some reports portray China as a hydro-hegemon with all the rivers originating in Tibet under its control, and ready to use that control in its own interests, unmindful of the needs of other countries, or of the harm that might be caused to those countries by its projects. Some others — a few — argue that these fears are exaggerated, and that even if China diverts some water from the Brahmaputra, no great harm will be caused to India.

Until some years ago water did not figure in the talks between India and China, but during the last few years it has become part of the agenda. However, there is not much information in the public domain as to what is happening or likely to happen, and what that would mean to India.

It must be noted that two different kinds of intervention are being talked about. One is the idea of a massive project, the world's largest, for the generation of hydroelectric power at the point on the river where it takes a u-bend before entering India. The other is the idea of a project for the diversion of Brahmaputra waters. In the former case, the concern would be largely about horrendous ecological impacts; in the latter, the worry would primarily be about the reduction of flows to the downstream countries. In either case, any major intervention in a river by an upstream country is always a matter of serious concern on the part of downstream countries.

What Then Is the Position?

The northern parts of China are indeed desperately short of water, and it is not a matter of surprise that ideas of south-north water diversion have been

under discussion in China for many years, at the academic as well as official levels. The present article is concerned only with the waters of the Brahmaputra (Yarlung Tsangpo in Tibet). Until a few years ago China denied the existence of any project on that river, but satellite images made it clear that there were some structures on the Brahmaputra, and China no longer denies this. However, it says that these are only run-of-the-river hydroelectric projects involving no storage or diversion. However, the possibility of diversion in the future cannot be discounted. From the Indian point of view, the point to examine would be the quantum of possible diversion and the impact it would have on the flows to India. In the absence of hard information, all that can be done is to work out possible scenarios.

There is a view that any diversion by China will not affect India badly because precipitation further down contributes a good part of the river's waters (a 30:70 proportion is sometimes mentioned). Complacency on that ground would be dangerous for three reasons. First, figures vary and the exact position is not clear. It is no doubt ascertainable, but the proportion (30:70 or whatever be the right figure) would hold only for the rainy season. In the lean season the flow that comes down from Tibet might be of much greater significance to the lower countries. Second, 30% of the flows is not an insignificant figure, and even a 10% diversion could have serious consequences. Third, the question is not merely one of diversion of waters, but also of all other impacts and consequences of major interventions in rivers — hydrological, morphological, climatological, ecological, and biodiversity-wise.

It must be noted further that it is no argument for China to say “we are planning only run-of-the-river projects with no storage or diversion”. Run-of-the-river (RoR) hydro projects can do immense harm. Far from being environmentally benign, as often claimed, they are perhaps among the most destructive human interventions in nature. “RoR” is a most misleading description: the projects involve high dams; and apart from the

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usual impacts of dams, there are two special features in ROR hydro projects. First, there is a break in the river between the point of diversion to the turbines and the point of return of the waters to the river, and the break can be very long, upwards of 10 km in many cases, even 100 km in some cases; and there would be a series of such breaks in the river in the event of a cascade of projects. Second, in such projects the turbines operate intermittently in accordance with the market demand for electricity, which means that the waters are held back in pondage and released when the turbines need to operate, resulting in huge diurnal variations — from 0% to 400% in a day — in downstream flows. There is one case in which the river is dry for 20 hours in the day and in the remaining four hours there is an eight metre water wall rushing down the river. No aquatic life or riparian population can cope with that order of diurnal variation. An ROR hydroelectric project spells death for the river.

It follows that ROR hydro projects on the Brahmaputra in China are a matter of utmost concern to lower riparian countries. We shall have to keep questioning the Chinese constantly on their plans and expressing our apprehensions. We have to do our best to ensure that the Chinese do not undertake any major intervention in the river, or that in doing so they keep India in the picture and take Indian concerns into account fully in the planning, construction and operation of the intervention. It appears that the Government of India is seized of this matter and that the subject does figure in the talks with the Chinese. One can only say that it is necessary to be extremely watchful and take timely action, as there is not much point in complaining about reductions in flows or other impacts after a dam has been built.

Customary International Law

Can the invocation by India of customary international law be of any use in this context? This seems very doubtful. The relevant document is the UN Convention on the Law of Non-Navigational Uses of International Watercourses (1997), successor to the Helsinki Rules (1968). China had voted against it and India had

abstained, but it has been finally ratified by the required number of countries, and has come into force. However, if the water scarcity in parts of China worsens, and China considers a south-north diversion of water necessary, it is unlikely to be deterred by the UN convention.

Incidentally, there is a perverse, suicidal view that India must quickly build a number of hydroelectric projects on the Brahmaputra to establish a “prior use right” to pre-empt Chinese projects. One does not know whether to laugh or to cry at this naïve and bizarre proposition. China is hardly likely to pay much heed to this legal argument, and we would have done ourselves immense hydrological, ecological and other kinds of harm.

What is it that a lower riparian can demand from an upper riparian under customary international law? Both the old Helsinki Rules and the present UN convention lay down the principle of equitable utilisation, but there are multiple criteria for what is “equitable”, and there can be divergence on this. A lower riparian cannot veto interventions in a river by the upper riparian, but can ask for prior notice of intention of intervention, full detailed technical information, due regard for the concerns of the lower riparian, advance consultations, and the acceptance of the principle of avoidance of “substantial harm” (Helsinki language) or “significant injury” (UN convention language) to the lower riparian.

Is China likely to be responsive to such a demand by India? If it is, it will not be because international law says so, but perhaps for political considerations. If China feels that good relations with India are desirable, it may be willing to pay heed to India’s concerns. It is mindful of its relations with the lower Mekong countries, and willing to listen to them to a limited extent. It is also not totally unresponsive to popular project-related concerns within China. Similarly, it may be willing to take India’s concerns as a lower riparian into account to a limited extent. This is essentially a question of what kind of a relationship it wants with India.

In a way, Indian concerns about Chinese interventions in the Brahmaputra or Yarlung Tsangpo are similar to Pakistani concerns about Indian interventions in the

Indus system. The difference is that there is a treaty, i e, the Indus Waters Treaty 1960, and an institutional arrangement, i e, the Permanent Indus Commission, to take care of Pakistan’s concerns vis-à-vis India, whereas India has no such treaty or institutional arrangement vis-à-vis China. We need a treaty on the Brahmaputra, but it cannot be a bilateral one between India and China; it will have to be a multi-lateral one covering China, India, Bhutan and Bangladesh, with a multilateral Brahmaputra Commission similar to the Mekong Commission. Will China agree? Very unlikely, but we must keep trying. At any rate India must keep talking about the Brahmaputra all the time.

Common Cause with Bangladesh

The effort will be rendered slightly more tractable if India could make common cause with Bangladesh on this matter. That may not be easy, as they may turn around and say that China is only doing to India what India has been doing to Bangladesh. India has to find ways of overcoming that awkwardness. A joint India–Bangladesh approach to China on this matter would be far more effective than separate approaches.

The difficulty is that India will not be on strong ground in objecting to China’s projects on the Brahmaputra, if any, because it is constructing many such projects within its own territory, giving rise to protest movements within the country. Dibang, Subansiri, and so on, are subjects of controversy. There is a view that the so-called hydropower potential in the North East must be harnessed by a series of projects, and a large number of such projects are on the anvil. While Arunachal Pradesh is enthusiastic about undertaking these projects, there is a people’s movement — an *andolan* — against

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them in Assam. If it is all right for India to go on a project-building spree on the Brahmaputra, with what moral justification can India object to China doing so? Besides, in what way is a Chinese project for south-north water transfer different from the massive interlinking of rivers project which the Government of India wants to undertake, and which has caused a great deal of concern and anxiety in Bangladesh? It is clear that we need to reconsider our own thinking about rivers, and achieve a degree of consistency: (a) between what we do internally and what we expect our neighbours to do, and (b) between our behaviour towards our downstream neighbours and the behaviour that we expect from China vis-à-vis ourselves.

For the time being, without relaxing our vigilance, we can draw some comfort from the fact that there was an official Chinese statement sometime ago, which said that China had no plans for diverting Brahmaputra waters, and gave three reasons: technological complexity and difficulty,¹ major environmental impacts, and considerations of state to state relations. Those are not the exact words of the statement, but subject to correction, this is roughly what it said. The same three points were also made by Chinese academics at an international conference in Delhi two years ago, but one academic went further and said that the diversion was not needed because China has successfully brought down the requirement of water. If this is true

there is a lesson in water management to be learnt from China.

Finally, the Brahmaputra/Yarlung Tsangpo is not just a source of water and electricity to be fought over by India and China, it is part of the life of the Tibetans who have been living with the permafrost (the “Third Pole”) harmoniously and safeguarding it, but now face the melting of that permafrost. They have the first right on the river. In our greed for natural resources originating in Tibet, we must not marginalise the Tibetans.

NOTE

- 1 Will the huge financial and environmental costs and the tremendous technological challenges involved in fact deter China, or excite them? Gigantism seems to be in their DNA!