The Role of Independent Third Party Arbitration in Cross Border Water Disputes

The World Bank helped India and Pakistan set up the Indus Waters Treaty after 10 years of negotiation in 1960. Prior to that, the two countries were on the verge of a water war (a war waged to safeguard their access to water resources in the wake of scarcity, competitive use and wider conflict). Both countries applied for developmental loans to build dams and hydroelectric power plants on the river. Despite the economic viability of these plans the International Bank for Reconstruction and Development (IBRD) refused to fund them until the two countries resolved the dispute over the waters. The bank was reluctant in becoming involved in the dispute initially. But as tensions continued to rise over India’s plans for development over the Sutlej River the bank offered a deal to both parties. These were based on 3 principles. First, there was enough water for both countries in the basin. Second, while considering the Sutlej River the entire basin would be considered as one and all rivers would be under discussion. Last, the negotiations would retain a technical focus rather than political focus.

Subsequently, in 1954 the bank unveiled its plan to divide the Indus waters. It suggested that the tributaries be divided between the two countries such that the three Eastern tributaries (Ravi, Beas and Sutlej) would be controlled by India along with 20% of the water of the Indus. Pakistan would receive full control of the 3 western tributaries (Indus, Jhelum and Chenab). However this was rejected by Pakistan as it felt that the water was insufficient. It could also not relinquish rights to water politically or build needed water infrastructure unilaterally. The bank then introduced provisions for India to pay money to Pakistan. In 1958, after a military coup the government of Pakistan unconditionally accepted the plan offered by the World Bank. By this point the Indians had already accepted the plans.
Reasons for Success

The Indus Water Treaty shines as an example of successful mediation by an international organization in dispute resolution. A unique mix of circumstances contributed to the success of the effort.

1) Leadership: Robert Black, the then President of the bank, took personal interest in resolving the issue and made the resources of the bank available. The bank played the “honest broker” honestly and impartially.

2) Timeline: It was the time when both nations had just become independent and neither had the funds or expertise to build development projects unilaterally. At the same time these projects were both urgent and crucial for the survival and growth of the populations. This made the bank’s position highly influential.

3) Finances: The `carrot’ that the Bank extended in terms of offering to finance new development projects, subject to a mutually acceptable agreement between the two countries on the sharing of the waters of the Indus River system, proved to be a very attractive incentive for both parties.4

4) Restricted Discussion: The discussion was consciously restricted to engineering principles and facts. The bank maintained a functional approach and this simplified the problem by filtering out all political discourse from the issue.5

The role of the bank led the two neighbors to discover “water rationality”. “Water Rationality” is any action taken by a state to secure its water supply in the long-term, both in quality and quantity. This implies that the state manages its water prudently and internationally maintains relationships with co-riparian countries conducive to ensuring long-term access to water. 6 The fact that cooperation between India and Pakistan occurred provides a counter example to the theory of water wars. The hope is that with effective international mediation along with some supporting characteristics and (luck) water disputes can be resolved peacefully and sustainably.

