

Draft policy brief for Planetary Security working group on water diplomacy, security and justice (WG4).

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Policy brief

Water diplomacy: The need for making water cooperation work

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Summary:

Water diplomacy includes all measures by state and non-state actors that can be undertaken to prevent or peacefully resolve (emerging) conflicts related to water availability, allocation or use between and within states and public and private stakeholders.

However, theoretical foundations to cooperation of shared resources and best approaches to implement water diplomacy in practice are still weakly developed. Concepts and approaches such as multi-level water governance, adaptive water governance, a mutual gains approach and instruments for benefit sharing need to be further developed and operationalized.

Hence, new tools are required within an approach that diagnoses water problems, identifies intervention points, and proposes sustainable solutions that are sensitive to diverse viewpoints and values, ambiguity and uncertainty as well as changing and competing needs. Bridging these differences requires a well-informed mutual gains diplomacy process. Water diplomacy, based on a mutual gains approach, may therefore play an increasingly important role in preventing, mitigating and resolving current and future water conflicts.

This policy brief reflects the outcomes of brainstorming sessions on water diplomacy during the World Water Week 2015 and the (upcoming) water diplomacy workshop during the Planetary Security Conference 2016 and presents an 'Agenda for Water Diplomacy 2.0'.

Challenges

As populations in South Asia grow and the weather becomes more extreme, fresh water is becoming a source of conflict. The following **examples** serve to illustrate water-related conflict (potential) and the need for water diplomacy in South Asia:

- **India-Pakistan:** conflict on water issues for the Indus River (Indus Water Treaty). Follow up is needed to an earlier case that served in the Permanent Court of Arbitration.
- **India-Bangladesh:** conflict on the management regime for the Farakka Dam in the Ganges in West Bengal, close to the Bangladesh border. Disputes about the water allocation between the two countries, despite seeking arbitration through the UN, were never solved.
- **China-India-Bangladesh-Bhutan:** tensions on water sharing, hydropower development and ecosystem services in the Brahmaputra Basin: The Hague Institute is currently conducting a legal and political-economy analysis on the Brahmaputra Basin in order to support multi-track water diplomacy¹.

For example, the Brahmaputra Basin is at the centre of a complex geopolitical situation. Four riparian countries, namely China, India, Bhutan and Bangladesh, claim sovereignty over various parts of the Basin and so there are international dimensions to the management and distribution of the resources. Historically, there have been disputes between India and Bangladesh over the sharing of water from the Ganges, while more recently some of the more important tributaries of the Brahmaputra Basin, most notably the Teesta, have been the source of political tension. Most commentators view India's relationship with Bhutan as relatively harmonious, with long traditions of cooperation, although this is in the context of an overwhelming size disparity between the two nations and the broader influence that India exercises over the smaller Himalayan kingdom's foreign policy. More recently, there have been emerging concerns about the utilization of the Yarlung Tsanpo/Brahmaputra between India and China.

¹ Huntjens, P., Yasuda, Y., Swain, A., De Man, R., Magsig, B., Islam, S. (2016) **"The Multi-track Water Diplomacy Framework: A Legal and Political Economy Analysis for Advancing Cooperation over Shared Waters."** First edition, The Hague Institute for Global Justice, 2016.

The resource management of the river is at an important juncture. Currently, track I cooperation over the Brahmaputra is focused on bilateral cooperation between China-India, India-Bangladesh, Bangladesh-China and Bhutan-India. Several regional economic cooperation mechanisms exist that have the potential to expand into a regional water cooperation mechanism, such as the BBIN (Bangladesh, Bhutan, India Nepal) cooperation. There are some track II and III initiatives that have facilitated dialogues among riparian countries, including the on-going Brahmaputra Dialogue facilitated by an Indian NGO called SasiWaters; and an IUCN facilitated project, 'Ecosystems for Life' that aimed to facilitate the process of India-Bangladesh cooperation over the shared ecosystem and produced a number of joint scientific publications.

The global demand for freshwater is increasing as a result of population growth, urbanization, climate change and increased domestic and industrial use, which reduces access to freshwater resources. The unequal access, in combination with other societal issues (such as unemployment and structural discrimination) may deepen the divide between actors and increase the potential for conflict².

A water conflict is therefore a conflict between countries or groups over access to water or the right to access water for a specific purpose. Though the quantity of usable fresh water for drinking, irrigation or other purposes might be restricted due to drought, over-usage, or pollution, conflicts over water currently arise largely as a result of people's desires to protect their claim to water (which includes the actual and potential water use).

However, conflicts are most commonly intertwined with other conflicts (especially when such conflicts are on a local level). This might involve conflicts about land ownership, food insecurity, navigation rights, grievances about previous bloodshed, or other social, political and environmental factors. These conflicts are sometimes small and covert, or sometimes open and violent.

Numerous studies make it clear that water, food, and energy challenges are primary contributors to international and domestic

² According to Swyngedouw (2009): "In fact, uneven access to or control over water is invariably the outcome of combined geographical conditions, technical choices and politico-legal arrangements and water inequalities have to be understood increasingly as the outcome of the mutually constituted interplay between these three factors."

conflict^{3,4}. Water and food insecurity is already at the root of violent conflict in many parts of the world. Acute cases of water-related conflicts include Syria, the Israeli-Palestinian conflict, the war in Yemen, Darfur in Sudan, and, previously, the 1994 genocide in Rwanda. While these are all distinct conflicts, all have links to conflicting claims over water and land⁵. Water disputes rarely occur in isolation, however, and are typically part of an already complex and, potentially, violent conflict⁶.

These situations become more complicated to manage once the water source in question crosses boundaries between different countries, administrations or legal entities. 261 river basins are currently shared by more than one country, and more than 300 groundwater aquifers cross international borders.

In cases of (potential) conflict, relevant parties will need to find ways to address the tensions in order to prevent escalation. However, some parties may profit from or even promote the societal unrest and conflict, as there may be opportunities to gain political influence, discursive closure, and reinforcement of the ruling party.

The unequal access to fresh water is also considered a major threat to global peace and stability⁷ (**Jägerskog, Swain and Öjendal 2015**). Water, therefore, should be a concern for national security and human security at the local level. This has been highlighted several times by international organizations such as the UN and the EU. In 2013, both the EU Council and the intelligence agencies of the United States noted that, in the coming 10 years, tensions and conflicts over access to water are likely to become more frequent and could endanger international peace and security. Unsurprisingly, water crises and the failure to adapt to climate change are first and second on the list of greatest global threats, as

highlighted during the last World Economic Forum in Davos (2016).

The need to collectively address the relationship between water and disaster risks was emphasized by the UN Secretary-General's water and the sanitation Advisory Board (UNSGAB) in 2015. Pointing to a mismatch between the 2030 Sustainable Development Goals adopted in September 2015, and the international political structures available to contribute to its implementation, the report called for a major update of today's institutional infrastructure. But, according to UN-Water, water institutions are still largely technology and water supply driven.

Responses

These conflicts over water may continue for decades without resolution. Sometimes, with or without the help of external mediators, the conflict may be solved. In an optimal situation, the conflict may be transformed into a situation where stakeholders are able to successfully cooperate (but all other shades of optimal and sub-optimal solutions exist). However, this conflict / transformation process is not particularly well understood. That is because water issues are complex – due in part to their intricate coupling with multiple issues within the natural and societal domains. These issues are situated within various organizational, temporal and geographical domains. As a result, arriving at a shared definition of both the problem as well as possible solutions is difficult due to the range of diverging values and interests.

While drivers for conflict (such as drought, upstream dam construction, pollution) and conflict maintainers (e.g. grievances, current livelihood dependencies) may continue to exist and cause a conflict to erupt and continue, conflict escapers may offer acceptable ways out of conflict for the parties involved.

These escapers may range from technological advances in the re-use of water, desalination, wastewater treatment or more efficient irrigation, to sound financial underpinning of agreements by the involvement of the business sector, governance arrangements, or judicial remedies and treaties.

These escapers are sometimes offered by changes in the context of the conflict (e.g. increases in rainfall, changes in the political landscape, and technological innovations might (temporarily) lessen tensions and disputes). Sometimes escapes are offered through direct interventions in the conflict.

³ Brock, H. (2011) **"Competition over Resources: Drivers of Insecurity and the Global South."** Oxford: Oxford Research Group.

⁴ Gleick, P.H., Ajami, N., Christian-Smith, J., Cooley, H., Donnelly, K., Fulton, J., Ha, M., Heberger, M., Moore, E., Morrison, J., Orr, S., Schulte, P., Srinivasan, V. (2014) **"The World's Water"**, vol. 8: The Biennial Report on Freshwater Resources. Washington, DC: Island Press.

⁵ Huntjens, P., Nachbar, K. (2015) **"Climate change as a threat multiplier for human disaster and conflict."** The Hague Institute Working Paper Series No.9, 2015

⁶ Huntjens, P. (2016, forthcoming) **"Mediation in the Israeli-Palestinian Water Conflict: A practitioner's view."** In: Edited Volume for the Anthem Water Diplomacy Series: "Complexity and Contingency: Prospects for Water Diplomacy.", in press

⁷ Jägerskog, A., Swain, A., Öjendal, J. eds. (2015) **Water Security**. Sage.

Ideally, conflict prevention should minimize the possibility for conflicts to escalate and to inflict material and immaterial damage. In case conflict prevention is not adequate, and a conflict does escalate, direct interventions in a conflict are necessary.

Direct interventions in a water related conflict range from 'soft' (participatory and diplomatic) intervention methods to 'hard' (judicial, economic, political and military) sanctions and interventions.

On a transboundary level, diplomacy is most often used to prevent conflict escalation and to improve cooperation. Apart from the efforts of official diplomats, civil society also plays an important role in establishing connections and building trust between different parties in track-2 and track-3 processes.

The interventions by diplomats and civil society have been successful, considering the number of treaties signed, but they face a number of challenges to ensure conflict resolutions remain efficient and robust for the purpose of resolving current and future challenges. For example, what is the appropriate scale for managing water issues? How should we cooperate over water resources if there is no agreement on the actual data? How should we harmonize the policies of the multiple sectors which impact on the success or failure of water governance?

Theoretical foundations to cooperation of shared resources and best approaches to implement water diplomacy in practice remain weakly developed. Concepts and approaches such as multi-level water governance, adaptive water governance, mutual-gains approach and instruments for benefit sharing need to be further developed and operationalized.

The interdependencies⁸ of water issues with different decision-making arenas and geographical and temporal scales make it difficult to steer an issue towards a certain solution. The complexity of a (water) conflict is increased through differences among the stakeholders in framing and interests, which steer the selection and interpretation of facts. To deal with uncertainties, people make individual assumptions based on their own interpretation of reality and the knowledge that is available to them. These individual understandings create problems when people

⁸ These interdependencies create uncertainty. Uncertain facts fall within two categories: Uncertainties that can be reduced through measurements by e.g. installing flow meters. And facts, which are intrinsically uncertain through their variable behaviour. This variable behaviour can be non-linear or even chaotic. E.g. how will climate change affect the composition of species in a wetland?

need to address a common problem, such as the governance of shared waters.

A robust approach to a water-related conflict would therefore not only have to include the best available scientific knowledge, but also respect and include the local understanding of reality and related uncertainties.

Hence, new tools are required for an approach that diagnoses water problems, identifies intervention points, and proposes sustainable solutions that are sensitive to diverse viewpoints and values, ambiguity and uncertainty, as well as changing and competing needs. Bridging these differences requires a well-informed mutual gains diplomacy process. Water diplomacy, based on a mutual gains approach, may therefore play an increasingly important role in preventing, mitigating and resolving the growing water conflicts.

Analyses

Preventing and resolving water-related conflicts, with both technical and governance interventions, is exactly what water diplomacy is about. Water diplomacy facilitates cooperation over water. Diplomacy and comparable tools are currently applied by a variety of state and non-state actors to facilitate such cooperation. To improve the effectiveness of diplomacy, it is of utmost importance to identify the factors that influence cooperation at different levels.

The concept of water diplomacy is defined by various academics and organizations in a different manner⁹; however, they do share a common understanding of the importance of including the interests of the multiple dimensions and multiple stakeholders in processes of mediation, negotiation and cooperation.

Our research shows that water-related conflict prevention and resolution is largely the outcome of processes of research and fact-finding, negotiation, mediation and conciliation. Conflict prevention and resolution is rooted in an in-depth understanding of the social, cultural, economic and environmental conditions and the political context, supported by a sound assessment and integrated analysis of the water system.

Informed by this experience, we define water diplomacy as follows: "*Water diplomacy includes all measures by state and non-state actors that can be undertaken to prevent or peacefully resolve (emerging) conflicts and*

⁹ E.g. Pohl, B., Carius, A., Conca, K., Dabelko, G., Kramer, A., Michel, D., Schmeier, S., Swain, A., Wolf, A. (2014) "The rise of hydro-diplomacy: strengthening foreign policy for transboundary waters."

facilitate cooperation related to water availability, allocation or use between and within states and public and private stakeholders.”

Consequently, water diplomacy related efforts can and will take place at many levels depending on the particular situation. It could involve formal high-level diplomatic interactions between riparian states, or relationship building through unofficial dialogues organized by civil society organizations. Key elements within these encounters include fact-finding and the involvement of third parties, because they support the dialogue on the basis of which communality and shared understandings (hopefully) are developed.

Although practitioners are well aware of the challenges that hinder water conflict prevention and resolution, answers to these challenges are not readily available. The main challenges for water diplomacy are:

1. The ability to build trust among competing stakeholders. Stakeholders have different and sometimes conflicting claims with regards to water. Moreover, there is often insufficient communication between the various actors involved, who often also adopt inflexible positions.
2. The ability to organize multi-sector and multi-level interactions (harmonizing policies related to the land-water-food-energy nexus; fine-tuning of centralized control with bottom-up approaches and challenges related to decentralization.
3. The ability to manage a growing multi-actor policy environment. The international arena is not exclusively the domain of ministries of foreign affairs and diplomats anymore. So much so that the sheer number of actors and instruments engaging on water security has, in practice, resulted in a more complex operating environment.
4. The ability to deal with uncertainties. Conflict and cooperation over water resources is afflicted with uncertainties: unpredictability of developments; incomplete knowledge; or conflicting views on the seriousness of a problem, its causes and potential solutions. Nowadays, uncertainties related to water resource management are on the rise since the pace and dimensions of change (e.g. climatic,

demographic) are accelerating and are likely to continue to, even more so, in the future. Political decision-making does not necessarily follow a rational path (assuming such a path exists) but is laden with emotions. It is crucial to find pragmatic ways to deal with this in water management practice.

5. To understand the Water-Energy-Food-Climate Nexus and how the trade-offs can be negotiated to support sustainable development. Water is intrinsically linked to food, energy and the environment, and if it is addressed in isolation from these other sectors - and climate change in particular - the solutions to our water problems will be uninformed and almost certainly result in perverse outcomes (which could potentially weaken rather than strengthen water cooperation and diplomacy objectives).
6. Sustainable financing: Transboundary water cooperation is often underfinanced. Many national governments and donors are hesitant to finance processes without clear outcomes and timelines. However, preventing conflicts and avoiding environmental degradation is less expensive than reacting afterwards.
7. Sustainable legacy: building capacity among all stakeholders - governmental, non-governmental, academia, private sector, civil society, communities, vulnerable groups and households, etc. Building capacity in a systematic way, and ensuring that such approaches remain actor oriented, is key for a sustainable legacy of (water) diplomacy.

Overall, the key challenge is the lack of capacity to deal with complexity and uncertainty related to conflict and cooperation over water resources.

Conclusions and Recommendations

To resolve water conflicts - or any conflict - negotiation, mediation, and conciliation are needed. To be successful, though, such processes must be rooted in an in-depth contextual understanding. Third-party and multi-track diplomacy is critical to maintaining dialogue under uncertain political conditions, particularly when formal

negotiations have come to a halt. Especially in these times, it is important to show that a peaceful diplomatic solution to vital contested issues is still possible. Structured exchange of expert knowledge and practitioner experience is needed. Strategic and context-specific studies, for example, may provide a better understanding of cross-border power dynamics and allow the identification of the zone of possible effective cooperation (ZOPEC) on transboundary basins or aquifers.¹⁰ This knowledge and experience should feed into multilateral dialogues, with the objective to find initial agreement on possible avenues for cooperation, followed by creating commitment and ownership for the further institutionalization of transboundary cooperation processes.

What can be done?

During the Stockholm World Water Week 2015, over one hundred experts were consulted in brainstorming sessions in order to identify the specific needs, as well as tools and methods needed, to further improve and enhance the field of water diplomacy. These brainstorm sessions were organized by leading organizations in the field of water diplomacy, governance and law. In addition, during the (upcoming) water diplomacy workshop at the Planetary Security Conference 2016 these ideas were taken forward in several break-out groups. This policy brief reflects the outcomes of these brainstorming sessions and presents an 'Agenda for Water Diplomacy 2.0'.

How to manage a multi-actor policy environment?

Recommendations

- Ensure effective neutral moderation
- Map the interests, power dynamics and decision gaps
- Emphasise a bottom-up approach
- Ensure that all (including women) actors have a voice
- Cooperate by demonstrating the mutual benefits
- Involve external experts in fact-finding process
- Demonstrate local success and use it as a model for participation
- Bring the local government on board

How to organize multi-level and multi-sector interactions?

¹⁰ Huntjens, P., Yasuda, Y., Swain, A., De Man, R., Magsig, B., Islam, S. (2016) "The Multi-track Water Diplomacy Framework: A Legal and Political Economy Analysis for Advancing Cooperation over Shared Waters." First edition, The Hague Institute for Global Justice, 2016.

Recommendations

- Set-up a dedicated (communication) programme for raising awareness about the real challenges, and the aims and needs for cooperation
- Start working in small groups with a representative group of key stakeholders
- Start working on the local level and bring together all sectors of the society to talk
- Ensure data is publicly available
- Organize face-to-face meetings
- Map and clarify roles and responsibilities
- Introduce a buddy-system or assign local persons at each level and sector who are tasked to regularly update each other
- Institutionalize interaction
- Establish exchange between experts, journalists, etc.

How to build trust?

Recommendations

- Support an inclusive dialogue in a safe place, based on a set of rules for engagement, to stimulate openness and cooperation
- Support capacity building of the conflicting parties on interdisciplinary research that connects current practices, policy framings and key scientific understandings
- Begin by identifying concrete incentives or small pilot-projects on each side (such projects should deliver results can be seen by "the people in the street")
- Share research data; if disputed, try reaching consensus or undertake joint research (field visits)
- Establish an inclusive discourse instead of securitization and militarization
- Diplomacy does not end in one-time agreements, but in a process

How to deal with uncertainty?

Recommendations

- An inclusive dialogue helps to identify uncertainties and increases the legitimacy of any decision made
- Take an adaptive management approach to identify the no-regret options and the measures needed to prevent locked-ins. Decisions should be evaluated by the costs of reversing them
- Identify the knowledge needs

- Acknowledge the benefits of the counterparts and address them
- Identify pathways for future re-negotiation of agreements
- Try to frame uncertainties and make scenarios and think about responses
- Develop back-up plans

One of the options to further the recommendations by the peer community is to develop a specific Community of Practice on water diplomacy linked to the Planetary Security Initiative. This CoP can support the exchange of knowledge and experience and respond quickly to emerging demands.

Bringing it all together

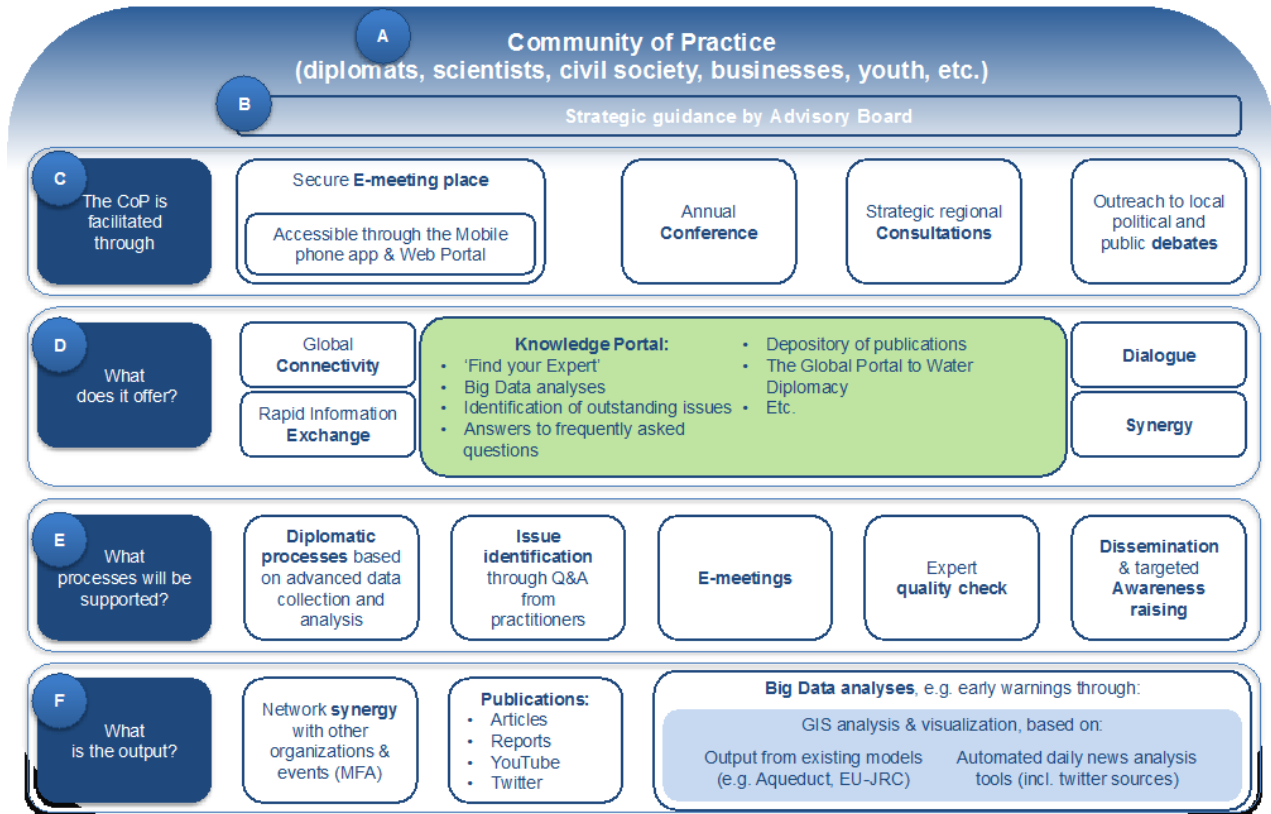


Figure 1: Example functions performed within the Community of Practice on Water Diplomacy, source: Authors.