

Nepal and Bhutan

Ashok Kumar

The author's experience as a diplomat engaged in development assistance with Bhutan is in sharp contrast to that of working with Nepal. Cooperation in water resources has the highest potential for mutual benefit and ushering in an era of development and prosperity in Nepal, but remains constrained by over politicisation and constitutional and policy provisions. However, Bhutan sees cooperation with India in hydropower as true example of mutually beneficial relationship, providing clean electricity to India, generating export revenues for Bhutan and further strengthening the bilateral economic linkages.

The India-Nepal Treaty for Peace and Friendship, 1950 was signed against the backdrop of Communist victory in China's civil war, imminent occupation of Tibet by China and the latter not conceding independence of Nepal¹. It marked the commencement of close bilateral economic and security cooperation.

India's Development Diplomacy in Nepal

Through India's good offices, an Interim Coalition Government of Nepali Congress and Rana elite was established in February 1951 commencing a new era of democracy. Nepal's development challenges were immense. There was a tremendous shortage of trained manpower and lack of educational system and institutions. This discouraged foreign capital from supplementing inadequate Nepali capital. Frequent ministerial changes too intensified existing problems and created new ones².

Despite being short of technical manpower and material resources itself, India extended development assistance to Nepal.

An Indian Aid Mission (IAM) was established in 1954, later renamed Indian Cooperation Mission in 1966 and subsequently merged with the Embassy as the Economic Cooperation Wing in 1980.

Physical and Social Infrastructure

Nepal had non-existent transportation and communication network with motorable roads limited

to the Kathmandu valley, disease was rampant, life expectancy short and educational and health facilities virtually non-existent³.

The first major project under Indian aid was the 189 km Tribhuvan Highway connecting Kathmandu with Birganj on the Indo-Nepal border that was completed in 1956. Several major link roads were also constructed. In



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1966, India commenced construction of the 1024 km east west highway called Mahendra Rajmarg.⁴ Work was completed with the handing over in 2001 of 22 bridges on its western sector.

The first airport in Nepal—the Tribhuvan Airport at Gaucher in Kathmandu—was also built with Indian aid in 1951. Subsequently, in the 1960s five more airports at Simra, Janakpur, Bhairhawa, Pokhara and Biratnagar were constructed.

Tribhuvan University, the first to be set up in Nepal in 1959 received Indian assistance for infrastructure and faculty up to mid 1970s. During the 1952-72 period over 320 schools and libraries in Nepal received Indian assistance⁵. Over the decades, India's educational scholarship programme has expanded phenomenally. Currently over 3000 scholarships are awarded annually to Nepali students.

Nepalis have been trained in India in various disciplines including medicine for the past seven decades. Starting from Paropkar Maternity Hospital in Kathmandu to the

establishment of BP Koirala Institute of Health Sciences at Dharan in Eastern Nepal, Indian contribution to Nepal's health sector has been vital and extensive.⁶

Small Development Projects and Earthquake Reconstruction Assistance

Over the past seven decades Indian assistance also extended to various sectors including agriculture, horticulture, animal husbandry, community development soil conservation and industrial estates. In 2003 a Small Development Projects Scheme was launched focusing in areas of education, health and community development. Over 500

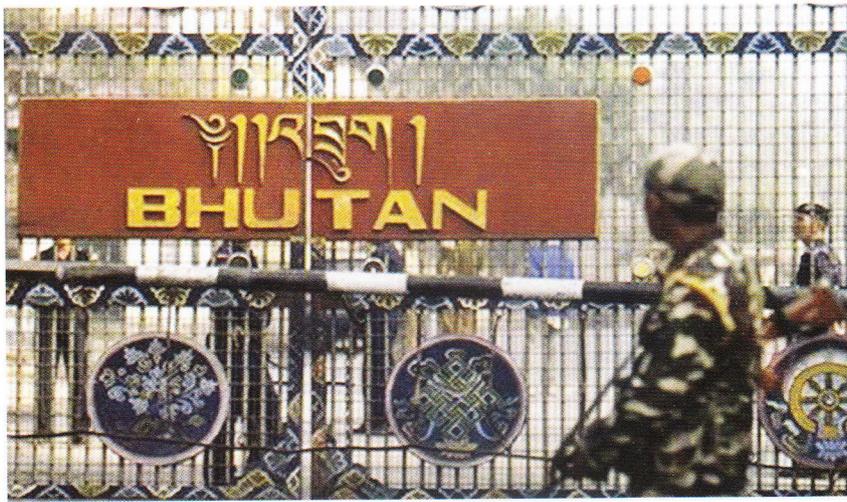
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projects costing over INR 10 billion have been implemented. Following a major earthquake in 2015 India has extended US\$1 billion as reconstruction assistance.

Water Resources

The Kosi and Gandak barrage projects were implemented in the 1950s and 1960s under agreements signed in 1954 and 1959 respectively. Kosi High Dam at Barahakshetra could not be constructed in the 1950s because of high cost and lack of demand for the power potential of 3000 MW.⁷ Nepali Government's primary interest was in electricity for Kathmandu. Consequently, India commissioned the 21 MW Trishuli hydroelectric project (HEP) and transmission lines under grant assistance in 1967 to supply electricity to Kathmandu valley.

The devastating flood of 1953 caused severe erosion of lands in Nepal and India and threatened the capital of Saptari district Rajbiraj leading to prioritisation of construction of the barrage. Nepali PM MP Koirala supporting the project said:



“... India could have very well put the barrage a couple of miles below the present agreed sitethe sovereignty and territorial rights of Nepal have not been impaired...the Kosi agreement had the advantage of saving fertile and good lands on the western side which to the tune of 1000 big has per year, were eaten by the Kosi every year. It would also give irrigation facilities on the southern side of Saptari district...”⁸

The farmers and population of the region also benefitted from water channelling reducing malaria, from road construction, erection of transmission lines, soil conservation etc. Nepal's focus should be on India's incremental benefits by shifting site from Dagmara to the border and not on total benefits to India.

At Nepal's request, the Kosi and Gandak agreements were amended in 1966 and 1964 respectively. Main changes in the Kosi agreement⁹ pertained to land for barrage being given on 99 years lease (Article 5) and Nepal's "right to withdraw water.." being elaborated to "every right to withdraw.." (Article 4). Similar changes were made in the Gandak agreement.

The positive dimensions of the water agreements between India and Nepal are unappreciated, if not ignored, because of over politicisation of the issue of water resources cooperation.¹⁰ Despite significant benefits to Nepal,

the myth of India cheated Nepal' has negatively impacted water resources cooperation. After several decades of stalemate, the India-Nepal Treaty on the Integrated Development of Mahakali was signed and ratified in 1996 but remains unimplemented as it marks its silver jubilee.

In May, 2018 SJVN Ltd, an Indian PSU, received a Generation License from the Government of Nepal to implement 900 MW Arun III Hydroelectric Project.

Nature has endowed Nepal with rich hydropower potential. But Nepal's vacillating and often contradictory policies led to massive power cuts and continuing electricity import dependence on India.¹¹

India-Bhutan Treaty of Perpetual Peace and Friendship

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In 2003, Small Development Projects Scheme was launched focusing in areas of education, health and community development. Over 500 projects costing over INR 10 billion have been implemented. Following major earthquake in 2015, India has extended US dollar 1 billion as reconstruction assistance.

concern about developments in the region. The Treaty of Perpetual Peace and Friendship between India and Bhutan was concluded on August 08, 1949 during the rule of King Jigme Wangchuck. It was premised on shared security interests. The treaty was updated by India-Bhutan Treaty of Friendship signed on February 08, 2007 which committed the two countries to not allow use of their territory for activities harmful to the national security and interests of the other.

India's Development Diplomacy in Bhutan

Following PM Nehru's historic visit to Bhutan in 1958, India's development assistance to Bhutan commenced in 1961 nearly a decade after the start of Indian assistance to Nepal.

Physical and Social Infrastructure

One of first major projects to be undertaken was the 179 km Western Highway connecting the capital Thimphu to Phuentsholing on the Indo-Bhutan border and was completed in 1968. The 180 km Eastern Highway from Trashigang to Darranga on Indo-Bhutan border, 595 km East West Highway and the Paro Airport were also completed in 1968. The 248 km Central Highway was completed in 1980. By 2018 Project Dantak had completed 1600 km of black topped roads, 120 km of tracks and 5000 m of bridges.

Indo-Bhutan cooperation is so extensive that it is difficult to do justice to it in limited space. Suffice to say that the journey starting from the first FYP 1961- 66 which had a total outlay of Ngultrum ¹²107.2 million totally funded by India has reached 12th FYP 2018-23 outlay of Nu 280773 million, 77.56% funded by domestic revenues and 16% by Government of India assistance (INR 45000 million). Underpinning this remarkable development trajectory is the mantra of mutually beneficial hydropower cooperation with India—

a vision formulated by the Monarchy and a policy efficiently implemented by the technocracy. Rinpung Dzong—Buddhist monastery and fortress—in Paro; Jigme Dorji Wangchuck National Referral Hospital and Tashicho Dzong (Secretariat building) in Thimphu and Chipgen Rigel/Total Solutions—an ICT Project, are all exemplary projects of India Bhutan cooperation.

Hydropower Cooperation

India constructed several micro hydropower projects. The agreement for 27 MW Jaldakha HEP constructed on Indian side of the border was signed in 1961 and provides for electricity to southern areas of Bhutan. The 336 MW Chukha HEP was commissioned in 1986-88 and greatly enhanced government revenues through power sale to India. Bhutan sees cooperation with India in hydropower as true example of mutually beneficial relationship, providing clean electricity to India, generating export revenues for Bhutan and further strengthening the bilateral economic linkages.¹³ Subsequently,

joint projects totalling 1800 MW have been commissioned and project totalling 2800 MW are expected to be commissioned in next three years. The ambitious framework agreement on India-Bhutan hydropower cooperation envisages 10000 MW generation capacity. India's experience with Bhutan proves that given trust mutually beneficial cooperation can flourish between a small country and a big neighbour.

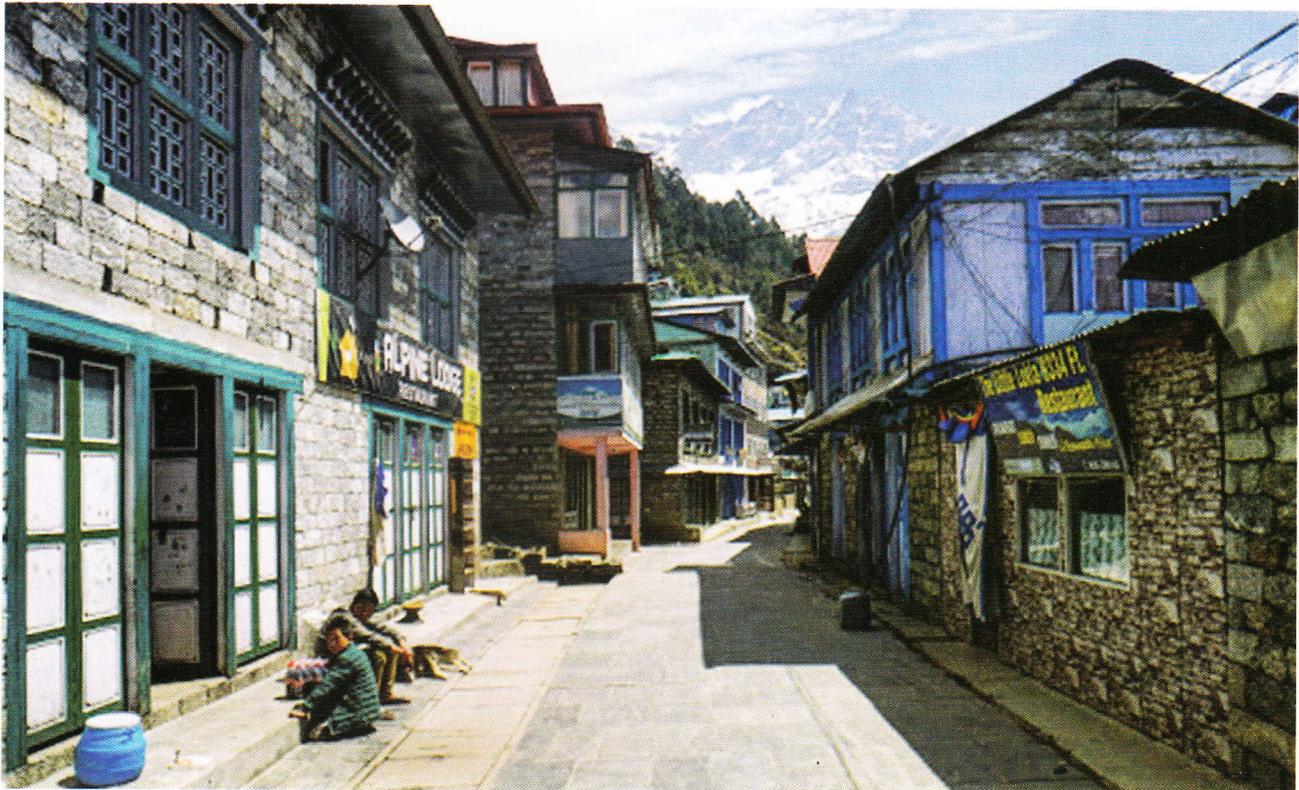
Conclusion

Nepal was the first beneficiary of Indian aid. Aid programme in Nepal not only started well before aid programme in Bhutan but was more comprehensive in scope in the 1950s to 1970s. However, the perception of these aid programmes has been very different in the two countries. In both the countries Indian assistance was premised on shared security interests and economic development was seen as a sine qua non of close friendly relations. India's development diplomacy assumed that what is good for Nepal and Bhutan is good for India.

Bhutan's leadership believed in enlightened self interest and its foreign policy sought a genuine dialogue with India to discover the path of mutually beneficial economic development that would strengthen bilateral ties with India. The results are self evident. Bhutan has the highest per capita income in South Asia and is focused on Gross National Happiness (GNH).

In Nepal, despite the extensive development assistance by India, there was a consistent effort by some to belittle India's contribution although evidence shows that India's economic and development assistance to Nepal remains unparalleled in the history of development assistance from one developing country to another.

The author's experience as a diplomat engaged in development assistance with Bhutan for five years is in sharp contrast to that of working with Nepal for eight years. To the question as to why the mutually beneficial water resources cooperation with Nepal did not develop, the answer lies in cooperative bilateralism which infused Bhutan's approach and the lack of it in the case of Nepal. □



References / Notes

1. The fear of China encouraging revolution in Nepal was not. In 1952, Dr. K.I. Singh leader of United Democratic Party comprising CPN and other left leaning parties, attempted to seize power. Attempt failed, Dr Singh fled to Tibet, got asylum in Beijing and was reportedly being groomed for the role of Nepal's liberator. Ref Government & Politics in Nepal II by Prof Werner Levi in Far Eastern Survey January 14, 2020.
2. Report of the Nepal National Education Planning Commission 1954 edited by Commission Chairman Sardar Rudra Raj Pandey.
3. Ibid
4. 807 km of the 1024 km was built by India and only 217 km by USA, UK and USSR.
5. Before 1951 Nepal had only 310 primary and middle, 11 high schools and two colleges.
6. 535 bed Bir Super Speciality Hospital, Trauma Centre and hospitals across Nepal also received Indian aid. Other health schemes were goitre control, trachoma and cataract treatment etc.
7. Kosi High Dam project cost estimate (1950) was INR 177 crores as against cost of INR 92.80 (1952) and INR 245 crores (1963) for Hirakud Dam and Bhakra Nangal Dam projects respectively. Hydropower installed capacity at Hirakud Dam was 347.5 MW and at Bhakra - Nangal Dam 1500 MW—the highest installed capacity in Asia then. In contrast, Nepal Government's budget for agriculture, village development and irrigation during the FYP 1956-61 was INR 8 crores.
8. 'Historical Eye View' by Dwarika Nath Dhungel in 'The Nepal-India Water Relationship: Challenges' co-edited by DN Dhungel and SB Pun.
9. The text as in Kosi agreement of 1954, deleted shows deletions and text in italics shows additions in the amended 1966 agreement:

Article 5 of Kosi Agreement 1954,

~~"The Union shall be owner of — all the lands acquired by the — Government — HMGN — which shall — be transferred by them to the Union and all water rights secured to it. — leased by HMGN to — the Union for a period of 199 years from the date of signing of these amendments at a nominal rate. Provided that the sovereignty and territorial jurisdiction of the Government in respect of such lands shall continue unimpaired by such transfer."~~

It will be clear that Sovereignty of Nepal was not infringed even in 1954 agreement. The transfer

of land, the acquisition cost of which was paid by India to Nepal, became 'leased' land in the amended agreement instead of 'owned' land in original agreement. It is said that Dr Dante Caponera, the water law expert of ESCAP who advised Nepal on the amendments was unhappy that the lease period was 199 years against 99 years recommended by him. One would imagine that lease period is well within the Government decision-making and water laws have no bearing on it.

Article 4 of Kosi Agreement 1954

~~"Without prejudice to the right of the Government HMGN shall have every right to withdraw for irrigation or any other purpose in Nepal water from the Kosi and from the Sun - Kosi River or within the Kosi basin from any other tributaries of the Kosi Riversuch supplies of water; as may be required from time to time, the Union will have the right to regulate all the balance of supplies in the Kosi River at the Barrage site thus available from time to time and to generate power in the Eastern Canal at the same site for the purpose of the project."~~

The Helsinki Rules and Berlin Rules on Water Resources, adopted by the International Law Association, lay down some guidelines on water resources cooperation.

Doctrine of Absolute Sovereignty as well as the Doctrine of Absolute Riverine Integrity have no feet to stand on. The Harmon Doctrine was never implemented in any water treaty. It was explicitly rejected by the international tribunal in the Lake Lanoux case in 1957. The key concepts of cooperation regarding trans boundary river waters are the right to 'reasonable and equitable beneficial use' and 'obligation not to cause significant harm'.

Article 13 of Kosi Agreement 1954

~~"The Union shall carry out inside the project areas in the territory of Nepal functions such as the establishment and administration of "Subject to the prior approval of HMG, the Union may, in the project area, establish schools, hospitals, provision of water- supply and electricity, drainage, tramway lines and other civic amenities for the duration of the construction of the project. On completion of construction of the project, any such civic amenities shall, upon the request by HMG, be transferred to HMG, and that, in any case, all functions of public administration shall, pursuant of the provisions of clause 5(v) be exercised by HMG."~~

These changes too have no impact on Nepal's sovereignty and are more of a procedural nature. The single permission from Nepal as envisaged in 1954 becomes a series of requests by India with corresponding approvals by Nepal. The handing over of the facilities, if requested by Nepal, was also not an issue which India would not agree whether explicitly stated or not in the agreement. It needs to be seen in the context of

India constructing, under aid to Nepal, many such facilities all across Nepal for the benefit of Nepalese people.

Article 10 of Kosi Agreement 1954

~~"All navigation rights in the Kosi River in Nepal will shall rest with the Government HMG. Provision shall be made for suitable arrangements at or around the site of the barrage for free and unrestricted navigation in the Kosi River; if technically feasible. However, The use of any water-craft like boat launches and timber rafts within two miles of the Barrage and headworks shall not be allowed on grounds of safety, except by special licence under special permits to be issued the competent authority of HMG in consultation with the Executive Engineer, Barrage. Any unauthorised water-craft found within this limit shall be liable to prosecution."~~

In this case also there are no major principles involved. The authority to issue permits is vested in HMG and the consultation process ensures that the needs of the barrage are taken into account.

Article 11 of Kosi Agreement 1954

~~"All the fishing rights in the Kosi River in Nepal except within two miles of the Barrage shall continue to rest in the Government of Nepal rest with HMG. However, no fishing will shall be permitted within two miles of the barrage and headworks, except under special permits to be issued by the competent authority of HMG in consultation with the Executive Engineer, Barrage. While issuing the special permits within two miles, HMG shall keep in view the safety of the headworks and the permit holder." The 1954 version did not impinge on the sovereignty of Nepal. If a two mile area was not mentioned it was simply because no fishing was envisaged in that area. Giving authority to Nepal for issue of special permits for fishing even within the two mile zone was agreed to.~~

10. 'Nepal-India Cooperation in River Water Management' by Dr Hari Bansha Jha in Strategic Analysis Vol 37 2013 Issue 2.
11. Nepal has faced chronic power shortages leading to 12-14 hours power cuts in Jan 2011. In 2011 Nepal imported from India 18.42% of its total electricity requirement. Even after a decade, in the year ending July 31, 2020 imports from India was 1729 Gwh constituting 22.33% of total energy availability. This was because of reduced demand caused by Covid-19 related lockdowns otherwise energy imports from India would have been over 30%. Ref Nepal Electricity Authority Reports.
12. Ngultrum is Bhutan's currency. 1 Nu=1 INR.
13. Bhutan-India Hydropower Relations— Royal Bhutanese Embassy, New Delhi. <https://www.mfa.gov.bt>