Projects- Paradoxes-Marginalized Rivers

Decades of Water Cooperation in the Ganges Sub-Basins, on what terms?

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Overview: From the Legal Perspective-

- As part of the larger G-Basin, Four major river systems, with nearly 6000 tributaries enter into and almost 54 of them exit from India. All rivers that enter and exit the larger Ganges River System are inherently subject to potential international water rights/obligations.

- Three countries involved have very diverse interests and aspirations.

- Nepal, India, Bangladesh, varying degrees of negotiation capacity.

- Ever since the disintegration in the subcontinent hyper-hydro-ism and disproportionate political influence had shaped water relations.

- Different versions of water nationalism exist.

- Yet, there is no basin wide cooperation among the basin countries. Instead, there is a very special kind of cooperation that reflects a Modus Vivendi.
Ganges Sub-basins shared by India and Nepal have attracted Cooperation (1954-1996) ..........that’s 47% of the inflow into the main Ganges system
Cooperation on Ganges shared between India-Bangladesh (1972-1996)....illustrious water relations..around one barrage
Overview of Water Cooperation Instruments: India-Nepal

• Four major river systems, Three Legal Instruments, One River, One Point, One Project, One Project centric Agreement/Treaty

• None of these are water allocation, water entitlement agreements

• Neither the Basin nor the River is the unit for Agreement- it’s the Barrages over them

• Single purpose flood control schemes transformed into multipurpose projects with diversion canals, but no field channels

• All the instruments and projects have disproportionate political influence

• All agreements created widespread resentment in Nepal, Indian side o the resentment did not find voice and was subverted by tall leadership
Formal Water Cooperation (India-Nepal)

• Agreement on the Kosi Project, 1954 (Revised 1966)
• Gandak Irrigation and Power Project Agreement, 1959 (Revised 1964)
• Mahakali Treaty, 1996 (Sarada Barrage, Tanakpur Barrage + Pancheshwar Project Yet to take off!)
The Kosi Agreement, 1966: The Terms

- In all there are 16 Clauses (subject matters), Annexure, Letters exchanged
- Clauses 1 to 9: (terms for the construction phase, location, investigation/survey, use of land/property, lease, royalty, custom, compensation, communications)
- Clause 2 Data sharing: Only Data of Kosi in Nepal is to be shared by both the Parties
- Clause 5: Lease Period of 199 years, there is no expiration/renewal clause in the Agreement
- Clause 8: Compensation only for lands actually found under cultivation during surveys in Nepal; No compensation for lands submerged/acquired/Devastated in India
- Clause 10-11 Navigational and Fishing Rights are illusory
- Clause 14: Dispute settlement mechanism is lofty/optional/non binding
The Kosi Project on the land leased for 199 by Nepal to India
Embankment Map of Bihar: Witchcraft of Flood Control
What does it mean on the Ground! **Gram Shivirs, legal tool**

- Gram Shivirs in the Koshi Basin – A process set up for modernizing the regimes based on community interpretation in the Upstream and Downstream of the Basins

- Over 3000 community members participated
  - Two Sub-Basins, 8 districts, 16 Villages and numerous groups with diverse affiliations
Life in and around the Kosi Project: Fifty years hence....
Embankments are a way of life for human and all others!
Issues: Compensation, Breaches both upstream and downstream
Changed landscape and riverscape due to the Barrage—There used to be a village here!
Excessive silt deposition over productive lands due to embankments
Flood protection contracts each year take away the remaining productive patches
Ostensibly an Irrigation Project but DG Sets/ What to grow?
Familiar images of 2008 Kosi Deluge! So the stated objective of Flood Control?
‘Marginalized Rivers’ (Tributaries)
Pandai: Another Marginalized River!
Solutions? Role of Local institutions Under International Water Law?
Basin level Consensus on revisiting the terms, People’s River Agreements, Inclusive Diplomacy
Can the obsolete India-Nepal water deals be undone? How?