

REVIEW ARTICLE

FLAWED PRECEPTS AND DISTORTED INTERPRETATIONS

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Environmental Resource Negotiation Between Unequal Powers by Jagadish C. Pokharel, New Delhi: Vikas Publishing House, 1996, pp. xii+148, includes bibliography and index, Rs. 225 Indian Currency.

This book deserves a mention and a space in *Contributions* not because of its merits but it being a testimony to a gross negligence in research and reporting. This publication, according to the author, 'would have not been possible without the support of the East-West Center, Honolulu, Hawaii which provided me with a fellowship for eleven months to develop it from a [MIT] Ph. D. dissertation to a book' (p.xi). His studentship at the Massachusetts Institute of Technology, Cambridge, USA is well reflected in his concise language and lucid writing style easily understandable even by a non-specialist reader, which, otherwise, is a subject of specialist interest.

The effort to build a conceptual framework on negotiation by particularly applying Roger Fisher's works on *Negotiating Power* in the book is commendable. Studies on negotiation from a weak nation's perspective and treatment of the subject with an attempt to understand strategies pursued by a weak nation in *enhancing negotiation power* are of considerable interest particularly in Nepal which has recently signed a series of agreements on sharing water resources with India, including the Mahakali Integrated Development Treaty, by 1996. The issue of environmental resources negotiation of which water resources constitute an integral part in the history of Nepal-India relations has been a mosaic of both discord and collaboration. Bunglings on the Kosi (1954) did not stop the Gandak (1959) from materializing. But the lessons learned from these crucial cases of initial collaboration have blocked the Karnali project (conceived in 1963) from taking off. Successful negotiations on the first two river systems, namely, the Kosi and Gandak, and the failure of negotiations on the Karnali project make up a case study in the book comprising two other case studies

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between the weak and the strong states, i.e., Bangladesh and India, and Panama and the United States.

Two of the above case studies relate to South Asia where India as a mega-state negotiates with Nepal as a lower-riparian, and Bangladesh as an upper-riparian country. In the first case, India asserts the right of a lower riparian by establishing its claim to an uninterrupted use of the natural flow of water resources. In the second case, India, however, denies the same right to the lower-riparian, Bangladesh, in the course of sharing the Farakka water. Indeed, these cases require further scrutiny in order to understand the process of negotiations for these being the cases of evoking nationalist sentiments wrapped up in the concerns for sovereignty and security, and the livelihood of a teaming millions. The intermingling of power, politics and technology in these cases have also imparted a considerable influence on the water resources sharing negotiations in the past. Perhaps the outcome of the ongoing negotiations in some of these cases may crucially determine the future of South Asian international relations. Resource conflicts are obviously being articulated as being perennial problems intricately linked with the population explosion and developmental needs of the region. Failure to manage these conflicts could lead to a devastating situation causing chronic socio-political instabilities in the region.

This review is primarily focused on the Nepal-India case which appears to be the subject of the main inquiry. According to the author, the other two cases are "actually" expanded and included during his fellowship stint in the East-West Center (p.xi). Hence, these cases will be cited when necessary. Pointedly, analyses of negotiations between Nepal and India are based on a weak theoretical construct that did not stand the test case on the use of *negotiating power* by Nepal with enhancing capability against the background of certain "serendipitous events". First, while seeking to explain how a weak nation could enhance *negotiating power* to influence the strong nation (p.1), the author has tried to build his case of renegotiations on Kosi and Gandak projects against the background of the political change in Nepal after the Royal takeover in December 1960, and the Sino-Indian war of 1962.

The political change in Nepal had significantly weakened the domestic scene because of serious challenges posed by democratic forces to the king's regime. India's reservations with the king's action had strained the bilateral relations. The intervening variable of the Sino-Indian war in October 1962 (remotely related to Nepal-India tensions) and the consequent debacle of India in the war is viewed by the author as the opening of "new opportunities" for Nepal in moderating the Indian position vis-a-vis Nepal. The underlying assumption in the thesis is not how a pair of weak and weakened nations

succeeded in resuming their previously existing ties through "give and take" by removing certain irritants from their normal relationships but how the fall out of the Chinese strategic ascendancy in South Asia was used by Nepal against India perhaps by fluttering the Red Flag. Though the China factor has introduced an element of caution in India's dealings with Nepal -this has reinforced the former's need to draw the latter even closer to its strategic ambit—causing moderation on certain insipidus cases like their disagreement over the Royal coup in Nepal and the compensation for the land used in Kosi and Gandak projects or even making them "excludable goods" would not be detrimental to New Delhi's national security interests.

Political strategies adopted by King Mahendra in the early 1960s, was indeed, confined to neutralize India against supporting the Nepali Congress Party's democratic cause inside the country. India's "middle way" course was neither for the monarchy nor against the democracy; the thrust of New Delhi's policy was to harmonize the interests of a overzealous monarchy with that of a fragile democracy, as was the case in 1950-51. Sensing a reluctance on the part of the monarchy to buy India's "good advice", New Delhi turned a blind eye on the Nepali Congress activities from its soils to the perceived detrimental effect on the direct rule of the monarchy. A diametrically different course in King Mahendra's strategy to ensure the survival of his regime emerged after the signing of the border accord along with an agreement for the construction of Kathmandu-Kodari Highway during his visit to China in October 1961, not in April 1962 as the author states. Signing of these accords by Nepal sensitive to the Indian security interests in a period of heightening Sino-Indian discord over their own border problems eventuated under the assumption that it would definitely increase Nepal's bargaining power vis-a-vis India to ensure New Delhi's acquiescence to the King's demand to stop supporting the Nepali Congress rebels and endorse the monarchic regime. India, however, did not bug to all these efforts made by Nepal to squarely support its position. Instead, India imposed the Raxaul blockade in September 1962 which coincided with the Bijaya Dashami festival sending the country reeling under an economic chaos.

In this context, the famous speech of the Chinese foreign minister Marshal Chen Yi on October 5 supporting the "Nepalese people", preceded by the Sino-Indian war in October 1962, was indeed a succour to the struggling regime in Nepal. And the war brought an unexpected dividends to Nepal: the Nepali Congress rebels unilaterally called off their "hit and run" fighting tactics inside Nepal from across the Indian borders. The need of a certain diplomatic understanding with Nepal on this issue also became an imperative to India. As the intangibility of the issues in India's security

interests was preordained, it provided the diplomatic assurances not to support the rebels to which India was previously ambivalent. But it refused to extradite the accused back to Nepal.

Apparently the easing of strains led to the Royal visit to India in 1963. The commitment that King Mahendra made then to India has been documented in the January 30, 1965 Arms Supply Accord signed by the then Royal Nepali Ambassador to India, Y.N. Khanal and the then Indian foreign secretary, Y.D. Gundevia. This secret agreement, formally disclosed in 1989, remains one of the irrevocable commitments Nepal had serially made by further constraining its diplomatic capability. Had Nepal been in a position to enhance its negotiating power after India's debacle against China in the 1962 war, King Mahendra would have never thought it necessary to agree to sign the 1965 accord secretly and reinforce the July 1950 treaty which he had endeavoured to clip since his accession to power in 1955. Evidently, King Mahendra's only "vital interest" then was to ensure the continuity of his regime for which he was prepared to sacrifice the national stakes to the extent of the weakening of Nepal's negotiating power vis-a-vis India in the future. Thus, the relative priority for King Mahendra was India's support for his incipient Panchayat regime. Conversely, for India the priority was to avert any possible defection of Nepal from its traditional security fold. Compatibility was struck on the point, and the outcome, in the long-run, turned to India's favour.

China has always been a factor in India's regional strategic equation since the British Imperial period. Nepal's geostrategic situation has traditionally been a strategic and political-economic concern for India. This concern requires a change in tactics but not in policy making vis-a-vis the Himalayan Kingdom in the period following the 1962 war. As India's security interests were more articulated in comparison to its concern for domestic politics in Nepal, a tactical repositioning of its policy was an imperative. These changed tactics appeased the monarchy in Nepal as the "philosopher King", conceded some grounds on the intangible aspects of their mutual interests motivated by the need of relaxing the Nepal-India tensions. In some Nepali policy making circles, India's gesture of support to the monarchy had led to the impression of New Delhi's weakness vis-a-vis Nepal's use of China card. But the promises about trade concessions, access to more facilities in the use of Calcutta port, agreeing to renegotiate the Kosi and Gandak project along with the renewed commitment to resolve the long-standing Nepali grievances on these issues were all measured *salami tactics* used to continuously involve Nepal in the cooperative undertakings to retain its pervasive influence in the country. From the standpoint of engaging relationship, the renegotiations on the Kosi and

Gandak projects are precisely the cases of Nepal's adaptive acquiescence rather than the result of enhanced negotiating power caused by the China factor in their relationships.

The author has conveyed the impression that King Mahendra had successfully derived concessions from India while renegotiating on the Kosi and Gandak projects. By his own account, this was, however, not the case on the Karnali project. Had Nepal been able to expand and enhance its negotiating capability and India was cosyng up because of its weakness in view of the Chinese threat after 1962, New Delhi would surely have given in to the Nepali position in the 1960s and agreed to implement the Karnali project with a consensual agreement. Why had India dragged its feet and still is against the provision of Nepal's rightful control over the project tells a different story. On the Karnali issue, Nepal has always tried to play safe, hence negotiations stalled. Yet dissatisfaction remains on the former two as examples of unfair settlement, even though these projects were renegotiated in the mid-1960s.

On tangible issues relative to Indian interests, New Delhi has nowhere compromised and given up its position to cater to Nepal's friendship. It has rather obstructed Nepal's efforts to built large scale irrigation projects or even simple diversion inside Nepal by invoking the lower-riparian rights. India's objections have completely blocked international assistance for implementing irrigation schemes in Nepal. Even the development of inland navigation along the Kosi, Gandak and Karnali rivers which does not involve consumptive use of water has not been supported by India.

The author has cited Keohane and Nye when describing the weak states as "those whose crucial policies are influenced by other countries but do not themselves exert influence over other countries" (p.7) to make up the psychology of fear pervasive in a country like Nepal. Conversely, he should have also cited Keohane's *After Hegemony: Cooperation and Discord in the World Political Economy* (1984) to illustrate the psychology of a strong state, in this case, India vis-a-vis Nepal, who is determined to retain (1) control over raw materials, (2) control over source of capital, (3) control over market, and (4) competitive advantage in the production of highly valued goods. The author who lives in Nepal must be aware of the application of these criteria by India while concluding treaties on water resources sharing with Nepal recently.

Second, in the course of discussion, the author has implied (p. 40) that Nepal's successful trade diversification policies have resulted into a decrease in its commercial and economic dependency upon India and "relative power balance had changed in Nepal's favour" by 1989 (p. 63). A decline in Nepal's imports from India to only 34 percent is inferred as a decline in

dependency and conversely enhancing Nepal's independence and negotiating power. Sadly, his premise misses the analytical rigour. Percentagewise, trade dependency on India has indeed declined. But dependency both on real value terms and imports of daily necessity, however, has tremendously increased exposing Nepal to further vulnerability. Even a cursory glance at the figures of Nepal's trade deficit with India reveals this reality. In the FY 1980/81, Nepal's trade deficit with India was Rs. 1186.6 million that reached Rs. 3028 million in 1987/88. In 1988/89, trade deficit increased to Rs. 3203.8 million, even though 1989 was the year of India's economic blockade. The point is that statistical figures in percentage does not accord well with the actual ground reality. The deficit figures show Nepal's dependency in real terms has been increasing rather than decreasing. Increased dependency has become a major impediment in *enhancing negotiating power* which was subsequently displayed by the political as well as economic chaos created by the Indian economic blockade leading to a political change in Nepal in April 1990. This reality did not support the author's contention of a changed "relative power balance" to sustain Nepal's position. Sadly, the author has tried to apply the theoretical premises without a sustained research on a diametrically different historical context, thus, distorting the hard evidence with unsustainable data.

The author could have corrected his lapses had he ever thought about updating/revising the study published seven years after the dissertation was completed, in 1989 (p. 35). Also the author made a serious blunder while trying to apply Fisher's model by ignoring his warning that "making threat is not enough" in enhancing negotiating power; improving negotiating power is rather a complex matter than simply a "blackmail". The author, as majority of the top policy makers in Nepal even during the trade and transit impasse with India in 1989, believed that Nepal's incipient threat to turn to China, would considerably strengthen the country's negotiating power. But in reality, it was not so. This crucial gap in this publication remains inexplicable in view of the publicly available material on Nepal-India negotiations and the author's professionalism.

Perhaps the author is convinced about the flawlessness of his work. Otherwise he would have surely cared to look at the manuscript before publication, corrected some glaring mistakes, and saved himself from being liable to diluting the contents of his own work. Obviously, the dissertation he wrote was a "partial fulfilment" for the degree, as is the usual convention in American universities. While earning the degree, what matters is the structure of the text, and the factual mistakes remain in the absence of verification either by the examiner or by the student producing the work. And the MIT, for all its merits and fame, is remotely related to South Asian

Studies, and particularly, the Nepalese studies. Scholars engaged in the Nepalese studies in American universities are a rarity, unfortunately the country hardly figures in the course of studies in the US academic institutions. Hence the writer *or student* must be more informed of the facts and figures he plays with. More so when the author happens to be native to the subject of study. A Nepali author who writes that Nepal to be declared a "Zone of Peace" was announced by King Birendra in 1976 during his state visit to China (p. 51), adds little credibility to the person's knowledge of the political development in Nepal and the subject he treats.

Similarly, he is factually incorrect when he says, (i) communist China asserted its right over Tibet in 1949, (ii) King Tribhuvan fled to India in 1949, and (iii) Rana oligarchy was removed from power in 1949, and (iv) King Mahendra visited China in April 1962 to sign Kathmandu-Lhasa Agreement. Also he pays scant attention to the political events in India. His narration becomes more incongruent when he writes that Indira Gandhi went out of power in 1975 and came back to power in the 1977. On the other hand, he details the negotiations commencing between India and Bangladesh during the Janata Party regime in 1977 (pp. 90-91). Besides this, the book is marred with several factual errors, which I feel, are a product of his gross negligence rather than ignorance.

In fact, political change occurred in Nepal in 1951 with the demise of the Rana regime through democratic movement. King Birendra officially declared Nepal to be made a "Zone of Peace" in the farewell speech during his coronation in February 1975. Mrs. Gandhi imposed Emergency in 1975 and was subsequently deposed from power in 1977 national elections. She returned to power only in 1980 which the author has also mentioned in p. 92. Similarly, the author's ignorance of the actual context of Nepal-India relations is further disclosed by his statement that Nepal has been using the Calcutta port "under a perpetual agreement" (see note 51, p. 75). In reality, India allows Nepal to use Calcutta port only with periodical renewal of the Trade and Transit treaties. If the author did not have a simple sense or even care to look at the available treaty documents his country has negotiated and signed with India but tends to make a definitive statement on the issue, one can only express pity on the intrinsic weakness of his research ability after the results are made public in the shape of a book.

On two other case studies, Bangladesh and India, and Panama and the United States, the author could have certainly derived insights on the issues involved had he ever glanced at the works of Verghese (*Water of Hope*, 1990) and Ben Crow, et. al. (*Sharing the Ganges*, 1995), among others, to analyze the intricacies of water politics in South Asia. As well, he could have easily consulted some issues of the journals, *International*

Organization (a MIT publication) and *International Negotiation* (New York), if not the other publications of some of the distinguished American scholars associated with the Harvard Law School and the Johns Hopkins School of Advanced Studies for a considerable understanding of the Panama issue and the theoretical perspectives on negotiations. To the amusement of this reviewer, the author did not feel it necessary even to scan the memoirs of Carter and Brzezinski who were architects of the Panama canal accords and the senate ratification in 1977. The author's use of Roger Fisher's *Negotiating Power* to analyze his case studies is perhaps a good beginning in understanding the South Asian negotiation processes. But the application of certain theoretical formulations would be of value only if the history of the case is correctly understood and the context as well as the sequence of actual events occurring are not notoriously distorted. Still, *Kudos* to the MIT for conferring the degree and the student for earning it.

References

- Brzezinski, Z., *Power and Principle* (New York: Farrar, Straus and Giroux, 1983).
- Carter, J., *Keeping Faith* (New York: Bantam Books, 1982).
- Crow, B., et. al., *Sharing the Ganges* (New Delhi: Sage Publications, 1995).
- Fisher, R., "Negotiating Power: Getting and Using Influence", in J. William Breslin and Jeffrey Z. Rubin, eds., *Negotiation Theory and Practice* (Cambridge, MA: Program on Negotiation at Harvard Law School, 1991).
- Fisher, R., "The Structure of Negotiation: An Alternative Model," *Negotiation Journal*, 2 (1986).
- Keohane, R.O., "Reciprocity in International Relations," *International Organization*, 1 (1986).
- Verghese, B.G., *Waters of Hope* (New Delhi: Oxford and IBH Publishing Co. 1990).