International Association for Impact Assessment (IAIA)
Annual conference, 18-21 May 2021

Involuntary Resettlement in Nepal: A Portfolio Review

Lars T. Soeftestad, Steve Gorzula, and Rajan K. Shrestha [1/]

Abstract

Involuntary resettlement in Nepal is largely not described and analysed. There are several reasons for this: it is fairly recent, there is an unstable political situation, a lacking focus in the public sector, and next to no sharing of information between key stakeholders, especially between national and international stakeholders. This paper represents a first effort to begin addressing involuntary resettlement in the context of the hydropower energy sector in Nepal.

The paper has three goals: (1) Present an overview of involuntary resettlement, (2) Address the role of the government and public sector, and (3) point to important lacunae that needs to be addressed.

BACKGROUND

Nepal does not have major reserves of coal, gas, or oil. People have traditionally relied on biomass and imported kerosene to meet their energy needs. It is, however, endowed with a large potential for generating electricity, around 43,000 MW. At the present time 1 GW is installed (IHA 2019).

Almost 25 percent of the population live below the poverty line. Key reasons are unemployment, underemployment, and lack of jobs that pay a decent salary. The situation is further imperilled by the COVID-19 crisis. Enough and cheap electricity can contribute to creating employment, and contribute to improving livelihoods and living standards.

According to the World Bank, "Project-related land acquisition or restrictions on land use may cause physical displacement …, economic displacement …, or both. The term 'involuntary resettlement' refers to these impacts. Resettlement is considered involuntary when affected persons or communities do not have the right to refuse land acquisition or restrictions on land use that result in displacement" (World Bank 2017:53).[2/]

The paper does not address resettlement of refugees and migrants, and resettlement in connection with biodiversity conservation, natural catastrophes, and linear infrastructure projects.

NEPAL'S HYDROPOWER SECTOR – OVERVIEW

Hydropower development in Nepal began early in comparison with the neighbouring Himalayan countries. Odd Hoftun, a Norwegian engineer who moved to Nepal in the early 1970s, saw the potential for hydropower development (Svalheim 2015).

In the beginning there were no criteria, regulations, or laws, and no document or process stream. The work was in crucial ways easy at that time. The early projects were run-of-river (RoR) projects. In terms of engineering, they were easy to build. They did not require much land, local people did not lose productive land, and subsistence activities were not destroyed.

Gradually, through learning from what happened elsewhere, the process around planning, constructing, and operating these small plants became more formalized. A major push came at the end of the 1980s (Shrestha 2016).

1/ Lars T. Soeftestad is Founder and Chair, Bulgarian Monitoring and Evaluation Network & CEO, Supras Limited (Bulgaria and Norway); and corresponding author at: lars@supras.biz. Steve Gorzula is Consultant, Supras Limited, USA. Rajan K. Shrestha is Environmental Specialist, Environment and Resource Management Consultants Limited (ERMC), Nepal.

2/ This Framework, including its Environmental and Social Policy for Investment Project Financing, replaces several Operational Policies (OP) and Bank Procedures (BP), including OP/BP 4.12 "Involuntary Resettlement".

Key institutions began taking an interest, and new ones were created. They include the Ministry of Energy (MoE), Department of Electricity Development (DoED), Nepal Electricity Authority (NEA), and Ministry of Forests and Environment (MoFE).[3/] Between them, a number of tasks, responsibilities, and activities were identified.

But before this, starting in the 1970s, a number of Acts, Regulations, and Rules were adopted. Work on defining and formalizing Environmental Assessment (EA) and Environmental Impact Assessment (EIA) got under way. A number of steps were identified, beginning with screening, followed by the Initial Environmental Examination (IEE), and review and approval of the IEE report. Scoping became formalized, together with ToRs and the EIA report (Khadka et al. 2013).[4/]

Public participation became a requirement for EA and EIA. While formally initiated through a top-down process, by organizing events in the project area, the goal was to involve local people in project preparation activities. Relevant local stakeholders were involved in the EA/EIA process, facilitated through use of specific communication/interaction tools.

The environment arm of MoFE, the Nepal Environment Agency (NEA), became responsible for reviewing and approving all EIAs, including preparing, constructing, and operating hydropower projects (Table 1).

Table 1 – Phases of Preparing, Constructing, and Operating Hydropower Projects

No.	Phase	Comments
1	Survey license, Application	Necessary in order to survey, plan, and prepare a project.
2	Survey license, Approval	
3	Power Purchase Agreement (PPA)	Gives the COD date (cf. Phases 10 and 14).
4	Initial Environmental Examination (IEE) or Environmental Impact Assessment (EIA)	The IEE is used for smaller projects. The trigger for an EIA is projects of more than 50 MW capacity; or projects resulting in loss of greater than 5 ha of forest; or projects resulting in displacement of more than 100 people.
5	IEE/EIA, Approval	Approval necessary before construction license is given.
6	Construction license, Application	Required in order to begin construction.
7	Construction license, Approval	The application can be done prior to or parallel with the PPA.
8	Feasibility study	A necessary requirement that electricity will be produced.
9	Detailed Project Report (DPR)	A necessary requirement that electricity will be produced.
10	Financial Closure (FC)	PPA (cf. phase 3) is a necessary requirement for FC.
11	Tenders floated	
12	Contracts awarded	Construction commences.
13	Construction period	The project is under construction.
14	Commercial Operating Date (COD)	Specified in the PPA (cf. phase 3). The project is commissioned and connected to the grid. NEA commences paying the developer(s) that signed the PPA.

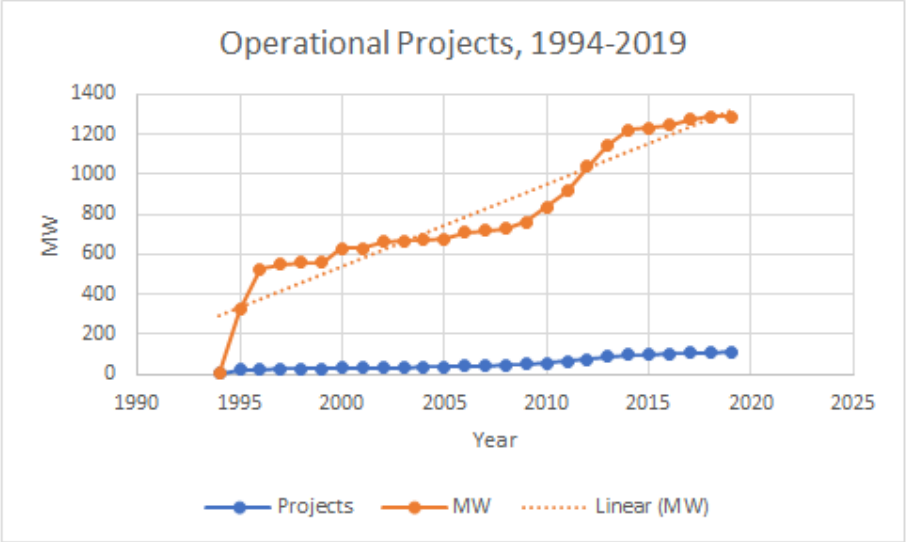
Notes: (i) IEE/EIA should be conducted as early in the process as possible, (ii) Phases 1-12 constitute a project's 'pipeline' phase, (iii) DoED uses the terms "construction license" and "generation" with the same meaning.
Sources: Bhandari and Lama (2016), DOED (2018), Government of Nepal (2006), Khadka et al (2013).

RoR projects are still being built, at the same time with an increase in the size of the projects. Storage dams began to be built, and resettlement issues began to show up. While the number of projects has increased some, there is a substantial increase in capacity (Figure 1).

3/ The Ministry of Science, Technology and Environment (MoSTE) was earlier involved. Following a major reshuffling of ministries in 2018, the MoESTE was amalgamated with the Forestry Ministry to become Ministry of Forests and Environment (MoFE).

4/ The relative emphasis on social versus environmental issues is delicate. As the EIA approach and process was evolving, the term Social and Environmental Impact Assessment (SEIA) was promoted, but did not attain much traction (it is still used, including by International Finance Corporation and Deutsche Gesellschaft für Internationale Zusammenarbeit. The term EIA over time became the preferred term. For the present concern with involuntary resettlement social issues are crucial, and it is assumed that social concerns in EIAs are given equal consideration to environmental concerns.

Figure 1 – Operational Projects and Capacity, 1994-2019 (DoED)



The increase in capacity becomes more pronounced when looking at also pipeline projects. The difference between total MW capacity of operating projects and total MW capacity of pipeline projects is substantial (Table 2).

Table 2 – Projects (Operating, Under Construction, and Pipeline) and Capacity

No.	Phases	No. of Projects	Capacity (MW)
1	Plants (o)	109 (4)	1,261.7 (55.1)
2	Survey license, Application (p)	11 (8)	119.6 (80)
3	Survey license, Approved (p)	260 (39)	15,357.5 (627.3)
4	Constr. license, Application (p)	27 (4)	2.714.4 (20)
5	Constr. license, Approved (uc)	243 (20)	7,440.4 (119.5)
	Totals	650 (75)	26,893.6 (901.9)
	Totals (excl. operating plants)	541 (71)	25,631.9 (846.8)

Source: DoED, at: https://www.doed.gov.np, 13 April 2021.
Notes: (i) Figures without parentheses refer to hydro projects, (ii) Figures in parentheses refer to co-generation, solar, thermal, and wind projects, (iii) Abbreviations: o = operating, p = pipeline, uc = under construction, (iv) DoED's categories 'GON Project Bank', 'GON Ongoing Projects', and 'Other Projects' are not addressed.

INVOLUNTARY RESETTLEMENT IN NEPAL – ANALYSIS

Four aspects of hydropower development in Nepal need to be addressed: (1) The possibilities of displacing people, (2) The nature of involuntary resettlement, (3) The role of EIA, and (4) The availability of data.

Nepal is densely populated and there is little unused productive land. In other words, even if the government would prefer displacement, and people would accept it, few opportunities are available. Perhaps for this reason the government does not enforce displacement strictly. Further reasons are that displacement is complex, difficult to manage, takes substantial time and resources, and may not be successful. Those responsible for constructing power plants are also not in favour.

Finally, local people seem to opt for staying on. There accordingly appear to be a clear determination among all stakeholders of avoiding displacement. In the recent past, with the emphasis on RoR projects, this was possible. In the future it will be much more difficult.

Reference to "involuntary resettlement" in Nepal need to be qualified. Resettlement can include: (1) Acquisition of land and physical structures, (2) Physical displacement, and (3) Economic rehabilitation of displaced persons (World Bank 2017). The term 'involuntary resettlement' accordingly refers to the overall process of land valuation, land acquisition, physical displacement, and economic rehabilitation. The term 'resettlement' in a more limited sense refers to displacement. These two meanings of 'resettlement' needs to be kept apart. In Nepal where there so far has been mostly land acquisition and compensation, and little displacement, the term "resettlement" would seem to be less appropriate. This is, however, bound to change.

EIA is a mandatory tool and guidance in all hydropower projects in Nepal. EIA is comprehensive, and aims to cover all scientific disciplines and concerns that may occur in a project. Technical and environmental variables are oftentimes easy to assess, while social variables – in particular as regards involuntary resettlement – are complicated to assess. A subjective element may enter based on the available data. One indication of this is how involuntary resettlement oftentimes is addressed in several documents: the phrase "resettlement was minimized", without further data. Hydropower projects appear to address the issues of land acquisition and compensation differently. This can be understood as a result of not applying EIA in the same way (Table 3).

Table 3 – Hydropower Projects, Resettlement, and Compensation

No.	Project	Description
1	Dudh Koshi	*Status*: Operating; *Capacity*: 635 MW; *About*: RoR, *IR*: 162 hhs displaced, 988 hhs negatively affected; Majhi communities demand resettlement along the river (not just compensation).
2	Kulekhani	*Status*: Operating; *Capacity*: 60 MW; *About*: Kulekhani I-III and storage dam, *IR*: possibly 3,500 persons were resettled. Most worse off than before. Women preferred to receive land, as cash compensation would go to men who likely would not be able to handle large amounts of cash.
3	Middle Marsyangdi	*Status*: Operating; *Capacity*: 417 MW; *About*: Reservoir; *IR*: 300 hhs lost land, 65 hhs displaced and received compensation, new homes, training programmes and employment.
4	Tanahu	*Status*: Under construction; *Capacity*: 140 MW; *About*: Reservoir; *IR*: 4,257 affected persons; 538 persons to be displaced; All received cash compensation.
5	Nalgad	*Status*: Survey license; *Capacity*: 417 MW; *About*: Reservoir; *IR*: 1,286 hhs will lose all or part of the land; 657 hhs will lose structures, 607 hhs will lose also land. The majority opted for compensation, displacement not an option.
6	Upper Trishuli	*Status*: Survey license; *Capacity*: 214 MW; *About*: RoR; *IR*: 154 hhs affected; 36 residential structures to be acquired.
7	Upper Karnali	*Status*: Survey license; *Capacity*: 900 MW; *About*: RoR; *IR*: Resettlement Action Plan prepared, 426 hhs to be affected, of which 56 hhs will be displaced, 217 physical structures will be affected.
8	Budhi Gandaki	*Status*: Proposed; *Capacity*: 1,200 MW; *About*: Reservoir; on hold because of high costs and uncertainty related to displacement; *IR*: 45,000 people to be displaced; Land acquisition ongoing, compensation planned.
9	West Seti	*Status*: Proposed; *Capacity*: 750 MW; *About*: Reservoir; *IR*: 1579 hhs to be displaced; 11,160 persons downstream may be affected.

Sources: (i) Project documents.
Notes: (i) This is a select list of projects, (ii) information is lacking or not available for several projects, (iii) Abbreviations: IR = involuntary resettlement, hh = household

Further, there is the issue of availability of data. We tried hard to get at data on involuntary resettlement, including compensation and displacement. Staff in DoED, National Planning Commission, and NEA were contacted but did not respond. One informant argued that he "did not know anybody in these organizations". It follows that we managed to gather precious few data. Further, it was not possible to determine if public sector institutions collect such data, and if so, why there is secrecy and lack of transparency.

This lacuna of relevant data has several implications: (1) Nepal cannot rely on outside organizations and donors carrying out due diligence on single projects, (2) It represents problems for planning – overall and at regional/local levels – specifically for land management and provision of public services, (3) It represents a problem for new projects, specifically in preparing baselines, (4) There is a concern that projects, in applying the relevant legal instruments, interpret them differently, and (5) Monitoring and evaluation of projects become difficult when baseline data on compensation and displacement are not available.

CONCLUSIONS

As viewed from outside Nepal's hydropower sector, several issues can be raised. They are connected with the substantial increase in hydropower development in scope and scale. These issues relate to, among others, several macro- and micro-level variables: climate change, environmental and social risk management, hydropower development as based in old views and models, the increasing importance of alternative energy sources, and large projects versus small projects.

These issues are connected in increasingly complex ways, and points to how Nepal's hydropower sector is becoming more and more complex, as regards both environmental and social concerns. This paper will hopefully contribute to an emerging broad discussion of the future of the hydropower sector in Nepal.

Literature

Bhandari, Ratan, and Nabraj Lama. 2016. "Dam Sanctioning Process in Nepal". Mimeo.

DOED. 2018. *Guidelines for Study of Hydropower Projects*. Kathmandu, Nepal: Government of Nepal, Ministry of Energy, Water Resources and Irrigation, Department of Electricity Development.

Government of Nepal. 2006. "A Handbook on Licensing and Environment Assessment Process for Hydropower Development in Nepal". Kathmandu, Nepal.

IHA. 2019. "Country profile Nepal". URL: https://www.hydropower.org/country-profiles/nepal. London, England: International Hydropower Association.

Khadka, Ram B., Steve Gorzula, Ananda R. Joshi, Shailendra Guragain and Ajay B. Mathema. 2013. *Environmental Impact Assessment. Processes, Methods, and Practices of South Asia (Bangladesh, Bhutan, India, and Nepal)*. Pokhara, Nepal: School of Environmental Science and Management.

Molnar, Augusta and Tod A. Ragsdale. 1991. "Land Acquisition and Resettlement: Issues and Procedures in Nepal". Draft Working Paper. Washington DC: World Bank.

Shrestha, Ratna S. 2016. Hydropower Development: Before and After 1992. *Hydro Nepal*, issue no. 18.

Shrestha, Ratna S, et al. 2018. A Power Paradox: Growth of the Hydro Sector in Nepal. *Hydro Nepal*, issue no. 23.

Svalheim, Peter. 2015. *Power for Nepal: Odd Hoftun & the History of Hydropower Development*. Kathmandu, Nepal: Martin Chautari.

World Bank. 2017. *Environmental and Social Framework*. Washington DC, USA: World Bank.