

Public Participation in Impact Assessment- Experiences from Nepal

Milan Dahal

Environment and Social Studies Department, Nepal Electricity Authority

Abstract

Public participation in impact assessment in Nepal is mainly carried out through: 1) Publication of public notices in newspapers, appealing for written comments and suggestions from local people and stakeholders in the project affected area; and 2) Conducting one-day public hearing programs involving representatives of the local people, school teachers, officials of local government agencies, executive members of community based organizations etc. These two processes are mandatory by Nepalese laws and recently, the Environmental Protection Act of 2019 and its rules, which replaces that of 1997, has made it compulsory for all kinds of impact assessments to be conducted, i.e., an Environmental Impact Assessment, an Initial Environmental Examination, and a Brief Environmental Study. In addition, the new Environmental Protection Act and rules have emphasized the participation of more and more people in the public hearing program, making it mandatory to inform people in at least two different places through local FM radio stations. However, achieving meaningful consultation in impact assessment is challenging in the geographically and ethnically diversified Himalayan country of Nepal, which is home to 126 castes and ethnic groups speaking 123 languages and ranges in elevation from the Gangetic plain to the top of world. This paper relates stories of public participation in impact assessment in Nepal, focusing mainly on hydroelectric projects during the period 2001 AD till present during the Covid-19 pandemic. The paper concludes that achieving meaningful public participation should be encouraged with continuous improvement in the IA practices so that sustainable development could be assured.

Introduction

Nepal is located in South Asia between India and China (Tibet). Within its 141,517 square kilometers of land area, Nepal consists of diverse geographic features, from parts of the Indo-Gangetic Plain to the high mountains of the Himalayan range, including Mount Everest. Nepal has five bioclimatic zones (tropical, subtropical, temperate, subalpine and alpine nival), accommodating rich floral and faunal biodiversity. Moreover, Nepal's population of 26.49 million people is multi-ethnic, multi-cultural and multi-lingual country, with 126 castes and ethnic groups speaking 123 languages (CBS, 2012).

Nepal is a developing country with a poor economy having annual GDP of US\$ 33.66 billion and per capita income US\$ 1190 in 2020 AD¹. However, Nepal is also one of the fastest growing economies. Several development projects, including roads, railways, and hydroelectricity, irrigation, and drinking water projects, have recently been completed, are under construction or are in the planning phase. Therefore, environmental and social impact assessment is crucial for sustainable development of the country.

Nepal is the world's second richest country in terms of inland water resources availability with as many as 6000 rivers and tributaries.² Hydropower Development Policy (2001) states that Nepal's potential

¹ Cf.

<https://data.worldbank.org/country/NP>

² Cf.

https://www.ifc.org/wps/wcm/connect/news_ext_content/ifc_external_corporate_site/news+and+events/news/nepal+hydropower, last accessed on dd/mm/yyyy.

for hydroelectricity generation has been estimated to be 83,000 megawatts. Among the development projects in Nepal, hydroelectric projects are a main priority for the Government of Nepal for economic growth and prosperity of the country.

Nepal has the potential to significantly contribute to providing environmental services to the South Asian region by delivering clean, renewable energy while mitigating climate change (Gunatilake et al, 2020). This paper focus on public participation in the Impact Assessment (IA) of hydroelectric projects in Nepal, considered over the two-decade period between 2001 AD till present during the Covid-19 pandemic.

Impact Assessment Practices in Nepal

In Nepal, the concept of IA was introduced in major infrastructures projects in the 1980s. Initially, it included a chapter on environmental impact assessment in feasibility study reports of development projects. The Government of Nepal put forward the Environmental Assessment Guideline in 1993 and then, for the first time, the Environmental Impact Assessment (EIA) study of Kaligandaki A Hydroelectric Project was carried out by the Nepal Electricity Authority.

The Government of Nepal (GoN) enforced the Environmental Protection Act (EPA) of 1996 and the Environmental Protection Rules (EPR) of 1997 that established the IA system for developmental projects. The Nepalese laws categorized the impact assessment into Initial Environmental Examination (IEE) and Environmental Impact Assessment (EIA). Depending upon the nature and size of the project, IEE or EIA became legally mandatory for development projects. For example, an IEE became mandatory for a hydroelectric project having an installed capacity between 1 megawatt to 50 megawatts and an EIA became mandatory for a hydroelectric project of over 50 megawatts of installed capacity. The report approval authority is the Ministry of Energy, Water Resources and Irrigation in case of an IEE and so on, the Ministry of Environment for EIA.

In Nepal, 100 EIAs of 12 different sectors of developmental projects have been approved between the enforcement of EPR in 1997 and 2010. Among them, the highest number (25) has been conducted in the hydropower sector (Bhatt and Khanal, 2010). In order to revamp and align the national environmental and social safeguards with good international industry practices, the GoN prepared the Hydropower Environmental Assessment Manual 2018 in line with the EIA Guideline and EPR.

In countries like Nepal where socio-economic development is often considered paramount, debates sometimes arose that the IA system hinders the development process. Some project proponents were reluctant to fulfill legal requirements of IEE/EIA.³

After two decades of impact assessment practices in Nepal, the GoN realized that it was time to revise the environment protection laws and promulgated the Environmental Protection Act of 2019 (EPA 2019) and the Environmental Protection Rules of 2020 (EPR, 2020). The current environmental laws have expanded impact assessment into three categories, i.e., the Brief Environmental Study (BES), the Initial Environmental Examination (IEE) and the Environmental Impact Assessment (EIA). Moreover, a Strategic Environmental Analysis (SEA) for the proposed sectoral policy, plan or program has been endorsed in the new act and rules. IA report structures and assessment procedures including public participation have been also elaborated.

Public Participation in Impact Assessment

³ Cf. <https://www.spotlightnepal.com/2019/03/04/two-decades-eia-practice-nepal/>, las accessed on dd/mm/yyyy.

The national purposes of Public Participation (PP) when developing EIAs were formulated in 2001 and are: (i) bridging conflicts and avoid hostilities; (ii) win public support through transparent negotiations, which speed up the development process by avoiding delays and problems; (iii) create local feelings of ownership; and (iv) improve identification of mitigation measures (DoED, 2001). This applies to all sectors, however, public participation is more important in hydroelectric projects because of public rigorous concerns.

In the Nepalese EIA system, PP in impact assessment is mainly incorporated in three stepwise ways during the course of IA report preparation: 1) a public consultation meeting with stakeholders and local project affected people; 2) a public notice publication calling for comments and opinions from stakeholders and local project affected communities on the proposed project features; and 3) a public hearing program at the project sites.

Basically, in each of these steps, two things are carried out, namely, 1) project information dissemination from the project proponent to stakeholders and project affected communities; and 2) the collection of comments and opinions on the project features and possible alternatives.

As per the EPA 1996 and the EPR 2020, a public hearing program was mandatory only for EIA and not for IEE. Enforcement of the EPA 2019 and the EPR 2020 has made it compulsory to conduct a public hearing program in at least two different places within the project area for all of kinds of impact assessment (BES, IEE and EIA).

1) Public Consultation Meeting

In the first phase, during the preparation of the Terms of References (ToR) in case of an IEE study or a scoping document and ToR in case of an EIA study, a number of consultation meetings representing the project affected communities and stakeholders are conducted at project sites in order to identify issues to be considered in the impact assessment. Generally, the preferred group size of the meeting is 7 to 12 people. Separate meetings are conducted focusing on women, vulnerable people and indigenous people. Vulnerable people are, for example, those who are Dalit (the socially downtrodden by the Hindu caste system), landless farmers etc. Some separate meetings are also conducted to particular stakeholders, for example, forest users, irrigation canal users etc.

In the second phase of an IEE or EIA study, similar kinds of meetings are conducted that extensively cover more and more of the project areas, geographically as well as more social strata of the project affected communities. In these meetings, study team attempts to figure out the likely impacts of the proposed project, possible alternatives to avoid negative impacts and mitigation measures to minimize the impacts.

In meetings of both phases, minutes of meetings are documented by the study team and attached to the appendices of the IEE or EIA report as records for the future. Photographs and audio-visual recordings of the meetings are also captured.

2) Public Notice Publication

During the preparation of the scoping document and ToR for EIA study, a public notice is published in a local newspaper to inform the local people and stakeholders about the proposed project and solicit their comments and opinions on issues of the impact assessment within 7 days. In case of the ToR for an IEE study, such a public notice is not mandatory and is hence generally not published. During the preparation of an IEE or EIA report, a similar kind of public notice with a 7 day term is published in a local newspaper. People can send their

comments and opinions in written or by email to the project proponents or the study team. Moreover, the IEE or EIA report must include recommendation letters with the comments and opinions from each of the project affected municipalities.

3) Public Hearing Program

Before the enforcement of the EPA 2019 and the EPR 2020, a public hearing program was mandatory only for an EIA study and it was generally organized as a full day long, open air program with hundreds of participants from local communities depending on the size of the project affected areas and population. The public hearing program used to be more formal, with a one-way interaction from the speakers to the audience, often influenced by politicians diverting the attention from the real issues of impact assessment of the proposed project.

As per the EPA 2019 and the EPR 2020, a public hearing program must be conducted at least two times at the project areas. However, in meantime, the Covid-19 pandemic restricted gatherings of people in order to conduct public mass hearing programs. During the easing of the pandemic restriction, local administrations allowed to conduct public hearing programs not exceeding 25 participants in each program. Hence, we conducted public hearing programs for the impact assessment of some hydroelectric projects and transmission lines.

In this context, the trend of the public hearing program has changed in Nepal. Now, public hearing programs are conducted in series, usually one program in each project affected municipality with the participation of 20 to 30 people. Though this trend increased the time and cost of the impact assessment, a series of public hearing programs in smaller groups is more effective and meaningful.

Problems and Challenges

The PP practice in EIA in Nepal in relation to hydroelectric projects is executed top-down compared to other international experiences. The minimum legislative requirements for PP, which ensure that citizens are heard and consulted, are not met because the enforcement of these requirements fails. Regulatory changes have to be made for improving the PP process in EIA (Munch-Petersen, 2017).

In fact, regarding PP in the IA of hydroelectric projects and transmission lines in Nepal, there are problems to achieve meaningful participation covering or representing more and more project affected communities. There are several reasons for this. First of all, the difficult mountain terrain. Secondly, the scattered human settlements in rural areas. In addition, there are two unfavorable seasons, the monsoon rains in June-July-August and the cold winters in December-January-February.

Another complicating factor is the level of illiteracy and the poor socio-economic conditions of the people in rural areas. Moreover, PP has to deal with a wide variety of ethnic groups, speaking a wide variety of languages while Nepali is official language of the PP meetings. In some areas, there is a still existent feudal system, coupled with a male-dominated society in which women have less voice, and a prevalent Hindu belief system that creates specific vulnerable, marginalized groups such as the Dalit. Finally, local, regional and national political influences can create barriers for effective PP. Amid all these problems, achieving meaningful public participation is challenging in impact assessment in a country like Nepal.

Discussion

During the four-decade journey of IA in Nepal, the EIA system has gradually evolved and is now well established. As an integral and vital part of IA, PP is being elaborated and advanced to achieve meaningful participation. On the other hand, in the Nepalese EIA system, it normally takes 1 to 3 years

to complete an EIA of a hydroelectric project. EIA is sometimes criticized for hindering the development of the country. More PP in impact assessment is considered a burden in terms of cost and time for the project proponent.

The internet provides the space to connect the decision-makers and the stakeholders, and its potential should be explored (Fung and Fischer, 2021). The increasing accessibility to internet and the use of social media in developing countries like Nepal can be introduced into the EIA system of Nepal, and this would help to achieve meaningful PP in IA.

Conclusions

In the past two decades between 2001 AD and the Covid-19 pandemic, Nepal has leaped forward in hydropower development. At the same time, impact assessments (IEE/EIA) of hundreds of hydroelectric projects and transmission lines were carried so far in Nepal. PP always remained challenging in Nepal because of various problems and limitations. However, it is now slowly being elaborated and advanced. In the coming years, the internet and social media as well as the changes in the Nepalese society itself and better road networks will make PP easier and more effective. The IA practice should encourage achieving meaningful public consultation with continuous improvement so that sustainable development could be assured.

References

Bhatt, Ramesh & Khanal, Sanjay. (2010). Environmental impact assessment system and process: A study on policy and legal instruments in Nepal. *Journal of Environment Science and Technology*. 4. DOI: 10.4314/ajest.v4i9.71316.

CBS, 2012. National Population and Housing Census 2011 (National Report) Vol I. Kathmandu: Central Bureau of Statistics.

DoED, 2001. Manual for public involvement in the environmental impact assessment (EIA) process of hydropower projects. Kathmandu: Department of Electricity Development (DoED).

Fung, Hung Shiu & Fischer, Thomas B (2021). Public Participation in Digital Public Sphere: Lesson from Hong Kong. Available from:

https://conferences.iaia.org/2021/draft-papers/874_Hung_Public%20Participation%20in%20Digital.pdf

Gunatilake, Herath, Priyantha Wijayatunga, and David Ronald-Holst (June 2020) No. 70- *Hydropower Development and Economic Growth in Nepal*. ADB South Asia Working Paper Series. Available from: <https://www.adb.org/sites/default/files/publication/612641/hydropower-development-economic-growth-nepal.pdf>

Munch-Petersen, J. 2017. Public participation in environmental impact assessment of hydropower plants in Nepal: a context-specific approach. Colombo, Sri Lanka: International Water Management Institute (IWMI). 32p. (IWMI Working Paper 175). doi: 10.5337/2017.215.