



Final Report

MAINSTREAMING NATIONAL WATER MISSION BY PROMOTING COMMUNITY ACTION FOR VILLAGE WATER SECURITY IN THE SHARED GANDAK BASIN

**Submitted to:
India Water Partnership (IWP)**

**Submitted by:
Indian Environment Law Organization (IELO),
New Delhi**

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Acknowledgement

We express our sincere thanks to the Global Water Partnership (GWP) and India Water Partnership (GWP-India) for their support to undertake the project titled "Mainstreaming National Water Mission by Promoting Community Action for Village Water Security in the Shared Gandak Basin". We thank Dr Veena Khanduri, Executive Secretary-cum-Country Coordinator - IWP, for her constant guidance, comments and suggestions throughout the project. Our special acknowledgement to Mrs Sudha Kumari, Mr Mangla Rai, and Mr Rahul Naithani of India Water Partnership for their constant support. This project was undertaken under the Global Water Partnership's Strategic Goal 1 - "We Mobilize" of the Core Program-2020.

We gratefully acknowledge the support of our partner NGO; Samagra Sikshan Evam Vikas Sansthan (SSEVS), Bettiah, Bihar for helping us in sensitizing and educating the target community for peaceful negotiation on sharing Pandai river water, conducting Focus Group Discussions (FGDs), organizing orientation workshop, participating in Pandai Vimarsh with affected community members and all other supports throughout the project period. We are grateful to Shri Girraj Goyal, Director (IEC), Ministry of Jal Shakti, Government of India who spared his valuable time to be the special guest in the Pandai Vimarsh and interacting with the participants, listening to their plights and offering some informal suggestions for redressal of their problems.

We also place on record the generous contribution of Samgra Sansthan, Tata Institute of Social Sciences and Megh Payne Abhiyan for successful completion of this project.

Finally, we are thankful to the affected communities of West Champaran district of Bihar for flagging the various water issues they are facing in sharing the Pandai River water for drinking, irrigation and other purposes and seeking amicable solutions.



FINAL REPORT

Project Title: Mainstreaming National Water Mission by Promoting Community Action for Village Water Security in the Shared Gandak Basin

**OVERALL DURATION (MONTHS): 12 MONTHS
START DATE (01.01.2020)
END DATE (30.12.2020)**

REPORT SUBMITTED TO:

INDIA WATER PARTNERSHIP (IWP)

BY

INDIAN ENVIRONMENT LAW ORGANIZATION (IELO)

DECEMBER, 2020

EXECUTIVE SUMMARY

The Project 'Mainstreaming National Water Mission by Promoting Community Action for Village Water Security in the Shared Gandak Basin' aimed at building the capacity of villages located along a trans-boundary River Pandai shared by India and Nepal. While the context and issues arising from the contest over Pandai water are trans-boundary in nature, the main objective of the Project was to find alternatives for the worst affected downstream villages in the West Champaran District in the state of Bihar in India. The Project activities have been divided into four main stages – i) Orientation and capacity building; ii) Development and sharing of IEC material for the local NGOs and community members; iii) Targeted engagements with village elders and community leaders through FDGs; and, iv) Village consultation involving diverse stakeholders. These activities took place in the context of Covid-19 Pandemic and had their limitations.

The partnerships and capacity of the local and community leaders were built through a series of orientation sessions conducted by the lead local partner NGO; Samagra Sikshan Evam Vikas Sansthan (SSEVS), Bettiah, Bihar which itself was oriented on the international water law, the cooperative principles and the rights based legal aspects of free flowing trans-boundary rivers. After a few sessions, an informed and issue based narratives were beginning to emerge. This helped in better comprehension of the ground realities concerning water. This was an improvement over the previous exchanges before the orientation where all the socio-economic problems were highlighted.

Based on the orientation which emphasised cooperation and peaceful resolution of disputes, the local NGO was assisted in developing the Information Education and Communication (IEC) material which aided in bringing a focus to the village dialogues. The IEC material was developed and shared at the village level.

Focused Group Discussions (FGDs) were carried out with village elders, women and youth which captured various dimensions of water crisis and outlook of stakeholders to the problems faced by them and their willingness to engage in finding solutions to the crisis.

The orientation workshop, IEC material developed and translated in vernaculars (**Annex-1**), FDGs prepared the communities to have an informed dialogue around issues and the strategies needed to find solutions to mitigate water crisis, as a future course of action. Accordingly, a Village Water Security Dialogue- Pandai Vimarsh (**Annex-2**) was organized (online) on 5th November, 2020 which was attended by representatives from eight boundary villages located along the India-Nepal border in the Pandai River Basin. Shri Girraj Goyal, Director (IEC), Ministry of Jal Shakti, Government of India was the special guest on this occasion who interacted with the participants, listened their plights and offered some informal suggestions for redressal of their problems. A Policy Brief (**Annex-3**) has been prepared based on the discussions with the community members during FGD and Pandai Vimarsh.

I. Objectives of the Project

The Project aimed to serve the following objectives:

- Understand the current state of water conflict scenario between communities in Nepal and India;
- Enable knowledge and capacity building on trans-boundary cooperation between India and Nepal;
- Enable the creation of a joint platform for deliberations and community leaders coming together to discuss the issues;
- Build the capacity of the local NGOs to serve as catalyst for effecting mediation and arbitration;
- Gram Shivirs: The larger knowledge based Dialogue among various leaders of the communities, women and youth to find a long term solution to the conflict over the Pandai River; and,
- To document the process, experience, community perspectives in the form of a Case Study/Policy Brief for wider dissemination purposes so that similar initiatives may be taken elsewhere.

II. Expected Outcomes

- Enhanced capacity of the local partner NGO on understanding and appreciating the complex issues involved in a trans-boundary water cooperation initiative;
- Creation of a joint platform to discuss and deliberate issues that will include women and youth from the villages;
- Introduction to deliberative and joint mechanisms and approaches such as the role of mediation to resolve issues in the remote villages of the two cooperating neighboring countries;
- The platform to serve as an avenue for women and young girls to voice their concerns and share their issues that directly or indirectly are related with the water conflicts and water scarcity; and,
- Potential change in the prevailing narrative of absolute rights over the flowing stream and building of an alternative narrative to enable the understanding that it belongs to all those who depend on it.

III. Results

3.1 Narrative

The conflict over sharing the Pandai River between upstream villages of Nepal and downstream villages in India has existed for more than a decade. The crisis is exacerbated by the development of infrastructure in the upstream Nepal resulting into complete filling of one of the three natural streams of the Pandai River that used to bring water to the eleven Indian villages. Due to these developments, the status quo between the Indian and Nepalese villages to allow the two streams carry water for Indian villages has lost its relevance. Either new ways of sharing water have to be explored or local alternatives for village water security have to be mobilized.

The Project intervened at both levels. The downstream communities were capacitated to engage peacefully with the upstream villages to continue dialogues around allowing the flow during summers and at the same time, the communities were also encouraged to think on finding local solutions such as flood water storage, rainwater harvesting, groundwater recharge, village water budgeting and so forth.

Cooperation and community involvement were the two pillars of this Project. Throughout the project it was emphasized that in an international river basin, cooperation is the fundamental principle and water cannot be secured without involvement of all the members of the community (both upstream and downstream) to find and sustain solutions.

To achieve this, first the agents of change were identified and their partnership was sought. Thus the lead NGO came in the process and based on identification of the strengths of the lead NGO its capacity on international water law was built through continuous exchange, literature sharing, narration of good practices elsewhere in the world and highlighting the importance of the program in the overall global and national context of water security, cooperation and climate change. Usually NGOs work in a local issue space and have no opportunity to relate their interventions with the national and global agenda. This limitation was overcome by the program.

Ordinarily, the knowledge and information on trans-boundary issues is not available in vernacular or local languages. This limitation was overcome by developing the dedicated material for the project and local NGO was encouraged to play a role thus providing them opportunity to comprehend the problems of specific nature and scale with the larger framework of international water conflict and cooperation and the bilateral position between India and Nepal. The IEC material was thus jointly developed and shared during the project implementation.

The village communities were pre-informed and engaged by way of IEC material distributed in advance. This helped in the FGDs conducted in the project villages. It brought the concerned individuals and leaders together as villagers saw a potential opportunity to initiate the discussions with an active support system in the form of an NGO that already enjoys goodwill in the villages due to its works in the area.

With orientation, mobilization, capacity development and FGDs, an informed Pandai Vimarsh was organized that brought the communities in direct contact with the national NGOs, technical experts, Government of India and others to mobilize water solutions for the affected villages in the Pandai River Basin.

3.2 The Orientation Workshop



An Orientation Workshop was organized by Samagra Sikshan Evam Vikas Sansthan (SSEVS), Bettiah, Bihar (local IELO partner NGO) on 29th June, 2020 in order to build capacity of the villagers on various water issues. The dialogue focused on water cooperation among the both end users of Pandai River (upper stream of Nepal & downstream of India). In this dialogue, Mr. Swapan Joshi, a known environmentalist was also invited to deliver a talk. This

resulted into the capacity orientation and sensitization of stakeholders present in the workshop.



Orientation workshop on 29th June, 2020 which served an Inception for Gram Shivar in the changed circumstances

Based on the interactions during the workshop, the following suggestions were offered by the participants:

- A base-line survey to be conducted in 300 households in the 5 identified/affected villages on the basis of social, geographical, gender and other thematic areas and secondly, FGDs) is required with men and women separately to know and map the water challenges (water use, water availability, etc.).
- The survey results and analysis will be synthesized in the form of a Report that will be shared with line department officials, technical experts, local representatives, people displaced from meandering/shifting of Pandai River and those impacted by acute water shortages in the villages will participate in the village meetings.
- Before the report is widely shared, the analysis of the survey will also be shared with the stakeholders and it will be ensured that village elders take the lead in finding solutions.
- Community leaders identified in this process can also be trained by SSEVS to build capacity around water sharing and peaceful negotiations with the main focus on gender dimensions. From every village at least 3-4 people will be trained.



Press Briefing on the India- Nepal water issues -dated 29th June, 2020

3.3 Focus Group Discussion (FGD) conducted in the Project villages; Bhikna Thodi, Ekwa and Khairitya, West Champaran District, Bihar

In the months of July-August, 2020 the field visits were made by the IELO local NGO; SSEVS, Bettiah, Bihar and their representatives after the easing of the lockdown. On the visits, the villagers informed about the many changes at the ground level in a span of a year and recent developments of piped water (Jal-Nal) Scheme of the Government of Bihar. Following the field observations, the FGDs were held with Mukhiyas (village heads) and other elderly village representatives on 31st August, 2020 and identified actors that were approached earlier for engagement on the trans-boundary dialogues and those who were knowledgeable about the water issues around conflicts and scarcity. The following issues emerged during the FGD.



FGD held on 31.08.2020 at Ekwa Village that gets its water for drinking and irrigation from the Pandai River



FGD held on 31.08.2020 at Khairatiya Village at the house of Mukhiya (Village Head)

3.3.1 Local Water Security

- As the water is pumped through the bore well, the overhead tank is operational only for four hours a day (11 am to 3 pm) in summer season. During rainy season or winters the water supply from the Jal-Nal system is a challenge; and, only 30% taps under the scheme are operational.
- In the villages where the Jal-Nal has not been made functional, children and women have to go to other villages to get water. The streams from Nepal were completely blocked until August, 2020.
- The quantity and quality of water is unknown: The community members pointed out that it is not clear how much water each household gets. It is only as per accessibility to the tap and the relationship with the neighbour. No caste or social conflicts around taps were reported.

- Where is the water for irrigation?: The Mukhiyas raised the concern that we might be able to manage with little drinking water from the Jal-Nal even it is operational for meeting the needs of half of the village. But the water for irrigation needs is sourced from the two Pandai streams that were allowed to flow. One stream is permanently blocked with a 20 feet stone slab put in upstream Nepal and the other was temporarily blocked which was opened by nearly 200 men from the Ekwa village (Bihar) that gathered to remove the blockage.
- There were many other issues that emerged in the FGDs and the communities requested aid and assistance on each of these issues that include the uncertain nature of their dwelling since the Thodi village falls within the Valmilki Tiger Reserve and the National Park. Only Tharu communities have been considered lawful dwellers but other settlers also have their land records dating back to four generations.
- After the floods of 2017, a portion of the population lives inside forest boundary and there are pressures to vacate the land.
- Water for irrigation from Pandai River is the major concern now since drinking water needs are partly met with the Jal-Nal or are expected to be met.

3.3.2 Future Scenario

- The communities feel that the Jal-Nal will not be successful as the only bore well run for five hours a day will dry up since it's a rocky area and there are no recharging arrangements made.
- Jal Nal is also successful only on sunny days. So for rest of monsoon or winter which lasts longer in the region the drinking water will be an issue.
- With the recent developments at the border, it seems unlikely that any opportunity for dialogues on letting the Pandai streams flow will happen. That being the case there is a growing concern on water for irrigation and food security. Only if one stream allowed to flow, not all the dependent villages will get water for irrigation.

3.4 **Pandai Vimarsh (Discussion): A Community Dialogue on Village Water Security and Livelihoods on 5th November, 2020**



As part of the project, a webinar “**Pandai Vimarsh: Community Dialogue on Village Water Security and Livelihoods**” was organized on **5th November, 2020** by IWP and IELO with the aim to inform the people about

community of practice on the international nature of water challenges and the limitations of the vulnerable communities to deal with them with the requisite support in the absence of formal cooperation frameworks on smaller rivers.

Shri Girraj Goyal, Director (IEC), Ministry of Jal Shakti, Government of India was the special guest on the occasion and given opening remarks. He also interacted with the participants, listened their plights and offered some informal suggestions for redressal of their problems. The key speakers were; Ms. Shilpa Chohan, Advocate, Supreme Court of India & Founder Member, IELO; Dr. Jacquleen Jacob, Tata Institute of Social Sciences, Mumbai, Dr. Veena Khanduri, Executive Secretary-cum-Country Coordinator, IWP, Mr. Siddharth Kumar, Samagra Sikshan Evam Vikas Sansthan (SSEVS), Bettiah, Bihar (local IELO partner NGO), Mr. Eklavya Prasad, Founder – Megh Pyne Abhiyan and local community members. More details are captured in **Annex-2** along with concept note-cum-agenda and media coverage.

3.5 Outcomes

- The main beneficiaries of the project are nearly ten thousand people from the eleven Indian villages in the downstream of the Pandai River Basin;
- Enhanced capacity of the local partner NGO on understanding and appreciating the complex issues involved in a trans-boundary water cooperation initiative;
- Creation of a joint platform to discuss and deliberate issues that will include women and youth from the villages;
- Introduction to deliberative and joint mechanisms and approaches such as the role of mediation to resolve issues in the remote villages of the two cooperating neighbours;
- The platform to serve as an avenue for women and young girls to voice their concerns and share their issues that are directly or indirectly related with the water conflicts and water scarcity;
- Potential change in the prevailing narrative of absolute rights over the flowing stream and building of an alternative narrative to enable the understanding that it belongs to all those who depend on it; and,
- The Project brought the communities in direct contact with the national NGOs, technical experts, Government of India and others to mobilize water solutions for the affected villages in the Pandai Basin.

3.6 Outputs:

3.6.1 The key outputs achieved in the reporting period are:

- IEC material developed and translated in vernaculars (**Annex-1**).
- Webinar Report on Pandai Vimarsh (Community Dialogue) along with concept note-cum- agenda and media coverage (**Annex-2**).
- Policy Brief (**Annex-3**).

3.6.2 Percentage of completion of the outputs and type and number of beneficiaries.

100% activities completed. The beneficiaries are around ten thousand poor community members lacking basic amenities like water, food, shelter, road, electricity, health care, etc. for their survival and livelihoods.

3.6.3 Catalytic effects- Any additional funding, commitments

Ministry of Jal Shakti, Government of India was apprised of the scenario and their informed involvement is likely to mobilize solutions for the downstream villages facing water crisis due to absolute claims on the river and water by villages in Nepal.

3.6.4 Key Partners of the project supporting your interventions.

Samagra Sikshan Evam Vikas Sansthan, Bettiah, Bihar and Tata Institute of Social Sciences, Mumbai.

IV. Explain, if any delays in implementation, challenges, and lessons learned & best practices

4.1 Challenges:

- There were difficulties in reaching out to the local NGO due to the Covid-19 Pandemic and offices being closed.
- Field visits were arranged but villagers were apprehensive of meeting the people from outside the village.
- Government Orders prohibiting gathering of people were a great challenge to conduct meetings even in the closed doors as villages were under community surveillance in Bihar.

4.2 Lessons learnt:

- Field based programs need a project life of more than a year and generous financial support.
- Logistical issues can overpower content and qualitative interventions in the wake of limited funds.

4.3 Best Practices

Despite challenges and constraints, the local NGO was able to mobilize the communities to participate in the discussions and Pandai Vimarsh by adhering to the Covid-19 protocol.

V. Success Story (case study)

5.1 Significant changes in the behaviors and attitudes of the community people.

- The retaliatory approach to blocking/bunding the river during floods so as to send a message for upstream action in the summers has been mitigated and replaced with cooperative approach.
- Total dependence on the river from Nepal has been done away with the thought process to find local alternatives and mobilize water conservation using various methods and traditional knowledge.
- Mobilizing local funds for the purpose is also conceived and deliberated.

5.2 Annexes enclosed.

VI. Monitoring Arrangements

6.1 Details of monitoring system (s) being used:

- Internal Monitoring comprised of regular follow ups through calls and regular reporting on progress on a monthly basis.
- The Quarterly Progress Reports were sent by the local NGO and these were fed into the reporting to IWP.

6.2 Report on any assessments, evaluations or studies undertaken.

The Policy Brief is based on the village surveys, field observations Pandai Vimarsh.

VII) Resources (Optional)

7.1 Provide any information on financial management, procurement and human resources.

Additional human resources were mobilized for the Project wherein IWP, Samgra Sansthan and Tata Institute of Social Sciences have played the pivotal role.

7.2 Indicate if the Project mobilized any additional resources or interventions from other partners.

The Project was able to mobilize knowledge partnership with leading institutions such as the Megh Payne Abhiyan and the Tata Institute of Social Sciences, Mumbai.

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हिमालयी अनिश्चितता : प्यासा गाँव

भारत-नेपाल के बीच पंडई नदी के न्यायसंगत जल - बँटवारे की चुनौतियाँ

सारांश

भारत और नेपाल की सीमा दुनिया में सबसे अनोखी है, पर उनके बीच सहभागी छोटी नदियों के जल



बँटवारे का मसला किसी औपचारिक संरचना या दोनों देशों के बीच किसी समझौते के अभाव में अनसुलझा पड़ा हुआ है। गर्मी के महीनों में नदियाँ पतली धाराओं में बदल जाती हैं जिससे वे भारत और नेपाल के गाँवों के बीच विवाद-ग्रस्त संसाधन बन जाती हैं। बरसात के दिनों में विवाद इसका नहीं होता कि जल किसके नियंत्रण में है, बल्कि बाढ़ से बचाव के उपाय के तौर पर ग्रामीणों द्वारा

बनाई गयी अस्थायी संरचनाओं को लेकर होता है। एक तीसरा तत्व भी है जो नदी पर प्रत्यक्ष तौर पर निर्भर तटवासी समुदाय की स्थिति को बिगाड़ देती है - वह हिमालयी नदियों की बड़ी मात्रा में गाद जमा कर देने और प्रवाह मार्ग बदलने ही प्रवृत्ति है। सीमा के साथ प्रवाहित होने वाली नदियों के मामले में ऐसे परिवर्तनों का परिणाम सीमा बदलने के रूप में होता है। इससे स्थानीय समुदायों के सामने जटिल परिस्थिति उत्पन्न हो जाती है जो गाद जाम होने या प्रवाह मार्ग बदलने से न केवल अपनी उपजाऊ भूमि गवांते हैं बल्कि नदी की सीमा के बदलने से नागरिकता तक गवा देने की स्थिति का सामना भी करते हैं।

भारत - नेपाल की सीमा से बनकर प्रवाहित होने वाली पंडई नदी इसका एक उदाहरण है जिसकी घाटी में संप्रभुता, स्वामित्व और नदी पर नियंत्रण को लेकर स्थानीय समुदायों में लम्बे समय से विवाद जारी है तथा भारत और नेपाल में जल, ज़मीन और राष्ट्रीय अखंडता की देख-रेख के जिम्मेवार संस्थानों के सामने विभिन्न प्रकार की चुनौतियाँ हैं। यह रिपोर्ट जल से संबंधित मुद्दों और चुनौतियों को रेखांकित करती है, विशेष रूप से न्यायसंगत बँटवारा जिसके लिए मानदंड अस्पष्ट और कई बार परस्पर विपरीत होते हैं। भारत और नेपाल के बीच छोटी नदियों के जल बँटवारे का कोई तंत्र न होने की वजह से पंडई नदी का तटवासी समुदाय विभिन्न समस्याओं का सामना करता है। यहाँ यह तर्क प्रस्तुत किया जा रहा है कि इस तरह की अनेक अस्थिर जलधाराओं के जल-बँटवारे को लेकर दोनों देशों के बीच सहमति को प्रकट करती कोई व्यवस्था होनी चाहिए जो दोनों देशों के विशेष सम्बन्ध को मज़बूत करने और हाइड्रो-पोलिटिकल स्थिरता कायम करने की एक अनिवार्यता है।

1. पंडई पर विवाद की भूमिका :-

नेपाल से लगभग ६ हजार छोटी नदियाँ और जल-धाराएं प्रवाहित होकर आती हैं और विशाल गंगा नदी-प्रणाली का हिस्सा बन जाती हैं जिसके हिस्सेदार नेपाल के साथ चीन, भारत एवं बांग्लादेश भी हैं। इन छोटी-छोटी नदियों में से अधिकतर नदियाँ पहाड़ी शिखर, तलहटी और भारत-नेपाल सीमा पर स्थित तराई क्षेत्र से होकर प्रवाहित होती हैं और इस प्रकार ऊपरी प्रवाह क्षेत्र एवं निचले प्रवाह क्षेत्र के तटवासी समुदायों के बीच अंतरराष्ट्रीय जल अधिकार का मामला बनता है। पंडई सीमाओं के आर पार प्रवाहित होने वाली ऐसी ही एक महत्वपूर्ण नदी है जो नेपाल के सोमेश्वर पहाड़ से उत्पन्न होती है और बिहार के पश्चिम चंपारण¹ जिले में चनपटिया प्रखंड में तुलाराम घाट के पास बूढ़ी गंडक या सिकरहना से मिल जाती है जो पूर्वी चंपारण, मुजफ्फरपुर, समस्तीपुर, बेगुसराई और खगड़िया जिलों से प्रवाहित होकर गंगा में समाहित होती है।

2. पंडई नदी: सहभागी पारिस्थितिकी जिसपर जीवन और आजीविका निर्भर है :-

पंडई नदी के ऊपरी बहाव क्षेत्र में नेपाल के कई गाँवों - जिसमें बुद्धनगर और रामनगर शामिल हैं, के निवासी अपनी दैनिक ज़रूरतों और कृषि के लिए निर्भर हैं। निचले बहाव क्षेत्र में कई गाँव जिसमें पश्चिम चंपारण जिले के भिखनाठोरी², खगड़िया, धमौरा, एकवा, सहोदरा, खैरटिया, सीतापुर, अंखवा और भवानीपुर शामिल हैं, पेयजल और दूसरे दैनिक ज़रूरतों के लिए पंडई की धारा पर निर्भर करते हैं। गर्मी के मौसम में जब नदी बहुत ही पतली धारा में बदल जाती है तब पंडई के ऊपरी बहाव क्षेत्र और निचले बहाव क्षेत्र के निवासी समुदायों के बीच उस पतली धारा में उपलब्ध कम पानी पर अधिकार की दावेदारी को लेकर विवाद उत्पन्न हो जाता है। हर साल जैसे ही गर्मियाँ आती हैं नेपाल के ग्रामीण नदी पर अस्थाई बाँध बना देते हैं ताकि पानी भारतीय क्षेत्र में बहकर नहीं जाए।

बरसात के दिनों में ऊपरी बहाव क्षेत्र के गाँवों को बाढ़ में डूबने से बचाने के लिए अस्थाई बाँध को हटा दिया जाता है जबकि उसी बाँध का निर्माण निचले प्रवाह क्षेत्र में जल प्रवाह को रोकने के लिए होता है। अस्थाई बाँध को हटाने के कारण निचले प्रवाह क्षेत्र के गाँवों में बाढ़ आ जाती है जिससे इन गाँवों में जीवन, मवेशी और फसल की अपार क्षति होती है। पंडई नदी के जल बटवारे को लेकर वर्तमान विवाद और पूर्व में हुए विवादों का परिणाम दोनों देशों के स्थानीय निवासियों के आपसी सम्बन्ध बिगड़ने के रूप में हुआ है जो गहरी सांस्कृतिक और आर्थिक परस्पर निर्भरता को तनावपूर्ण बना रहा है।

3. तटवर्ती दावेदारी :-

नेपाल में ऊपरी बहाव क्षेत्र के गाँव पंडई नदी पर नेपाल के लोग अपने सार्वभौम अधिकार का दावा करते हैं क्योंकि यह नेपाल में सोमेश्वर पहाड़ से उत्पन्न होती है और वे दावा करते हैं कि यह “नेपाल का पानी” है

¹ चंपारण शब्द की उत्पत्ति चंपक-आरण्य से होती है। पुराने ज़माने में इस क्षेत्र चंपा के पेड़ बहुतायत में पाए जाते थे और यह तपस्वियों की भूमि रही है।

² यह गाँव बिहार की उत्तरी सीमा पर पश्चिम चंपारण जिले के गौनाहा प्रखंड में स्थित है और सोमेश्वर पहाड़ी पर समुद्र तल से करीब ६०० फुट की ऊँचाई पर बसा है।

और इसे किसी दूसरे देश के नागरिकों के साथ बाँटा नहीं जा सकता। नदी के निचले बहाव क्षेत्र में भारतीय गाँव के लोग पंडई के पानी पर नेपाली लोगों के अधिकार का विरोध नहीं करते पर अपने तटवासी अधिकारों का दावा करते हैं जिसमें पहले इस्तेमाल करने के प्राकृतिक अधिकार शामिल हैं। निचले बहाव क्षेत्र में बिहार (भारत) के गाँव यह दावा करते हैं कि पंडई नदी पहले कभी बाँधी नहीं गई थी और इसका पानी सदियों से शांतिपूर्ण ढंग से आपस में बंटता रहा है और जल संकट के समय बंटवारे का अनुपात परंपरागत सामुदायिक संस्थाएं निर्धारित करती थी। गर्मी के मौसम में नदी के प्रवाह में कमी और नाटकीय परिवर्तन एक मुख्य कारण है जिसकी वजह से बहाव क्षेत्र में ग्रामीण नदी पर बाँध बनाने लगे हैं।

4. अनिश्चित भविष्य-बहिष्कार, समावेश का परिदृश्य : जल संकट से भूमि गँवाने की संभावना :-

अध्ययनों ने स्पष्ट किया है कि जिन भौगोलिक क्षेत्रों में नदियां राजनीतिक सीमा बनाती हैं, उनमें विवाद उत्पन्न हो सकते हैं क्योंकि सीमा अस्थिर और अस्पष्ट हो जाती हैं। बृहत्तर भारत - नेपाल गंडक घाटी में इसके उदाहरण मौजूद हैं जहाँ नदी के एक घुमाव का परिणाम नागरिकों के स्तर पर सीमा विवाद के रूप में हुआ है हालांकि इन विवादों पर राष्ट्रीय या उप-राष्ट्रीय प्रतिक्रिया अस्पष्ट बनी हुई है। पंडई नदी सीमा के साथ साथ प्रवाहित होती है और भारत एवं नेपाल के बीच प्राकृतिक सीमा बनती है। स्थानीय विवरणों के अनुसार यह नदी घूमती रहती है। हालांकि यहाँ दूसरे किस्म की सीमा समस्या उत्पन्न हुई है जिससे जल का बँटवारा और ऊपरी बहाव क्षेत्र एवं निचले बहाव क्षेत्र के गाँवों के जल अधिकार का मामला अधिक जटिल हो गया है।

स्थानीय विवरणों के अनुसार भारत और नेपाल के बीच जमीन के आदान-प्रदान से पंडई नदी के जल पर अधिकार की व्यवस्था अधिक जटिल हो गई। २००७ में उस जमीन का एक हिस्सा जिससे पंडई प्रवाहित होती थी भारत सरकार द्वारा नेपाल को दे दिया गया जिसका अनजाने में परिणाम हुआ की उससे प्रवाहित जल धारा का हस्तांतरण हो गया। एक समय भारत क्षेत्र का हिस्सा रही यह जलधारा अब नेपाल के अधिकार क्षेत्र में है और नेपाली लोगों द्वारा दावा किया जाता है कि यह “नेपाल का पानी” है जिसपर भारतीय पक्ष के गाँव वालों का कोई अधिकार या जल-अधिकार नहीं है। जो लोग अपने हाथ से जलधारा को मोड़ कर पानी लेते हैं, पंडई पर पहले से चले आ रहे उपयोग के अधिकार का दावा करते हैं, वे ऊपरी बहाव क्षेत्र के लोगों द्वारा जल के तस्कर ठहराए जाते हैं।

पंडई नदी के आर्थिक मूल्यांकन और पारिस्थितिकीय सेवाओं के लिए भुगतान की संभाव्यता अध्ययन की आवश्यकता

अभी तक पंडई नदी के जल संसाधन के आर्थिक मूल्य के बारे में कोई अध्ययन नहीं हुआ है। इस नदी का उपयोग ऊपरी बहाव क्षेत्र और निचले बहाव क्षेत्र के निवासियों द्वारा विभिन्न प्रकार के कार्यों जैसे - पेयजल, दूसरे घरेलू उपयोग, मवेशी, सिंचाई, पर्यावरणीय सेवाओं इत्यादि के लिए किया जाता है। इसलिए जीवन और आजीविका को टिकाए रखने में नदी से मिले जल के योगदान के आर्थिक मूल्य को

समझने के लिए विस्तृत सर्वेक्षण और अध्ययन की ज़रूरत है | इस आंकलन में सीमा क्षेत्र में नदी के किनारे जल संसाधन के प्रबंधन को बेहतर बनाने के लिए सरकार की ओर से क्या करने की आवश्यकता है, इसमें शामिल करना चाहिए | आर्थिक मूल्यांकन, भूजल स्तर के आंकलन के साथ मिलकर इस नदी-प्रणाली के जल के उपयोग के आर्थिक आयाम को समझने में महत्वपूर्ण होगा | इसके अलावा पारिस्थितिकीय सेवाओं के लिए भुगतान की व्यवस्था आरम्भ करने की संभाव्यता-अध्ययन शायद इस उपमहादेश में पहला होगा, जिसपर दोनों देशों की सरकारों द्वारा विचार किया जाना चाहिए |

२०२० में इंडिया वाटर पार्टनरशिप (आई.डब्ल्यू.पी.) ने, इंडियन एनवायरनमेंट लॉ आर्गनाइजेशन

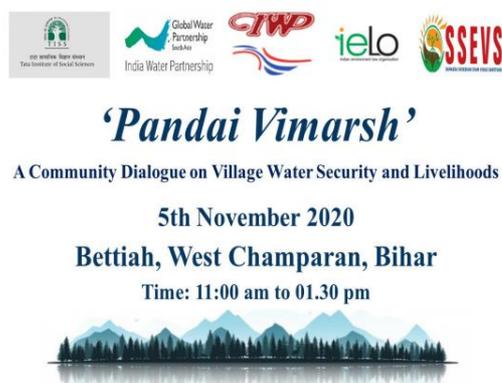


(आई.ई.एल.ओ.) और समग्र शिक्षण एवं विकास संस्थान (एस.एस.ई.वी.एस) के पूर्व अध्ययनों के आधार पर, उनके साथ जुड़ कर पंडई के तटवर्ती गाँवों में ग्राम शिविर और ग्राम पंचायत बैठक का आयोजन किया एवं स्थानीय निवासियों के साथ बातचीत की और उस क्षेत्र का दौरा किया | इस आधार पर आई.डब्ल्यू.पी. ने आई.ई.एल.ओ. और एस.एस.ई.वी.एस के साथ मिलकर नवंबर २०२० में पंडई

विमर्श³ का आयोजन किया | इस विमर्श में जल शक्ति मंत्रालय से डायरेक्टर - आई.ई.सी. - श्री गिरीराज गोयल जी स्थानीय निवासियों के साथ उनके जल संघर्ष के मुद्दे पर बातचीत और सुझाव देने के लिए आमंत्रित किया गया था ताकि इस मुद्दे पर सरकार का ध्यान आकर्षित किया जा सके और इस मुद्दे का निवारक उपाय किया जा सके |

³ इंडिया वाटर पार्टनरशिप और आई.ई.एल.ओ. के वर्तमान अध्ययन एवं विमर्शों पर आधारित

**Webinar Report on Pandai Vimarsh (Discussion):
A Community Dialogue on Village Water Security and Livelihoods on 5th November, 2020**



IWP in association with India Environment Law Organization (IELO), a network partner of IWP undertook a project - **“Mainstreaming National Water Mission by Promoting Community Action for Village Water Security in the Shared Gandak Basin”** in 2020. As part of the activity, a webinar on **“Pandai Vimarsh: A Community Dialogue on Village Water Security and Livelihoods”** was organized on **5th November, 2020** with the aim to inform the people about community of practice on the

international nature of water challenges and the limitations of the vulnerable communities to deal with them with the requisite support in the absence of formal cooperation frameworks on smaller rivers.

Shri Girraj Goyal, Director (IEC), Ministry of Jal Shakti, Government of India was the special guest on the occasion and given opening remarks. The key speakers were; Ms. Shilpa Chohan, Advocate, Supreme Court of India & Founder Member, IELO; Dr. Jacquleen Jacob, Tata Institute of Social Sciences, Mumbai, Dr. Veena Khanduri, Executive Secretary-cum-Country Coordinator, IWP, Mr. Siddharth Kumar, Samagra Sikshan Evam Vikas Sansthan, Bettiah, Bihar (local IELO partner NGO), Mr. Eklavya Prasad, Founder – Megh Pyne Abhiyan and local community members.

Mr. Giriraj Goyal inaugurated the webinar and interacted with the villagers by listening their issues and suggesting some preventive measures. He suggested for the solar pump for irrigation purposes and farm pond for the livestock. He also suggested that IWP can take an assessment through Central Ground Water Board, Government of India in the area to measure the water level and installation of bore wells.

Dr. Veena Khanduri moderated the first session and Dr. Jacquleen Jacob moderated the second session. Villagers who interacted in the meeting raised their issues and also requested for the solutions.

Mr. Girdhari Lal (community member) informed that we don’t have water and land and we are living in the forest area, our village and market both are on forest land since 2017-18 for which the Indian Forest Department also filed case on us and since 2001, the Government also stopped issuing revenue receipt to us. This is a very big problem.

Mr. Raj Kishore (community member) said that we don't have facility for the drinking water so we store water from the ponds and streams only. He also said that during peak season people of both sides fight together for the water which is a very big challenge for us.

During the question-answer session he indicated that we have very less land for agriculture, we have only some cattle. Due to recurring floods, we lost our land and home and now we are living in the forest land. We don't have any work. Under MGNREGA we got only 6 days' work in a year.

Mr. Anil Prasad (community member) requested for some solutions by the Government by which the friendship of Bihar and Nepal may continue and the issues on water should also be resolved.

Ms. Pratibha (villager) requested that the Government should make some ponds or either install few bore wells in the area which can help us in resolving our water scarcity problems.

Mr. Ramesh Mahto (villager) indicated that there is no electricity in our villages and also there are very less farm ponds, hence there is water scarcity.

Other villagers also informed that forest officials made case under Forest Act against them for living in the forest area.

Ms. Sejuti Basu, one of the participants from Pragya (IWP network partner), suggested to motivate the villagers for the farming of the medicinal plants in the area because that area is sandy and very good for the medicinal plants. This will improve their livelihood as well as link them to the Government latest schemes. She also suggested for the E-Charak app of National Medicinal Plant Board, Government of India from which farmers can easily connect to get the information about the medicinal plants and directly purchase.

Mr. Eklavya Prasad, founder of Megh Pyne Abhiyan suggested that there is another option that must be explored in the Thori village area which is spring rejuvenation because this can be also a possible alternative for that area.

The concept note-cum-webinar agenda and media coverage is given in the following page.

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Concept Note-cum-Webinar Agenda



‘Pandai Vimarsh’

A Community Dialogue on Village Water Security and Livelihoods

5th November 2020, Bettiah, West Champaran, Bihar Time:

11:00 am to 01.30 pm

Join Zoom Meeting:

<https://us02web.zoom.us/j/83936210741?pwd=WFJyQjJPVFIsQWNhaldFSVVEFrRThNZz09>; Meeting ID:

839 3621 0741; Pass code: 3972

Key Objective of the Dialogue: The online Community Dialogue is a unique attempt to mainstream local concerns and voices from the remotest villages sharing borders and rivers with Nepal. The 'Vimarsh' is aimed at advancing the National Water Mission at the village level and promoting water efficiency, conservation, harvesting and sustainability by inclusive and gender sensitive approaches. Participants from 4-6 villages from along the Pandai River- a boundary river between India and Nepal will be facilitated by the regional NGO to share their water related issues and challenges impacting their lives and livelihoods. The Dialogue is expected to inform the community of practice about the international nature of water challenges and the limitations of the vulnerable communities to deal with them with the requisite support and absence of formal cooperation frameworks on smaller rivers.

Time	Session	Responsibility
Introductory Session		
11.00-11.05	Context and Background to the Dialogue in collaboration with India Water Partnership (IWP)	Shilpa Chohan, Indian Environment Law Organization (IELO)
11.05-11.15	Opening Remarks	Shri Griraj Goel, Director, IEC Ministry of Jal Shakti, Government of India
Session 1: Water for Life - issues and challenges for the Pandai dependent communities and possible local solutions		
11.15 -12.00	<p><i>Key question: What can be done locally to address water challenges and expectations</i></p> <p>(8-10) village members sharing their perspectives on current scenario and drinking/domestic water challenges in the villages impacting gender, equity and health</p> <p>Moderation and Session Remarks: Dr. Veena Khanduri, Executive Secretary-cum-Country Coordinator, India Water Partnership</p>	Community Members-facilitated by SSEVS/Siddharth Kumar, Samagra Sikshan Evam Vikas Sansthan, Bettiah
Session 2: Upstream – downstream cooperation for food and livelihoods		
12.00-1.00	<p><i>Key question: As a downstream community what strategies can be adopted to ensure the stream flow in lean season</i></p> <p>Moderation and Session Remarks: Dr. Jacquleen Jacob, Professor, Jamsetji Tata School of Disaster Studies Tata Institute of Social Sciences, Mumbai</p>	Community members to be facilitated by SSEVS (5-6) Village members to share the issues with the streams from Nepal, case of water smugglers with gender dimensions
Session 3: Open Session & Way Forward		
1.00-1.30	<p>Other participants joining the Dialogue can ask questions</p> <p>Key Questions: How can the current national and state level programs be leveraged to address the water challenges in the villages along the Pandai River</p>	SSEVS, IWP, TISS, IELO



पश्चिम चंपारण जिला

ब्रीफ न्यूज



कार्यशाला में मौजूद वक्ता .

नेपाल से आने वाली जलधाराओं के बेहतर प्रबंधन पर बल

नौतन . जिले के सुभाषनगर में गुरुवार को पंडई नदी पर विमर्श कार्यशाला का आयोजन किया गया. यह नेपाल से बहकर बिहार आने वाली जलधाराओं में एक प्रमुख नदी है. इसमें भिखनाटोड़ी, धमौरा, भतुझला के लगभग 30 ग्रामीणों ने भाग लिया. जिसमें महिलाएं भी थीं. कार्यक्रम में शिल्पा चौहान, सुधा कुमारी, डॉक्टर वीणा खंडूरी, जल शक्ति मंत्रालय के आइइसी विभाग निदेशक गिरिराज गोयल, प्रो. जैकलीन जैकब सहित देश के लगभग 17 संस्थाओं व वाटर पार्टनरशिप के क्षेत्र प्रबंधक ने भाग लिया. जल शक्ति मंत्रालय के निदेशक श्री गोयल ने पंडई नदी के किनारे बसे ग्रामीणों की पेयजल व सिंचाई की समस्या, नेपाल से आने वाली धारा पर निर्भरता व इसे तीन भाग में बांट कर उपयोग करने की प्रक्रिया को भी जाना समझा. उन्होंने ग्रामीणों की समस्या, स्थानीय संसाधनों व राजकीय योजनाओं के साथ समुदाय के समन्वय की बात पर बल देते हुए विमर्श का उद्घाटन किया. उन्होंने इसके लिए सोलर आधारित सिंचाई प्रणालियां, तालाब व डीप बोर करने का सुझाव दिया. इसमें अनिल दास, मदन खतैत, पूर्णिमा देवी, प्रतिमा देवी, मनोहर थापा, प्रभात दास, सिद्धार्थ कुमार ने भाग लिया.



Challenges for Water Cooperation on Small Rivers between India-Nepal

Lessons from the fringe villages along the Pandai River in the shared Gandak Basin

A Policy Brief

December, 2020

Shawahiq Siddiqui
Shilpa Chohan
Dr. Veena Khanduri
Siddharth Kumar

1. Background:

This Policy Brief is part of a larger initiative to understand the issues and challenges around small rivers or tributaries that enter or exit the territorial boundaries in South Asia¹. The community engagements and the dialogue processes began in 2016 where the water starved villages, key actors and their riparian claims were identified by way of a legal capacity building tool called Gram Shivar that were held in the upstream Ramnagar and Budhnagar villages in Nepal and the Bhiknathodi, Ekwa, Khairatiya and other villages in Bihar, India². Building on the earlier learning from the Gram Shivirs, a year long process was initiated towards finding solutions by facilitating the riparian communities through knowledge exchange, capacity improvement and dialogues³. This Policy Brief, based on the community engagements and micro dialogue processes, captures the on the ground scenario on water conflicts, cooperation, community sharing of the streams, the existing and future challenges that have evolved over a period of a decade and deeply concern riparian communities and long term water cooperation issues arising due to the contested claims over the Pandai River that flows from Nepal into India and is the only source of water for nearly eleven villages in the downstream West Champaran District in the Indian state of Bihar. The Policy Brief combines the inputs from the focused group discussions in the downstream villages in India⁴, the civil society perspectives on upstream water challenges in Nepal⁵ and the Pandai Vimarsh⁶- the Grassroots Dialogue convened to bring various stakeholders perspectives including the technical and the governance perspectives⁷.

2. Introduction:

Water, critical for the survival of all life forms for which there is no substitute, does not recognize the boundaries whereas the development efforts do, thereby creating complex water management scenarios at the sub-national, national and international level. Managing the competing demands for riparian uses of a watercourse becomes more challenging when international political boundaries are involved as the international law that can be made applicable to such scenarios is neither well developed nor it is easily enforceable.

At the heart of this management challenge is the fundamental nature of water itself. Water being dynamic in nature affected by a multitude of natural and man-made factors of hydrology and consumptive development, the arrangements to share the common pool resource requires re-assessment and re-setting at regular intervals. In an international



¹ See [Projects- Paradoxes-Marginalized Rivers - International ... at https://riversymposium.com/wp-content/uploads/2019/11/76.pdf](https://riversymposium.com/wp-content/uploads/2019/11/76.pdf)

² The Project 'Mainstreaming Community Concerns into Formal Water Cooperation Instruments between India and Nepal' was implemented by the Indian Environment Law Organization (IELO) during 2016-2018 with the support from the Civil Society Fund, DFID.

³ The continuation of Gram Shivirs, knowledge exchange, capacity improvement and dialogues- Pandai Vimarsh in 2020 was supported by the India Water Partnership and implemented by the IELO has resulted into development of this Policy Brief.

⁴ The FDGs were conducted by the Samgra Sansthan, a local NGO based in Bettiah, West Champaran, Bihar <https://www.ssevs.org/about-us/>

⁵ The authors are grateful to Mr. Prakash Mani Sharma, Advocate, Supreme Court of Nepal for his involvements in the initiative and his valuable inputs from the upstream and legal perspective from Nepal

⁶ We are grateful to Dr. Jaculeen Fernandes, Professor, Tata Institute of Social Sciences (TISS), Mumbai for moderating one of the crucial sessions in the Pandai Vimarsh and TISS for being a valuable institutional partnership for the Community Dialogue.

⁷ The authors are extremely grateful to Er. A.B.Pandya, Secretary General, International Commission on Irrigation and Drainage, New Delhi for reviewing the policy brief and providing valuable inputs.

context, the formal cooperation between the countries needs to acknowledge the dynamic nature of water and river systems, the people and other life forms dependent on them and accommodate future cooperation based on the advancements made in science and the international water law. The water agreements concluded between India and Nepal more than sixty years ago do not take these aspects into account as these are project based and therefore need to be revisited from these perspectives.

More importantly, the formal water cooperation between India and Nepal is confined to the four large river systems that are part of the larger Ganges Basin. Nearly six thousand small rivers or tributaries that supplement the large systems and are the direct source of life and livelihoods in very large and densely populated river sub-basins are left out of the purview of formal cooperation between the two countries. The Pandai River is one such example of a small but vital river without any form of understanding on sharing its waters between the two countries and is faced with contesting riparian claims to control the flow and quantity of water.



3. The riparian claims over the Pandai River: A Context

The Pandai River originates in the Someshwar Hills of Nepal and flows into the Indian state of Bihar through the districts of West Champaran, Gopalganj, Saran and Muzaffarpur. In the upstream portion of the Pandai River, many village communities in Nepal, including Budhnagar and Ramnagar, depend on it for their daily needs and agriculture. In the downstream, many villages including Bhiknathorhi⁸, Khairatiya, Dhamaura, Ekwa, Sahodara, Khairatiya, Sitapur, Ankhawa and Bhawanipur in the West Champaran⁹ district of Bihar are critically dependent on the streams of Pandai River for drinking and other daily needs.

During summer months, when the river turns into a very thin stream, the Pandai becomes a source of conflict as both the upstream and downstream communities in Nepal and India respectively claim their rights over little water that is available in its thin streams. Every year as the summer approaches, villages in Nepal create temporary bunds along the river to stop the water flowing into Indian Territory. The villagers' action is based on their understanding that since the river originates in the Hills of Nepal, they have the absolute right over its water and since very little water is available during summers, the flow of the streams is blocked by temporary bunds. However, since many years an arrangement for allowing the regulated flows has been made.

During monsoons, the temporary bund is removed to protect upstream from flooding that could occur due to inundation caused by the temporary bund built to stop the downstream flow of the River. The removal of temporary bund results in flooding of downstream villages that further leads to loss of life, cattle and crops as well as temporary migration of communities in these villages.

⁸ The village is situated on the northern border of the district is Gaunaha Block and located on the Someshwar hill at a height of about 600 feet above the sea level. (http://www.censusindia.gov.in/2011census/dchb/DCHB_A/10/1001_PART_A_DCHB_PASCHIM%20CHAMPARAN.pdf)

⁹ The name Champaran is a degenerate form of Champak-aranya, which dates back to the time when the district was a tract of the forests of Champa trees and was abode of solitary ascetics; The District Gazetteer, Champaran, <http://rc.bih.nic.in/Gazetteer/Champaran/chapter-I.pdf>

The Indian villages in the downstream have been demanding uninterrupted flow of the Pandai river in summers that threaten to cause inundation by building bunds in the downstream during monsoons. The claim of the Indian villages is based on their understanding of equal right to water, historical, prior use and natural right to flowing water and river. They have been asserting that both scarcity and floods have to be equally shared by the villages along the Pandai river in Nepal and India. These contesting riparian claims over water since more than a decade have resulted in violent conflicts, loss of trust and even deaths on both sides straining the deep rooted cultural and economic interdependence in the villages along the Pandai River and beyond.

Notably, despite these developments, the communities continue to have some form of cooperation in sharing the three streams of water that trickle down from Nepal into India. This indicates that communities share water concerns and are sensitive to finding viable solutions but needs to be supported with technical inputs through dialogues and engagements.

4. Mapping the emerging challenges due to the conflicts over Pandai River

4.1 Indian villages apprehend complete blocking of the Pandai River in future:

Although the riparian villages had agreed to temporary water sharing arrangements by trifurcating the main stem of the Pandai River where the two thin streams were allowed to flow through the Indian villages for their water needs and one stream was diverted towards Nepal. Even the quantum of water to be allowed to flow through the three streams was negotiated by the riparian villages around the year 2013. As per the agreement between the villages in the two countries, the stream flowing to Nepal would carry 40% of the Pandai water and the two streams flowing into Indian villages would be allowed to carry 30% each. The responsibility for maintenance of the structures was shared by the villages sharing the water. However, this arrangement continued to be viewed with lot of apprehension and dissatisfaction by the upstream and downstream communities due to its temporary nature and lack of local institutional support. The arrangement emerged due to several pressures from local influential people, district administration on both sides, the involvement of border security forces and others¹⁰.



(Above: The Bridge and the blocked stream is seen in the photo taken during the field visit on 03.09.2020). Below: The trifurcation of the Pandai River by the riparian villages from Nepal and India; Photo dated May 2016)

¹⁰ The Telegraph, June 17, 2014

In 2019, Nepal had built a bridge to improve connectivity and transport through Nirmal Basti VDC (Village Development Council) and other areas. During the construction of the bridge, one of the streams carrying water for India got filled and the water ceased to flow¹¹. Subsequently, the other stream was also blocked and had to be reclaimed by the villagers who feared acute water scarcity in summer months.

As per the local accounts, all the Indian villages now depend on a single thin stream of water instead of the two that used to flow as per the agreement between the communities made in 2013. This has enhanced the vulnerability of the downstream communities and escalated the feelings of hostility¹².

4.2 Women Water Smugglers- The Gender Dimension of the water scarcity

At the time when the streams completely diminish naturally or by being blocked, the downstream villages are left with no option but to get their water from a nearby source located in Nepal. The nearest source known as the Amrit Dhara is two kilometres away and due to the prevailing tensions on water sharing, all the water needs to be fetched at night or very early in the morning. Young women from the downstream villages have to fetch the water from Nepal and are often dubbed as water smugglers by the locals¹³. Due to increase in local population more water is needed at the household level resulting in multiple instances of cross border visits for fetching water. Many other connected social issues also arise due to the social stigma attached to water scarcity in the area.

The gender dimensions of the conflicts over sharing the Pandai River are underreported in the national and local media. Although in the local dialogues and interactions, the male members often empathise with women and young girls for the challenges they face in fetching water from outside the country.

4.3 Increased pressure on water resources

Nearly a decade has passed since the dispute over sharing the Pandai river water first arose. The communities reached an agreement to divide the river into three streams in 2013. Since then the population both in the upstream and downstream villages has increased. The exact demographic profiles are not known but the reverse migration due to Covid-19 has completely altered the population mix in the villages and is resulting in increased water demand at the household level. A single thin stream of water is not sufficient for the basic water needs of a large downstream population which is entirely dependent on Pandai river. Increasing livestock in the area also puts pressure on the scarce water resources.

4.4. Water Quality in the Pandai streams

Although there are no industries around the Pandai River, the river streams are used for cleaning, washing and for cattle. The water flowing through them is not fit for drinking. The potable quality of water as per the drinking water norms has never been ascertained though; there have been several incidents of water borne diseases. In general, the local highlights that gastrointestinal diseases are prevalent in the area. The quality of drinking water is a major concern for both the communities in India and Nepal.

¹¹ The interactions with the villagers during the field visits made under the IWP-IELO Project 2020.

¹² Narrated by the local villagers during the field visits and focussed dialogue on 03.09.2020 at Bhikna Thodi Village, West Champaran, Bihar, India

¹³ Hindustan Times, April 19, 2011, Nepal is the last straw for this thirsty West Champaran village , Bihar, India

4.5 Water provided under the 'Nal-Jal' a state initiative is unreliable and insufficient for the large and growing population

Under a State Government initiative known as the Jal-Nal Scheme of the Government of Bihar, attempts have been made to bring tap water to rural areas. Under this Scheme, water is pumped into a water storage tank from deep bore well and is supplied for five hours a day. The pump is made operational through the solar power. In a village of 180 households, nearly 40 connections were given in front of the houses, out of which 15 are functional. The works under this Scheme was started around May 2020. Alternatively, a provision of tanker from nearby village bore wells is arranged in case of deficit. The supply through the tanker has its own issues.



(The overhead water tank in the Bhiknathodi village under the 'Har Ghar Nal Ka Jal' popularly known as Nal-Jal Scheme of the State Government: Photo taken during the field visits made on 31.08.2020)

5. The Legal and Institutional response to the equitable sharing of Pandai River

In the context of the absolute riparian claims by the communities in Nepal and India, the legal and institutional response has been rather slow and negligible. The following aspects need policy or legal concern.

5.1 Absence of water cooperation mandate between India and Nepal on international Rivers

The existing legal mandate in the form of water cooperation agreements between India and Nepal is project specific and does not provide any principle or guidance on water sharing or basin management. Thus for example, the (Revised) Kosi Project Agreement, 1966 concerns only the construction of the barrage, embankments and the canal infrastructure, ostensibly for flood control and irrigation in both the countries. Similarly, the (Revised) Gandak Irrigation and Power Project Agreement, 1964 concerns the construction of the barrage and hydropower generation. The third treaty known as the Mahakali Treaty, 1997, again is multipurpose project centred but has been a non-starter. Water sharing, river basin management and people's role are missing from the scope of existing water cooperation agreements. The overarching emphasis on the need for long term water cooperation is also missing between the countries that share very large river systems and thousands of small rivers. In contrast, India and Bangladesh share only 54 rivers; however, water has been made one of the significant components of the bilateral relations between the two countries under the India Bangladesh Friendship Treaty. The Peace and Friendship Treaty between India and Nepal on the other hand does establish 'special relations' but does not provide for any overarching understanding on water cooperation. The absence of any understanding on water cooperation and river basin management leads to competing absolute riparian claims and mismanagement of water resources.

5.2 The local administration in both the countries have been handling the issues as law and order problem alone without acknowledging water scarcity

In the face of mounting tensions between the upstream and downstream villages, the Border Guards from the two countries have often had to intervene to resolve the disputes¹⁴. The District Collectors in both the countries have been making efforts to contain the situation whenever conflicts take place. The two sides are often told that indulging in unlawful activities on international boundary can attract severe consequences. However, the attempts to understand the cause of the dispute and water stress in the area is not taken on board. Thus at the administrative level, the conflicts over Pandai river are understood as the law and order problem at the Border and not as an issue of sharing the water in the flowing river. In the event when the local administration is not able to reach due to the remoteness of villages, the Border Security Forces intervene to disperse the violent skirmishes.

5.3 The Local administration on both sides of the border lacks exposure to scientific aspects of the Problem

It is pertinent to note that the local administrations on both sides of the boundaries do not have full exposure to the scientific aspects of the issue at hand and nor can it be expected from them as they have to deal with a completely different domain of maintaining the law and order and other public administration assignments. These issues are needed to be first understood in a dispassionate manner in the context of the hydrology, topography and land use for formulation of the problems for the Pandai sub basin as a whole. The dialogue has also to be formed in a comprehensive manner where the communities have inter-dependence in other sectors as well. It has been observed in the context of a number of intra-national and international water conflicts that a mixed dialogue comprising multi sectoral adjustments has to be carried out.

5.4 The lack of data on local hydrology is an impediment to find viable alternatives and contravenes provisions of the (Draft) Bihar State Water Policy, 2010

Access to water for basic human needs is a natural right. Despite the acute water scarcity faced by nearly ten thousand people in the border villages since many years, there has been little attempt to find viable alternatives based on data and scientific assessment of the hydrology of the area. The state level agencies in Bihar do not have the sufficient data from the area so as to develop any alternative water management plan. This is in contravention to the (Draft) State Water Policy, 2010 which states that state line departments will supply the required data to the Village Water and Sanitation Committees (VWSC) constituted in each village for the appropriate use of hydrological data. The state level Public Health and Engineering Department (PHED) is primarily responsible for this exercise. It may be noted here that though the State Water Policy of Bihar is at a draft stage, it is a document formally adopted by the state government through a process and put in the public domain. It does represent the intention and the direction that the government seeks to ensure basic human right to water and for the better management of water resources in the state.

¹⁴ [The Telegpah, June 17, 2014](#)

5.5 The threat to the ancestral lands

The border areas and the foothills along the Indo-Nepal border are inhabited by primitive groups and agricultural communities. The ancestral land is one of the reasons that the local population has not migrated despite acute water shortages. However, the agricultural lands and other properties of locals are under threat which the villagers perceive as one of the reasons for the reluctance of the government to provide them water. Until 2001, the farmers of the Bhikna Thohri and other villages used to pay land revenue (*mal pot*), however, the collection of land revenue has been discontinued since 2002. This is critical as only villages legally recognized as revenue villages by the District administration are required to pay land revenue. Farmers fear that the district administration is aiming to derecognize the village, and if this happens, their future is uncertain. On the other hand, the Forest Officials have been stating that the villages along the Pandai River on the Indian side fall within the Protected Forest, and therefore they are under the jurisdiction of the Forest Department. However no official statement has been made so far. Instead, the District Forest Department, West Champaran has filed a case on the villagers¹⁵.

5.6 Institutional dissonance and legal vacuum on small rivers:

India and Nepal, in addition to sharing the four large Ganges river-sub-systems share nearly six thousand small river ecosystems that are stressed and faced with complex water sharing and management issues¹⁶. Most of these smaller rivers that drain the mountains, foothills and *Terai* on the Indo-Nepal border, flow in or out of the country and are thus inherently linked to potential international water rights of upstream and downstream countries and communities living along them. While large rivers have received considerable attention mainly from the flood control and irrigation expansion perspectives, small rivers equally significant for their direct support services in both the countries have been ignored by the national level water resource development agencies¹⁷. Thus at the bilateral level, there is no formal understanding between India and Nepal for the management or sharing of these rivers. At the functional level, the water management institutions, for example the state level water resources departments in Nepal or India do not have the requisite mandate for the planned management or conservation of small rivers, rivulets or streams. At the administrative level, the district collectors have the powers to initiate the rejuvenation of water bodies within in the revenue jurisdiction which is often incidental interest confined to the municipal limits and lacks the ecosystems approach. While it may not be feasible to have formal water agreements on all the rivers shared between the two countries, an overarching framework based on ecological and equity principles is desired. Such framework is likely to provide guidance to the local institutions involved in resolving community disputes over sharing scarcity or excess water in these rivers.

¹⁵ Pandai Vimarsh- The Community Dialogue organized by the India Water Partnership in collaboration with Indian Environment Law Organization and Samagra Sikhshan Evam Vikas Sansthan, Bettiah, West Champaran, Bihar; India on 5th Nov, 2020 - the narrative was shared by one of the local resident of Bhikna Thodi Village, Shri Girhdari Singh.

¹⁶ The Kosi, Gandaki, Karnali and Mahakali are the four very large sub-basins shared by India and Nepal within the Greater Ganga Basin and are covered with some form of project specific legal agreements or treaties while small rivers forming these basins were managed by the communities in both countries.

¹⁷ Recently, in the civil society forums such small rivers are referred to as 'Marginalized Rivers'. See Projects-Paradoxes-Marginalized Rivers at <https://riversymposium.com/wp-content/uploads/2019/11/76.pdf>;

6. Towards Finding Solutions

- It is observed that the first principle of dispute resolution i.e. collection and processing of data is not existing with any of the current parties to the dispute. Border security agencies and local administrations on either side are not expected to have them as well. The State Water Policy of Bihar also mandates that the state agencies should collect, organize and democratize data with the help of local people and share with them for optimum utilization. Thus in view of the national and state level water policies, the National Water Mission (India) and the international nature of the Pandai River, it would be critical to have the hydrological data of the River basin so as to find viable alternatives or technical intervention based on mutual cooperation by both the countries. Water allocation principles and studies remain the same though they may vary in extent based on the size and importance of the problem. In this case, it is necessary to have data and information before any resolution can be thought of.



(Pandai Vimarsh- A online community dialogue was convened on 05.11.2020 to deliberate on the possible solutions and strategies by locals and for identifying areas that need technical, knowledge or capacity support.)

- The delinking of water scarcity with the rising conflicts and treating the conflicts as law and order issues alone by the local administration has not helped in addressing the real problem since it was not officially recognized and thus the question of involving appropriate and competent agencies did not arise. It is therefore desired that the local administration is mobilized to seek the role of appropriate state and national level agencies in finding an equitable solution to the water crisis in such scenarios.
- Understanding climate impacts on water resources in the Pandai Sub-basin would be crucial to the sustainability of long term solutions. River Communities in Nepal and India view that local climate has undergone dramatic changes and inequitable

harnessing of Pandai River due to rising population pressure and climate change is challenging its sustainability to deliver water services to both upstream and downstream communities. Thus, the increasing competition over diminished water resources is exacerbated due to climate impacts on local water resources. However, there is no scientific assessment that has been carried out. What is then required is the scientific assessment of climate impacts in the area followed by mainstreaming of adaptation measures. The key to equitable sharing of Pandai River is equitable allocation of water within the limits of availability for both the upstream and downstream users. However, it is necessary to have an “informed dialogue”. The dialogue has to be founded upon the real time data and simulations bringing out various pros and cons of various types of developments and constraints within which the aspirations have to be confined for a mutual peaceful co-existence.

- There is a need for an in-principle understanding on cooperation for small boundary rivers. In the absence of any collaborative framework at the bilateral level between India and Nepal to guide the management of small tributaries such as the Pandai, the equitable sharing and management of all such trans-boundary rivers, is an issue that requires deliberations within the policy making circles, local bureaucracies, civil society organizations and communities in both the countries. The modern principles of international water law can be of help (See Box). Whether Border Security Forces in both countries are the most appropriate and competent agencies to resolve water disputes over sharing of a trans-boundary river, is the question that needs to be asked, discussed and debated at various levels within the institutions responsible for trans-boundary water management in India and Nepal. The other important aspects that need examination are framing laws concerning water and land at the sub-national and decentralized level empower people’s institutions, both formal and customary, for constructive engagement on trans-boundary issues. Secondly, whether there are mechanisms at the national and bilateral level to recognize and uphold the community will and their decisions with respect to managing their common water resources. In view of the disparate use of water of Pandai River system and many other such rivers, the need for collaborative and joint approach to their management cannot be underestimated. Future management of these rivers, which also forms the border between the two countries, depends on a successful transition to their shared management by way of deliberative mechanisms integrating growing needs and future planning.

Exploring the possibility of operationalising the ‘principle of equitable utilisation’ for the shared water resources of Pandai river: The principle of equitable utilisation’ is generally considered as one of the fundamental principle of the law of the non-navigational uses of international waters. It finds reflection in Helsinki Rules and the UN Watercourses Convention. However, neither India nor Nepal is party to the UN Watercourses Convention. Certain principles of UN Watercourses Convention find reflection in the Mahakali Treaty, 1966 between India and Nepal. In the present case there is no formal agreement between the countries on sharing or utilization of shared water resources, though exploring ways of operationalising this principle in absence of an agreement could provide a way forward.

- Encouraging constructive and informed dialogue among the communities is important to accommodate contesting water claims. It is very unlikely that India and Nepal will enter into an agreement or treaty on every single trans-boundary river. What is then desired is a framework of understanding between riparian communities which can be achieved through informed and constructive dialogues at the trans-boundary level. A series of dialogues in the villages along the Pandai River carried out as part of this Study have revealed that communities do have spaces for engaging with each other that may not be supported. Often community efforts to find solutions are undermined by the formal mechanisms and the officials involved discourage them by questioning the legal gravitas and powers vested in the communities to engage with each other, over an international river forming an international border. These difficulties need to be overcome by dialogues and engagements at all levels to inform river communities that formal agreements between India and Nepal do not address their problem and are silent about sharing of small rivers and therefore communities need to come out with collaborative and innovative solutions on their own. Therefore, a different approach would be needed for scaling up the interventions that communities could jointly devise. Creating spaces for continued dialogue among the villages on both sides of the border and creating an enabling environment that drives community initiatives is the foremost requirement for conflict management over shared trans-boundary water resources.
- The role of informal institutions needs to be strengthened. Since there are no formal institutional mechanisms that currently exist, a hybrid model consisting of local formal and informal institutions needs to be mainstreamed for finding solutions to the Pandai water cooperation.

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