Chapter- Five
Legality River Linking Project

5.1 Introduction

India and her neighbours have been unprecedentedly witnessing recurring phenomenon of flood, drought and famine over the years. This has been blamed for unscientific use of resources, forgetting the rule of hydrology, overuse, and unsustainable use and burgeoning population in comparison with the availability of fresh waters. The population and the availability of water do not match in India. With 4% water resources and 15% world population, which is rising and likely to touch almost 25% in 2050, the situation will obviously worsen. In India per capita availability of water was 6,008 cubic meters in 1947 and today it is 1,700 cubic meters and by the year 2050, it will be 1,140 cubic meters. This is because of excess water availability in the Brahmaputra basin is as high as 13,000 CM while such availability in Pennar area is just 300 CM. The paradox of flood in Assam and Bihar and at the same time misery caused by unprecedented long drought is another story of devastation of large section of people and property. However, R. R. Iyer who denied recognising the paradox of floods and drought rather considers these are merely facts of geography that govern our lives. The occurrence of floods in one area, and the scarcity of water in arid or drought-prone areas, are two entirely separate questions and need separate resolution.

5.2 Magnitude of the Problem

The recurring droughts and floods have been the major cause of human misery, poverty and backwardness of entire South Asia. The water resources of South Asia have not been fully utilized for the benefits of the people regardless of the acute need of the abundant waters for the development and livelihood of the region’s people. The irony is that both natural calamities arising out of an excess of water as well as its scarcity are taking place at the same time in different places of the same states of India and some parts of other nations as well. Sometimes, it is hard to believe how flood and drought occur simultaneously and lead to destructive surpluses and also situations of acute water stress within and across states of the same region. The lack of scientific water management and utilization in a holistic and integrated manner has been blamed for this state of affairs that need not necessarily be abandoned to the vagaries of nature. The other factor that has been blamed for this state of affairs is the phenomenon of climate change, and its impacts on precipitation and nature. However, even though the evidences put forward in support of climate change may warrant further research for full confirmation, it is widely believed that its implications for the erratic nature of hydro-meteorological extremes experienced recently cannot be brushed aside as mere speculation. Apart from this, the consequences of human non-action such as mismanagement, non-cooperation amongst states and lack of strong political to resolve these issues are also believed to be the contributing factors. This Chapter critically deals with the issues and implications of India’s plan and demonstrates what the problems are and where the solutions lie from a legal viewpoint.

It is not just the predicament of a particular year but one that has been replete year after year with a loss of properties worth billions and a tragic toll of thousands of precious lives. Politicians tend to voice radical slogans to end this human misery when there is flood and drought, particularly during

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1 Suresh Prabhu, "Garland of Hope: River-linking as a Solution to Water Crisis" August 14, (2004), *Times of India*.
election time. Once the elections are over, and the leaders and parties get elected, they tend to forget people’s miseries and go about business as usual for personal or partisan gains. The few works that get done to ameliorate the situation are far from adequate to cope with this enormous task. The little compensation or relief provided in the aftermath of the calamities is always insufficient. The compulsions of the ruling elite in not being able to resolve these formidable challenges need to be understood before arriving at a substantial conclusion and blaming someone without sufficient understanding. The other point of significance is that the lack of cooperation between states, either members of a federation or sovereign nations, has become the cause of suffering for all the people of the SAARC Quadrangle.

The basic point from the view of hydrology and international law is that a watercourse should be taken as a single entity, from its origins in the high Himalayas of Tibet to the point of its drainage into the Ocean. Moreover, it is a rule of nature and the watercourse itself. Therefore, a nation or a state could not claim such watercourse as its national wealth alone but as a partner or a member of the basin. Thus, any development, allocation and sharing from such a shared watercourse should be undertaken in such a way that every state’s share will not be infringed upon, nor any harm and injury caused to it from such use and everyone should be benefited equitably. The International Court of Justice in its judgment of 1937 in the River Oder case resolved these issues forever, and since then, this concept has received universal recognition and is regarded as a rule of customary international law. Against this contextual setting, Bangladesh could not claim the Brahmaputra or India the Ganges, or Nepal the Kosi or Bhutan the Sunkos, as a solely national river and do whatever it wished to fulfill the requirement within one’s territory only. This basic concept and framework has been largely ignored by the nations, which should be seen as the crux of the problem in the sharing and allocation of shared watercourses among the nations and developing projects unilaterally against the core theme of international law. As a major partner of these watercourses, if we study the law and tradition within India in its interstate water conflicts, such concepts and views have been unanimously accepted and widely practiced. For instance, Godawari River Water dispute, Cauvery River Water dispute and other disputes are the living testimonials of this area. One could question how India could behave or expect to accept conditions of allocation and sharing of waters which are against the norms that it has already been practicing, whether in its dispute with Pakistan pertaining to the Indus River Treaty, inter-state disputes or the accepted norms in relation with the then east Pakistan pertaining to the Karmaphuli river–along the Assam-Meghalaya border.

Much has transpired since then and so has the political environment of south Asia. Moreover, many things have changed since the Koshi and Gandak river treaties with Nepal in the 1960s, the 1975 treaty on the commission of the Farakka barrage, the 1977 Ganges treaty and so forth. There is democracy with democratic institutions in the SAARC Quadrangle, which has altered the structure of governance and the power base of the governments as well. In this context, it is not only the governments that should be heard but also civil societies, NGOs, INGOs and a host of stakeholders, whose concerns must also be accommodated. That is to say, a monopolistic and hegemonistic approach is no more palatable or tolerated so that democratic norms should somehow be followed. Such changes in mindsets can be witnessed

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5 Denmark, Germany, France, Great Britain, Sweeten, Czechoslovakia v. Poland, PCIJ Report 1937. pp. 221-222.
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everywhere in the world and south Asia cannot remain unaffected from this trend. Transparency in projects with due consideration of the socioeconomic, seismic, hydrological, climatic, environmental, human rights and other relevant issues are key element for the successful implementation of any water sharing and allocation treaty. These issues must be integrated in all international, regional and municipal projects. Moreover, the application of International Water Law and the norms that have evolved over time to the present with a cooperative attitude between and among riparian states leading to a reasonable, sustainable and equitable utilization of the resources of shared watercourses is an inevitable element for any significant consensus to materialize. Furthermore, the existing needs, future water requirement, the alternatives available to fulfill the diverse demands, and other issues of similar nature must be evaluated in the context of the prevailing economic base in order to arrive at a sound conclusion. Nevertheless, these are the very complex issues that require meticulous analyses and special consideration. The key to any amicable resolution for mutual benefits remains unrestricted political will and wholehearted cooperation propelled by a positive forward moving mindset thereby reversing the parochial approach of the past.

While considerable parts of the country have been deluged by rivers in spate, it is common tradition for people in the other parts afflicted by drought at the same time to worship and pray for rains in south Asia. For example, this monsoon season only, floods seriously affected 33 of the 39 districts of Bihar with enormous loss of lives and property. The proposal of building the Kosi high dam has been in the air since the last 60 years and has been repeated at the highest political levels whenever floods strike havoc in Bihar. Prime Minister M. M Singh of India has been quoted as referring to it again as a joint team of technical experts of Nepal and India are preparing to conduct field studies planned to be completed within three years. However, from the national point of view, sufficient discussion and deliberations have not been held on how to protect national interests of both nations. The primary purpose of the proposed project, it seems, is to relieve the people of Bihar from the scourge of recurrent floods of the Kosi River. The expected life of the Kosi barrage at Bhimnagar is said to be almost exhausted. However, it is imperative that lessons must be learned from the past treaties and their implementation in order that Nepal get a fair and equitable deal from this undertaking. It appears that India is expected to reverse its past policy and work unprecedentedly as an equal partner for the common benefits of both nations and Nepal should get the unhindered right of access to and from the sea from the proposed Kosi navigational canal. Moreover, Nepal's upstream water rights and the consequent provisions of the proposed Sunkosi diversion project and other diversion as and when required must also be simultaneously recognized as Nepal's entitlement pursuant to the provisions of international law and practice. From the Nepalese side, over-politicization of the issues, harbouring the small brother syndrome, and lip service to India by the politicians and political parties to stay in power must not be allowed in any way to subdue the meticulous exercise and due diligence that needs to be performed in optimizing to the best the benefits to be gained from the project for the nation. This is invariably the urgent and by far the most pressing need of the hour. If we understand this sensitivity and work accordingly, both nations will be sufficiently benefited thereby mitigating to a great extent the chronic diseases of flood, drought, famine and underdevelopment.


Supra note 3.
5.3 Legal issues Involve in the River Linking Project

Fresh water resources have remained the life-blood for nations, communities and individuals. Without fresh water, nature cannot sustain itself and life, as we know it, cannot be imagined. In this sense, water as the universal solvent and sustenance of the very fabric of life has always remained an inevitable substance for the survival of the people of the globe as well as their socio-economic development. Water sources in many parts of the world have been stressed to the point of scarcity. Even in the so called water abundant areas like South Asia, its uneven distribution over time and space combined with extreme weather events renders many areas exposed to recurrent floods and cycles of drought. Countries like India, Bangladesh, and even Nepal have been badly affected by this annual phenomenon with a consequent loss of and heavy damage to property and infrastructures including human lives and livelihoods.\(^9\) On the positive side, the underpinnings of the quest for a secure livelihood and economic well being of the poverty ridden masses of the region also lie in the judicious harnessing and utilisation of the available water resources. For this, conveying water from water surplus areas to water scarce areas at the right time and place is a concept cherished by many well meaning planners and engineers.

In this context, the Government of India has been contemplating an ambitious plan to translate this concept of the River linking Project (RLP) into ground action. The idea is to transfer the waters from the areas of surplus traversed by the Himalayan Rivers in the north to the areas of deficit in the peninsular south by linking 37 rivers.\(^{10}\) The main area from where the waters are to be diverted is the Ganga-Brahmaputra-Barak basin, which accounts for 60 per cent of the surface water resources of the country and is also rich in ground water. However, the rivers that comprise this mega-basin are international watercourses and naturally, international politics as well as international law are bound to be explicitly involved in this proposed undertaking.

In the latest development pertaining to the concept, the President of the Republic of India had proclaimed his government’s policy initiative on 14 August 2002, proposing a networking of rivers for eliminating the scourges of the cycle of drought and flood and promoting the economic advancement of India. The proposal was first conceived by Sir Arthur Cotton and later put forward by K. L Rao and Captain Dastur at different times. In 1982, the National Water Development Agency was set up to study the feasibility of this concept. It has submitted a series of 30 links and claimed to have reportedly completed feasibility studies on eight links while other studies are reported to be continuing with the target of completing them very soon. Further studies on the project are being conducted by a high level commission chaired by Suresh Prabhu, former water resources minister, government of India.

The watercourses that flow through the territories of several countries are common resources of all and should be shared equitably. In other words, every interest should be heeded and benefits shared in such a manner that reconciles each divergent interest to the satisfaction of each concerned country. A review of the problems and conflict of interests persisting in south Asia suggests that the problem is enormous and complex on account of the fact that the prevailing law and the practice in the area is not quite as clear as mathematics and the interpretation of the rules could be different in different situations. For example, the issue of sharing of the waters of the Brahmaputra could be different from that of the Ganges. Articles 5-10 of the 1997 UN Convention on Non-Navigational Uses of International Watercourses provide sufficient guidance on how to share and

\(^9\) Supra note 3, pp. 371-373.
\(^{10}\) T. Upreti, "India's River-linking Project and Nepal's Concern" (23/4/2004), The Kathmandu Post.
use such resources, but these rules could be applicable differently in different situations.\textsuperscript{11} The main theme of the law is that international watercourses should be shared in a reasonable, sustainable and equitable manner and Article 6 provides seventeen considerations to be applied for sharing such resources in such circumstances.\textsuperscript{12} Furthermore, equal weights have been given to all elements, which means that no single consideration outweighs the others. However, Article 10 provides that the vital human needs, supposedly drinking use, will get the top priority over other uses. Consideration of the procedural underpinnings requires a co-riparian state to give notice and information together with the copies of such plans and studies contemplated over international watercourses in order to obtain the consent of the neighbours that would be affected by such an undertaking. If such consent is not forthcoming and objections are raised by riparian states, negotiation for achieving consent would be required. This process itself is very complex and could take years to complete the exercise.

In the contextual situation of the Brahmaputra or the Ganges river, if the drinking water needs of Bangladesh were to be impeded by any irrigation and other uses in Indian territory, the former use must of necessity get top priority and the latter uses cannot be justified as reasonable and equitable. In another instance, if the RLP conceived by India could hamper the existing irrigation, drinking water, navigational and other uses of Bangladesh, such work would be considered inequitable and unreasonable. Similar provisions would be applicable to each of the riparian states of south Asia from the proposed RLP. That is to say, the RLP should not inflict any harm or injury to other riparian states such as Bhutan, Nepal and Bangladesh. It is obvious that the anticipated repercussions of the project would go contrary to this principle. In other words, there would naturally arise hindrances, injury or harm in one way or other to the upstream and downstream riparian states.

For instance, the implementation of the RLP would necessitate the construction of several high dams and structures in Nepal, Bhutan, and India, which could be harmful for the environment including aquatic life, not to mention the highly sensitive attendant problems of the resettlement and rehabilitation of millions of people. Furthermore, such structures would decimate huge tracts of forests with all their biodiversity, national parks and sanctuaries, religious sites, and adversely affect the livelihoods of ethnic people. According to Suresh Prabhu, past Indian record on rehabilitation is deplorable.\textsuperscript{13} The cases of other south Asian countries have worsening record. The drastic alteration in the existing hydrology and climatic conditions could engender an environmental disaster. These are some of the anticipated inevitable consequences of the proposed project. How India's neighbours would be benefited or compensated for such inevitabilities, or what would be the status of the existing treaty regime and how they would be replaced with a new treaty regime are very staggering and intricate issues. It would be a very tricky, complex and protracted process to negotiate and finalise a treaty in this connection. In a milieu of democratic dispensation where vehement arguments for and against mammoth water resource projects have a right to be heeded, all stakeholders- affected states, people, civil societies, NGOs, experts, political parties and diverse interest groups- must be provided the opportunity to voice their concerns. Hitherto, such a process has been taking place in India and, in a few instances, in Bangladesh. It is understood that Nepal and Bhutan have not even bothered to initiate such a discussion yet at any appreciable level.

It is germane to shed some light on the outcome of such exercises held in India in this highly charged context. It is

\textsuperscript{11} 36 ILM (1997), pp. 700-720.
\textsuperscript{12} Ibid.
\textsuperscript{13} Supra note 1.
understood that the states of Kerala, Bihar, West Bengal, Assam, Punjab, Chatisgarh and Goa have heavily criticised the concept whilst Gujrat, Karnataka, Andhra Pradesh, Orissa and Maharastra have shown only conditional consent. In essence, the recipients of water are in favour and the donors are dead against the proposed undertaking. Apart from this, almost all of the environmentalists, human right activists, experts and former bureaucrats are not only against the concept but also rebutting that it is infeasible, environmentally damaging and asserting that it would create more problems than offer solutions. Even if the Union Government succeeded in satisfying the divergent interests of these states, it would be a daunting uphill task to obtain riparian consents from India’s neighbours.

Overall, Bangladesh is dead against the project and compares the concept to a macabre intrigue to render its territory into a wasteland. Hence, it would be a question of life and death for its existence. Moreover, Bangladesh has not only handed over its protest to India but also strongly opposed it at the highest political level. It has criticised that the concept is politically unsound, technically infeasible and very wrong from the viewpoint of International Water Law and practice. This topic has brought about tectonic upheaval of opinion in these two nations; however, ironically enough, Nepal’s official stand on the issue appears to be blissfully oblivious of all this development. In fact, like the other neighbours, it could pose before her momentous questions relating to her survival and further development. If she were prudent enough to take up this matter seriously and strive to protect her national interests, her future would not be jeopardised. Otherwise, she would again fail forever without a chance of improving or amending the situation. Clearly, she would be a loser forever. The strange and perplexing matter is that Nepal Government; political parties, NGOs and civil society are very reticent on such a serious matter of stupendous ramifications for this nation, which could pose a very grave future threat for her. Proper studies, debates and deliberations to cross check and explore the threats as well as the opportunities confronting her bolstered by the formation of a national consensus for ensuring the national interest are matters of prime urgency and the pressing need of the hour.

The reality is that water in south Asia is in surplus in some places and scarce in others. During the dry season, water is scarce almost everywhere and, in the monsoon season a surfeit of it creates the havoc of floods. Thus, the management of this water for the beneficial use of all poses a formidable challenge and the complicated issues of sharing the benefits of international watercourses need to be sorted out keeping all interests in due focus and consideration. No doubt, there is asymmetry in terms of the landmass, economic prowess and water requirement and compulsions of hydrology and availability of alternative sources of water amongst the countries of the region. Moreover, the history of the past cooperation in this area has not been satisfactory and replete with bitter experiences, suspicion and examples of inequitable sharing.

The proposed RLP, in all likelihood, is bound to severely affect the interests of all riparian nations. Even the past treaties have not been implemented in good faith and the problems that emerged from their implementation have not been yet
resolved. Moreover, the RLP is not targeting a single basin only, but also directly envisages to impact upon the totality of the resources south of the Himalayan water towers. Candidly speaking, this project is explicitly linked with the life and death of the people of this region. The law could be used only as guidance. Everything depends on how liberal, cooperative and friendly are these nations in order to understand others’ sensitivities and the realities and compulsions of their neighbours. In India itself, apart from Tamil Nadu and Haryana, which are water scarce states, other states appear to be strongly critical and opposed to this project. Their argument is based on what they would get in exchange of their water in terms of royalty and export revenues from the beneficiaries. Otherwise, why should they provide their life-blood to others? On the other hand, each state first wants to provide sufficient water to its own deficit or water stressed areas. Moreover, the environmentalists, human rights activists, civil societies, experts and concerned people have exhibited strong criticisms and concerns over the consequences of the implementation of such a project. They opine that linking of rivers is a disastrous idea from the environmental point of view. The inter-linking of toxic rivers with non-toxic ones will have a devastating impact on all forms of life, let alone humans.

In this context, one will have to deal with some very grave questions concerned with south Asia's interests for the present as well as future generations. How can we sell and buy our water for the best price? How can we fix royalty and export duties on it? How can we achieve a better settlement on our

hydropower import/export? How can we secure the right to unfettered access to and from the sea from the proposed river linking project and how can we amend and improve upon the unequal treaties of the past? However, the other issues of outstanding chronic problems outside this area should also improve in order to strike this deal. These are the burning questions that need to be resolved in the complex negotiations that we shall be bound to enter into regarding the proposed grandiose project. Therefore, there are numerous threats as well as opportunities for us. It could even furnish the best opportunity to establish new relations based on equity and equitability that could reverse or recompense for the unequal treaties of the past. In a nutshell, for this ambitious project to become a success, it is imperative that whole hearted bilateral/regional cooperation and an equitable sharing of the benefits of these resources should be ensured thereby dispelling the miasma of past bitterness, cheating and exploitation, whether perceived or real, for the common future of the people of south Asia. Unless this happens, the project will merely remain in the dream of Indian politicians and their acolytes.

5.4 Concern of Neighbours

Unlike upstream neighbours Nepal and Bhutan, Bangladesh has not been keep quite and become a mere spectator of the propose RLP, in her view, is the question of life and death to her existence. Comparing with the Farrakka barrage built by India in the cost of Bangladesh, she has maintained that the coercive diplomacy of India has created obstacles in the development of her neighbours, such diplomacy cannot bring any lasting benefits to her or her neighbours and in order to resolve the problems subsisting in the region, basin-wide development in regional perspective is essential. That is to

19  Hydro electricity under the Kosi project was not commissioned, irrigation benefits were not materialized and compensation were not paid to the project affected people under the Kosi Agreement and in Gandak project lock for navigational services was not provided. Under the Sharing of the Ganges Treaty between India and Bangladesh, the assured minimum flow was not provided in 1997 dry season.
21  Supra note 17.
say, consent and cooperation from the view of regional cooperation is requires. The historical conflicts on the sharing of Ganges river water, which was thought to be resolved after the treaty of 1996, could not even been complied due to the extraordinary reduction of the predicted flow and the treaty mechanism was unable to fulfil India's obligation on that minimum flow guaranty clause of the said treaty. Worse still, India has diverted the waters of Teesta unilaterally without giving attention on Bangladesh legitimate share, has been added the fuel on already complex and conflicting relations between two neighbours. From the point of Bangladesh, they have been restricted from their legitimate entitlement in the Ganges and as a result, Bangladesh's one third of fertile territory have been converted into a desert land. Moreover, She has been maintaining that India's plan to divert waters of Brahuputra, from which her almost all territory will be converted into desert as a result her existence would be jeopardised. In a nutshell, Bangladesh has considered that the project could be threat to her very right to exist as a nation. If one consider the magnitude of this question, it is very unlikely that India could make her agree to commission this project until she rectified the past grievances and accommodate her every interests. On the other hand, it seems that without this undertaking, India's problem of relieving from poverty and socio-economic development is not possible, which means she is determined to implement this project. In this potential eventuality, one can assume that cooperation from regional perspective is the need of hour in which every nation can get its fair share, divergent views should change into convergence. In order to create this environment may take long time along with the completion of such huge, complex areas of studies, verification and crosscheck into them by the experts of international repute could consume substantial period of time.

The success of Indus River Waters Treaty 1960 and its effective implementation even in two wars time has been regarded as a catalytic. However, there are also disputes recently emerging and it is interesting matter how India and Pakistan strive to resolve the issues. Pakistan has been objecting the construction of Bahlilhar hydroelectric project maintaining that it is against the provision of the said treaty whilst India is ascertaining it does not hamper existing uses or reduce the volume of the waters. Other objections of Pakistan are with India's plan to divert Chenab river water in Himanchal Pradesh at Basholi-Pathankot dam project, the Wullar barrage project on Jhelum, the Dul-Hasti hydroelectric project at Chenab and the Sawlko dam at the same river. It is interesting fact that the Legislature of Jammu and Kashmir has asked the centre to repudiate the Indus treaty and give her free hand to develop project in this state. However, this proposal was refused by the central Government. It is understood that the Joint River commission under the treaty, which did not cease to successfully working in the time of wars and both governments are working expeditiously to resolve these disputes. It is obvious that India appears to be seriously working to find out resolution with any water disputes with Pakistan and reverse the position whilst dealing with Bangladesh and Nepal. That is to say, undermine the legitimate demand of these neighbours. This has been proved in several projects implementation and water conflicts with these nations. How this is happening could be topic of separate political research.


From the perspective of getting consent or making agreement with Nepal and Bhutan, India appears to have thought an easy job. So far there are not official stands or reactions from the official source from these two nations. However, considering the past bitterness, suspicion and history of cooperation, it seems that these nations could not give up their fair share or sacrifice interests on that project. Apart from them, several huge structures/dams/barrages are needs to be constructed in the territory of these nations. Eventually, huge tract of territory would be submerge, huge people should be resettled and rehabilitated, lot of forest, fauna will be disappear, a lot of site for hydropower will be diminished and many injury and harm will have to be tolerated. In return, how they be benefited and how the past bitterness is to be converted into fair benefit are the thorny questions need to be answered. In a nutshell, it is a very complex issue that needs long exercises from the part of India itself. Time has changed and so the people. In order to get this thing done not only governments but also the civil societies, stake holders and people should convince that they have got a fair share for the contribution they have been making for the benefit provided to India.

Robert McNamara, then President of the World Bank has proposed to Bangladesh, (which has welcome the idea), and India to mediate dispute and involve in striking a treaty in the Ganges River between the riparian states, as in the Indus Treaty. However, India has been alleged to refuse the proposal and insisted to resolve every issue in bilateral spheres. Now, India has been reversing its earlier stand and probably asking for consent with her neighbours for the RLP, much wider issue than a watercourse. Things are changing rapidly. It seems that India have to accept its past mistake to stick in bilateralism and time is approaching to agree on the longstanding demand of her neighbours for regional cooperation based on regional benefits. As things stand, international water law has been rapidly developing and there is a wide body of law, which provides guidance how to resolve such issues in reasonable, sustainable and equitable manner. Moreover, such law encourage for wider cooperation between riparian states.

5.5 Diversions Around the Globe

There are several diversions around the globe, for example Tennessee Valley Authority in which seven states have been equitably benefited in the US, as a result of this diversion economy and water needs of these federal members have satisfied and this diversion has been taken as a success story in the world. Three Georges dam and diversion of mighty Yellow river in China, one of the biggest multipurpose project, has predicted to contribute the elimination of flood, drought, and scarcity of hydropower in China. The GAP, Southeast Antolia project in Turkey, which has been implementing stage with the cost of $32 billion. The project involved with 495 separate projects includes 32 dams on the Tigris and Euphrates rivers, 19 hydroelectric projects and more than 1000 Kilometres of irrigational canal which provide waters to over 8.5 million hectares of land. The huge diversion of the Syr Darya River in the central Asia state of former Soviet Union prevent the water reaching to the Aral sea, has contributed to meet waters demand in these states at the same time caused tremendous

26 Spokesmen of Ministry of Nepalese Water Resources and Foreign Affairs quoted as saying that Nepal has no knowledge of India’s River project, (29-7-2003) the Kathmandu Post.
environmental disaster. However, the harm/injury caused by these diversion are erroneous regardless the fact that huge efforts have been undertaken to reduce and mitigate such harms. But the harms were overweighed by benefits except in the case of Aral Sea. Those who favour the RLP are insisting that such diversion have been contributing the socio-economic development of nations why not in India? However, diversion and construction of dams are not encouraged at all but the basic principle of them is that minimum harm/injury is to be accepted and such harm must be overweighed by the benefits. Furthermore, there is an increasing trend in the west in which instead of construction of new dam they are destroying numerous dams to reverse the environmental and other harms caused by these dams.

5.6 Conclusions

If the Indian political leadership really wish to fulfil the water demand and get rid from the recurring phenomenon of floods, drought and famine then she need to change her past attitude, negotiate in such a way that every interests are heeds and create a win-win situation to all riparian neighbours. The benefits should allocate fairly so that every demand of her neighbours could be meet as her own requirement, Bangladesh should get augmented water in dry season, hydroelectricity should reach to them in a fair price, floods should be checked and other benefits should divide. Similarly upper riparian Nepal and Bhutan should be treated as similar manner. Until now, neither India has not provided noticed pertaining its intention and plan about the project nor sought any consent or provided copy of such studies. The claim made by Suresh Prabhu that he has consulted with the Nepalese side is a false matter neither Nepal has given positive signal about the project nor got any studies, intent or sought consent. Such matter only helps to create negative environment. If all neighbours get their fair share and benefits equitably nothing is impossible in this context but it is India turn to change her unprecedently and heed the legitimate demand of her neighbours. From the part of her riparian neighbour, they also need to over politicise the matter, must understand the reality, and must be prepared for broader regional cooperation for the elimination of chronic poverty. In order to get this objective creation of a regional level water institution to facilitate and avert further suspicion and prejudice to each other is essential. If one see the example of Nile Basin Initiative (NBI), which is working to end the past negative environment and work for the mutual benefits of ten riparian nations at the financial assistance of the UNDP, the World Bank and Canadian International Development Agency, could be catalyst for the beneficial use of south Asian water resources. However, numerous instances have illustrated how the involvement of heads of state and governments has enabled the avoidance of conflicts and facilitated agreement in many complex and chronic issues between a weaker and a more powerful state. President Echeverria of Mexico and President Nixon of the USA resolved the salinity problem on the Colorado River, which was seen as most delicate problem between the two countries, and it was politically difficult for

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30 Supra note 1.
32 News appeared in the 2/3/2003, in Hindustan Express saying the above cannot be proved because the spokesmen of Ministry of Water Resources and Foreign affairs refused the claim, see the Katmandu Post 29/7/2003.
the USA to construct such a huge project at her own cost.\textsuperscript{34} The former Indian Prime Minister, A. B. Bajpayee, had been directly involved in ending the bitter relations of the past between his country and Pakistan, replacing them with a good neighbourly relationship. A similar, dynamic approach needs to be adopted in the case of the members of SAARC Quadrangle nations. That is the way out for the success of RLP. Otherwise, Mark Twain's quotation "Whisky's for drinkin and water's for fightin over" will be applied in South Asia.\textsuperscript{35}

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