

Discussion Notes
on
Treaty between Nepal and India on Mahakali River

Organised by:
Jalsrot Vikas Sanstha (JVS), Nepal/
Nepal Water Partnership (NWP)

Hotel De L' Annapurna, Durbar Marg
20 March 2007, Kathmandu

Presentation by : Mr, Surya Nath Upadhyay, Former Secretary, Ministry of Water Resources and Secretary General Jalshrot Vikash Sanstha (JVS)

Topic: Mahakali Treaty- A Review

The summary of the discussion issues and consensus arrived at, following Mr. Upadhyay's presentation are summarized below. Detailed discussion notes are presented thereafter:

Summary of Discussion Issues:

The main issues that came up during the discussion are summarized as follows:

Water resource has been identified as the major resource for the development of Nepal but is underutilized.

Controversy followed the conclusion of the Mahakali Treaty

India does not seem to be as serious as Nepal in the implementation of Mahakali Treaty. Perhaps strategic purpose of India is to legalize Tanakpur.

The principle of Avoided Cost, adopted by Nepal for the sell of electricity to India is not relevant now. Hence, we should go for competitive market in the present context.

Where should be the location of the re-regulating dam: Rupaligad or Poornagiri ?

The issue raised by India of Lower Sharada down below 160km downstream of Banbasa as existing water use of Mahakali River is not as per the principles of the treaty.

It is our weakness on our part for not being able to harness the benefits like water and electricity from the Tanakpur Barrage during the last 10 years.

Should we not implement the Mahakali treaty is due to misinterpretation of the provisions of the treaty? It has also been due to mistrust between the parties at the

confusion in Nepal abounding the use of inter national water flowing through Nepalese territory.

Should the Treaty be reviewed and amended as per Article 12(3) of the Treaty?

Unlike Columbia River Water Treaty where a comprehensive DPR was prepared before entering into the treaty, the Mahakali Treaty was only a framework treaty where only principles were laid out but without a DPR.

General consensus reached

The general consensus reached during the discussions is as follows:

1. Nepal cannot move ahead without engaging India on water resources development of Nepal.
2. The Mahakali Treaty should be understood by the policy makers and the politicians in its right perspective. We need not be confused.
3. Mahakali Treaty is better than the past treaties of Koshi and Gandaki.
4. Selling of electricity in the competitive market seems to be the present day norm and hence the principle of Avoided Cost adopted earlier may have become irrelevant.
5. Mahakali Treaty should be reviewed as per the Article 12(3) of the Treaty and be implemented.
6. The water of Mahakali River needs to be regulated for optimum benefits. Hence, we need to go for Pancheswor Multipurpose Project.
7. For the development of water resources there is a definite need for building consensus among the political parties. This is the high time to initiate the dialogue between them for that purpose.
8. The issues of the Treaty should be categorised as Technical, Techno-Political and Political and dealt separately by the respective parties.

Details of Discussion

Som Nath Poudel (Vice-Chairperson, JVS): Though the water resource of Nepal is considered as the main resources, its development is very sluggish. Because of the temporal and spatial variations of rainfall in our country, we need reservoir projects to regulate the flows of Nepalese rivers to get optimum benefits. Pancheswor Multipurpose Project, which is the third largest reservoir project after Karnali Chisapani and Sapta Koshi can be used to regulate the flow of Mahakali River. Three treaties were signed with India, which have far reaching effects in the water resources sector of Nepal. All the three treaties are not free from disputes. A considerable number of intellectuals are against these treaties because we could not achieve desired benefits from these treaties. All the three treaties were concluded from the political level without having proper homework. Unlike Columbia Treaty, where a lot of engineering preparations were done before signing the treaty, Mahakali Treaty is only a framework treaty which only laid down principles. This is the main reason for the delay in the preparation of the DPR. It has given ground to suspect, for those who were against the treaty. Many people have now started to suspect that the Mahakali Treaty was signed only to legalize Tanakpur.

Arjun Shrestha (Former DG, DOED): It is not true that Nepal was not serious in preparing the Detailed Project Report(DPR) of Pancheswor Multi Purpose Project. A draft DPR was presented by the Nepali team in joint meeting, but India never did so.

There were a lot of benefits given to Nepal from the Treaty. But our politicians and bureaucrats of the past were not serious in obtaining these benefits of the Treaty. Self Realization is necessary.

The policy of Avoided Cost regarding the sell of electricity to India was valid 10 years back but now, it has become redundant. Now we have to go in a competitive market for the sell of electricity from the project.

The treaty should be amended as per Article 12(3) of the treaty in the changed context of Nepal.

Lokendra Bista, NCP (Maoist): Though we have a vast potential of water resources in our country, only a small portion of it could have been developed. The past government should be made responsible for this poor development of water resource. Also, our dependence on others and big-brotherhood of India are equally responsible for this. If we look at the amount of water that has been diverted to the Indian side from the Tanakpur barrage, then only, we can realize how much Nepal had been cheated by India in the Mahakali River.

All the national and international water mafia are active to grab the water resource of Nepal. In the name of fast development, and our poor mentality we have ruined our water resources in the past. Hence, we need a major change in the structure of the State and our mentality to develop the water resources of Nepal.

From now onwards, we should give priority to the small and medium sized hydropower projects instead of large projects like Pancheswor. We should be careful from the elements those are active to grab the natural resources of Nepal.

All the treaties made in the past in the field of water resources with India should be reviewed and new treaties should be signed in the principles of '*Panchseel*'

Pashupati Shamsheer JBR (Former Minister of Water Resources): The wise decision taken by the Government of Bhutan in the past regarding the development of Chukha Hydropower Project is an example of good development strategy for the people of this region. The per capita income of Bhutanese people has crossed USD1,000 from the sell of hydropower from their projects to India.

We had chosen Pancheswor from the best possible alternatives available at that time for the development of water resources. But, we have lost many opportunities by not doing right action in right time. The result of past inactiveness is the present condition of Load Shedding in the country.

Narayan Maharjan (Nepal Peasants' and Workers' Party): The presentation has activated all the political parties and stakeholders of Nepal. The short-sightedness of the political parties in the past is mainly responsible for the under development of water resources sector. Such unequal treaties can be avoided in the future by formulating clear policies. The eight political parties should form policies for the betterment of Nepalese people.

Dr. Kishor Babu Aryal, (Former Secretary, MoWR) : Issues like origin of Mahakali River and Nepal-India Border had been raised in the past. Some of the activists even went to the extent saying that the Nepal-India border is on the right bank of Mahakali River. Anti-dam movements against Pancheswor were also organized in the past. Some of the water resources pundits have raised irrelevant issues like wheeling of extra water of Nepal from the Mahakali River through Ganges to Bangladesh. If we involve ourselves in such petty issues, we can reach nowhere in the future.

The issue of downstream benefits was raised by some foreign consultant while preparing the report of Karnali Multipurpose Project and we have blindly followed this principle. The issue of Lower Sharada is an outcome of this which is basically not an issue. The issue of Poornagiri is important and needs considerable attention. Many issues those raised in the *Sankalpa Prastav* have become irrelevant now. The principle of avoided cost for the sell of electricity to India has become irrelevant. We should go for a market based price.

Devi Khadka (NCP, Maoist): The issue of Mahakali is a subject of international dispute. In the present context of the political situation of Nepal it is not possible to reach in a consensus through this workshop. Hence this issue should be a subject of national dialogue. We have adopted a culture of blaming each other for the past mistakes. The model of Khimti hydropower is not suitable for Nepal. The construction of Upper

Tamakoshi through National investment has not been encouraged by the concerned party. The main reason for the poor development of water resources sector of our country is the involvement of our leaders and bureaucrats in the game of 'Commission'.

Ram Krishna Tiwari (Executive Secretary, WECS): We have developed a negative attitude to look India which needs to be changed. In Chukha of Bhutan India started paying from Rs 0.40 per kWh at the beginning and now paying Rs 3.00 per kwh for the electricity generated from it. This could be a good example for the field of hydropower development of Nepal. If we look at the present situation, water from our rivers flow to India and we are purchasing electricity from there. Hence, hydropower development of Nepal should be viewed purely on the economic basis. Unlike in the past, the present generation of Nepalese politicians and bureaucrats are capable of negotiating with India.

Thakur Prasad Sharma (Former Minister of State for Water Resources, RPP): There have been unofficial discussions with the Indian side regarding the issues of re-regulating dam site and Lower Sharda with the Indian officials. We have developed a culture of inferiority complex among us dealing with India. There are very competent technocrats with us who could discuss in any matter with their India counterparts. The skill demonstrated by the Nepalese technocrats during the past meetings of the Inundation Committees with India is praiseworthy.

Sriranjan Lacoul (DDG, Department of Electricity Development): The present discussion focused more on the History and not in the future course of action regarding the Mahakali Treaty. The discussion should be focussed on the four principles adopted by the Parliamentary Monitoring Committee in the past. It is difficult to derive benefits from irrigation and flood control from the project. Hence, a principle has to be derived beforehand to calculate these benefits. The treaty should be reviewed and amended as per the Article 12(3) of the treaty to address these issues.

Dr. Umesh Nath Parajuli (Executive Director, WECS): Mahakali Treaty is relatively good in comparison to the Koshi and Gandak Treaties. Many Bangladeshi friends also say that it is better than the Farakka Treaty between India and Bangladesh. The beauty of this Treaty is that unlike the Koshi and Gandak Treaties, it can be reviewed and amended as per Article 12(3).

There are basically three types of issues in the implementation of Mahakali treaty: Technical issues; Techno-political issues, and Political issues. The issues like re-regulating dam; crest level of head regulator of the irrigation canal to the Nepal, and water allocations to the Dodhara- Chandani area are purely technical one. There should be no problem in continuing the study in these areas. There was a provision of joint monitoring, which could not take place till now. Let us continue the dialogue with the Indian side because there is no alternative to dialogue with India for the development of water resources of Nepal.

Shital Babu Regmi (Executive Director, WECS): Looking at the past progress in the implementation of the Treaty, time has come to review and make necessary amendments in the treaty as per the Article 12(3). If we look at the implementation of Koshi, Gandak and Mahakali treaties, we can see that India rushed to implement the former two treaties, but showed little interest in the Mahakali Treaty. This has given ground among the Nepalese people, to speculate that this treaty has come to legalize Tanakpur. At a time when all the political actors are in the same forum, it is very easy to solve the issues of Mahakali Treaty.

Gyanendra Bahadur Karki (Hon' Minister of State for Water Resources): The discussion on Mahakali Treaty is very relevant at this juncture when ten years have elapsed and we have gained nothing from the treaty. The ideas raised in the discussion are very much beneficial for the future course of actions in this subject. There is a history of more than a century in the hydropower development of Nepal, but if we look at the achievements in this field it very discouraging. There is no controversy that water resource is the only field which can change the living standard of the Nepalese people. Hence, we should go forward for its development. There was a time when we use to say '*Hariyo ban Nepal ko Dhan*' (that the forest resource of Nepal is its capital), but now, everybody knows that it has remained no more a resource. Similarly, if we continue our past mistakes in this field of water resource, a time will come when it will no more remain as the main resources of Nepal like the forest. Hence, I urge to everyone to go one step forward for the development of water resources by reviewing the past and without lapsing a single moment.

Iswar Raj Onta (Chairperson, JVS): JVS has organized the discussion because there has been no progress in the implementation of Mahakali Treaty in the last Ten years. Two types of thoughts have emerged from the discussion:

Mahakali Treaty is not beneficial to Nepal hence it should be left pending.

Mahakali Treaty is beneficial to Nepal but needs some revision. Hence, the state has to start a fresh dialogue with India to review and amend the treaty as per Article 12(3).

The outcome of the discussion is to go for the second thought. Hence, the state should go for the necessary revision and amendments in the Treaty.

To sum up:

- We should engage India for the water resources development of Nepal.
- We should harness the benefits from the Mahakali Treaty.
- The Treaty should be reviewed and amended as per Article 12(3) of the Treaty.

***Discussion Notes prepared by Danda Pani Jaishy, Member JVS
21 March, 20 07***