

# The 1996 Mahakali Treaty: Whither the “*Rashtriya Sankalpas/National Strictures*” of Nepalese Parliament?

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**Abstract:** Despite the ratification by the Joint Session of Nepal’s two Houses of Parliament with an overwhelming majority on September 20, 1996 and despite the exchange of instruments of ratification by the two countries on June 5, 1997, the Pancheshwar Detailed Project Report (DPR) has yet to see the light of day even after the lapse of 16 years. It was believed that Prime Minister Sher Bahadur Deuba’s government with the concurrence of the main opposition party, Communist Party of Nepal- United Marxist Leninist (CPN-UML), had ratified the Mahakali Treaty with four ‘*rashtriya sankalpas/national strictures*’. It was also believed that an all party Parliamentary Monitoring Joint Committee headed by the Speaker of the Lower House was constituted to guide the Nepalese side in the preparation of the detailed project report of Pancheshwar. That Monitoring Joint Committee in a span of four years held 28 meetings. Now the very legality of those four ‘*rashtriya sankalpas/national strictures*’ is being questioned. In 2009 the Secretary level Nepal-India Joint Committee on Water Resources constituted the Pancheshwar Development Authority (PDA) that was given the crucial mandate to ‘*finalize*’ the vital much-awaited Pancheshwar DPR. As institutions have no memory and public memory is extremely short, this article attempts to recapitulate the commitments made at treaty ratification time by the Deuba government in concurrence with the then largest party, CPN-UML. The article argues against the mandate given to the bureaucrat-led PDA to finalize the Pancheshwar DPR and strongly recommends formation of an all party mechanism akin to the previous Parliamentary Monitoring Joint Committee to guide the government during this critical Interim period.

**Key words:** Mahakali Treaty, *Rashtriya Sankalpas*, national strictures, parliament, Pancheshwar project, Nepal

## A. Origin of *Sankalpas/Strictures*: September 20, 1996 Joint Session of Parliament

**T**he coalition government of the Nepali Congress, *Rashtriya Prajatantra Party* and *Nepal Sadbhavana Party* led by Prime Minister Sher Bahadur Deuba initialed<sup>1</sup> the Mahakali Treaty on February 12, 1996 (*Magh 29, 2052*) with much fanfare at the Delhi durbar. But Article 126 of the then 1990 Constitution of Nepal, requiring ratification by two-thirds of the Joint Session of Parliament, hung over the head of Prime Minister Deuba like the sword of Damocles. With the CP Mainali/Bamdev Gautam faction in Communist Party of Nepal- United Marxist Leninist (CPN-UML) advocating amendments to the Mahakali Treaty before ratification, Prime Minister Deuba, his Water Resources Minister Pashupati SJB Rana and Foreign Minister Dr. Prakash Chandra Lohani worked overtime<sup>2</sup>. Their combined efforts bore fruit. Near about the midnight of September 20, 1996 (*Ashwin 4, 2053*), the Joint Session of the Nepalese Parliament overwhelmingly<sup>3</sup> ratified the Mahakali Treaty with, it was believed, the four ‘*rashtriya sankalpas/national strictures*’: i) *export of energy and its pricing principle* ii) *formation of Mahakali River Commission* iii) *equal sharing of waters of the Mahakali River after the Pancheswor project* and iv) *status of the Mahakali River*.

On that fateful night Madhav Kumar Nepal, leader of main Opposition Party and General Secretary of CPN-UML, had forcefully addressed the Joint Session of Nepalese Parliament thus<sup>4</sup>: the Nepal-India treaties of Kosi (AD 1954) and Gandak (AD 1959) are remembered by Nepalese with sorrows. Nepalese cannot also forget the series of Indian objections that blocked international funds for implementing the Kankai, Babai and Sikta

irrigation projects. With the then Prime Minister, Girija Prasad Koirala, condoning India’s unilateral construction of Tanakpur on the Mahakali river through the MOU, previous Nepalese wounds have again been opened up, and during the repressive Panchayat regime Indian security forces occupied Darchula’s Tinkar; the secret 1965 Nepal-India security treaty was signed and the Tanakpur barrage unilaterally constructed by India in the 1980s. MK Nepal then disclosed that CPN-UML had received the following political commitments<sup>5</sup> from HMGN and India: i) Mahakali is basically a border river, ii) both countries have equal rights on the Mahakali waters, iii) Nepal will sell India a portion of her electricity generated from Pancheshwar and the price of energy will be determined on avoided cost principle, iv) decision on DPR will be made through national consensus of an All Party Committee, v) members to the Mahakali River Commission will be nominated through national consensus, and vi) the entire western Nepal-India border will be demarcated scientifically within a stipulated period of time and the Indian military post removed from Darchula district. MK Nepal termed Water Resources Minister Pashupati SJB Rana’s interpretation of Mahakali Treaty’s Article 3 totally faulty. Minister Rana had informed the House that Nepal and India will be entitled half-half waters of the Mahakali River after deducting their ‘*respective existing consumptive uses*.’ MK Nepal wanted Minister Rana to take back his interpretation from the very rostrum he uttered then and declare instead that Nepal and India are entitled half-half waters of the common Mahakali River. MK Nepal demanded that HMGN get this same interpretation from the Government of India<sup>6</sup>.

In response, Water Resources Minister Rana gave the

following reply<sup>7</sup>: the government wanted to transform the Tanakpur problem into opportunity by tying it with Pancheshwar to achieve a 'new break through' in water resources development by opening a 'new door' for the export market; on Kosi and Gandak treaties, Nepalese nationalism did cry but that nationalism now is all smiles – precious smiles – on the Mahakali treaty; on existing consumptive uses of Mahakali treaty's Article 3, Prime Minister Sher Bahadur Deuba, through his letter of Bhadra 26, 2053 (Sept. 11, 1996) to CPN-UML General Secretary, had already explained about both the countries having equal entitlement to the Mahakali waters; this equal entitlement to all the Mahakali waters was the government's stand and anything presented earlier contrary to this would be inadmissible. Minister Rana then proposed to the House an understanding that was prepared with the consensus of the main opposition party, CPN-UML, wherein the DPR preparation of the Pancheshwar Multipurpose Project will be based on the Prime Minister's letter of Bhadra 26, 2053 (Sept. 11, 1996) to the CPN-UML General Secretary. The four understandings will be undertaken as '*rashtriya sankalpas/national strictures*' and an All Party Parliamentary Monitoring Joint Committee will be constituted to provide an overall guidance to the government<sup>8</sup>.

Some had termed these *sankalpas/strictures* a mere ploy<sup>9</sup> of the Nepali Congress-led Deuba government to appease the disgruntled CPN-UML group to garner that critical two-thirds majority. After successfully ratifying the treaty, Nepal's ministers and politicians rattled out tantalizing figures<sup>10</sup> of billions of revenues from export of electricity to India. The governments of Nepal and India in their February 12, 1996 Letters of Exchange stated '*The DPR shall be finalized by both countries within six (6) months from the date of entry into force of the Treaty.... The Project shall be aimed to be completed within eight (8) years from the date of the agreement for its implementation, subject to the provision of the DPR.*' Over 16 years have lapsed since that Letters of Exchange. Despite the stipulated six months for DPR finalization and eight years for project completion, the Pancheshwar DPR itself has yet to see the light of day. As for the *sankalpas/strictures* passed on that fateful treaty ratification day, a new twist has evolved. Indeed public memory is short and institutions sadly have no memory at all.

### **B. Parliamentary Monitoring Joint Committee: For Guidance in Preparation of Detailed Project Report (DPR) of Pancheshwar Project**

Subsequent to the Mahakali treaty ratification, Nepal's Ministry of Foreign Affairs requested the Embassy of the Republic of India on November 22, 1996 for necessary arrangements for exchange<sup>11</sup> of instruments of ratification so that the Treaty could come into force. The following is the excerpt of that letter<sup>12</sup> to the Indian Embassy at Kathmandu:

*The Ministry would like to inform that a Parliamentary Monitoring Joint Committee has been formed under the chairmanship of the Rt. Hon. Speaker<sup>13</sup> of the House of Representatives to give guidance to [the] Nepalese side, during the preparation of the detailed project report, with a view to monitor the process reflecting the resolution and commitment as expressed by the parliament in safeguarding the national interest of Nepal. The Terms of Reference of the Committee are as follows:*

- *export of energy and its pricing principle;*
- *formation of Mahakali River Commission;*
- *equal sharing of waters of the Mahakali River after the Pancheshwar project; and*
- *status of the Mahakali River.*
- *In addition to advising about the formation of the Parliamentary Monitoring Joint Committee to look into the above issues, the Ministry would also like to draw the attention of the Embassy to a number of issues on Nepal-India relations and other matters on the Mahakali Treaty and the utilization of the waters of Mahakali River, such as:*
- *determination of the price of energy to be exported to India on the basis of the principle of avoided cost;*
- *determination of the source of the Mahakali River;*
- *withdrawal of the Indian military personnel from the Nepalese territory;*
- *return by India to Nepal of the excess land (36 acres<sup>14</sup>) in Brahmadev Mandi/Tanakpur between pillar Nos. 3 and 4;*
- *review of the 1950 treaty;*
- *alternate transit route to Nepal to and through Bangladesh;*
- *developing river navigation for Nepal for trade purposes; and*
- *monitoring the Nepal-India border.*
- *In the light of the generally positive spirit shown by the Indian side towards the issues mentioned above, the Ministry hopes that the Nepalese concerns would be taken into account in a friendly and positive manner by the Government of India.*

The Deuba government revealed in tying up the Mahakali issues with such age-old perpetual Nepal-India issues like review of the 1950 Treaty of Peace and Friendship, transit route through Bangladesh, developing navigation and monitoring the open Nepal-India border. The above Foreign Ministry letter has, however, identified the main core issues of the Mahakali treaty. The Parliamentary Monitoring Joint Committee headed by the Speaker of the House, Ram Chandra Poudel, included Members of Parliament both from the ruling and opposition benches<sup>15</sup> to make the Committee more inclusive so that a national consensus could be arrived. This Committee was to give guidance to the Nepalese team during negotiations with India on Pancheshwar's detailed project report (DPR) preparation so that Nepal's national interest, as reflected in the resolution and commitment expressed by the parliament, was

safeguarded. The following four terms of reference of the Parliamentary Monitoring Joint Committee, interpreted as the *sankalpas/strictures*, were: i) pricing principle of export energy, ii) Mahakali River Commission formation, iii) equal sharing of the Mahakali waters after Pancheswar and iv) Mahakali River status. The same letter explicitly communicated to the Government of India that the pricing of export energy be on the avoided cost principle, source of Mahakali River be determined, Indian military personnel withdrawn from Nepalese territory and return of excess land (36.68 acres) by India to Nepal at Brahmadev Mandi/Tanakpur between pillars 3 and 4. On the strictures, RR Iyer, the erudite former Water Resources Secretary/Government of India, commented<sup>16</sup> that *'Strictures by the Nepali parliament can apply to the Nepali government, not to the Government of India. The Government of Nepal must of course take note of its parliament's concerns, and if necessary, go back to the Government of India for a fresh round of negotiations. But in that event, the treaty must be treated as dormant (if not as non-existent) until the re-negotiation ... and a fresh document is agreed upon.'*

### C. Formation of Pancheswar Development Authority: Contravention of Parliamentary Monitoring Joint Committee's Terms of Reference

In the last 16 years since the Mahakali Treaty ratification, much water has flowed down the Mahakali River to India's extensive Sarada Canal networks from Tanakpur barrage. In Nepal itself, Dr. Babu Ram Bhattarai in his 40 Points Demand of 4th February 1996 to Prime Minister SB Deuba decried: 'The so-called Integrated Mahakali Treaty concluded on 29 January 1996 should be repealed immediately, as it is designed to conceal the disastrous Tanakpur Treaty and allows Indian imperialist monopoly over Nepal's water resources.' Several Nepal-India track two exercises on the Mahakali treaty failed to resuscitate the dead-locked Pancheswar DPR. With the ragtag army of CPN-Maoist challenging the might of the State from 2001 and the tragic deaths of over 14,000 innocent Nepalese lives, the 2006 Spring Revolution, despite bringing peace, is still grappling with an open-ended Interim period.

It is during this interim period that Prime Minister Madhav Kumar Nepal in 2009, to fulfill his petty interest, delivered the fatal stab to Nepal's Water Resources Ministry to create the Ministries of Energy and Irrigation. Prime Minister Nepal, thus, facilitated the environment whereby all bilateral Nepal-India Ministry of Water Resources talks are ironically led by Nepal's Energy Ministry. During MK Nepal's tenure, the Fifth Secretary Level Meet of the Nepal-India Joint Committee on Water Resources at Pokhara on 20-22 November, 2009 constituted the Pancheswar Development Authority<sup>17</sup> that was given the mandate to *'finalize'* the most vital much-awaited *'Detailed Project Report of Pancheswar Multipurpose Project.'* This is in contravention of the *sankalpas/strictures* passed by the Nepalese parliament

during treaty ratification in 1996. The Mahakali River Commission should have been constituted prior to Pancheswar Development Authority. The four *sankalpas/strictures* of the Parliamentary Monitoring Joint Committee to guide the Nepalese team during Pancheswar's detailed project report preparation have been shrewdly brushed aside.

### D. Rashtriya Sankalpas/National Strictures: In the Eyes of Ministry of Energy and Legislative Parliament Secretariat

In fact, not only have the *sankalpas/strictures* been cursorily brushed aside but a new debate that the Nepalese parliament never passed the *'rashtriya sankalpas/national strictures'* officially has raised its ugly head. Surya Nath Upadhyay, former Water Resources Secretary, put on record<sup>18</sup> that *'... records of the parliament showed that there was no sankalpa prastav (Strictures of the Parliament) put to the house according to the Regulations of the House of Representative, 1992 prevailing at that time.'* Such comments at a seminar on the Mahakali Treaty in November 2009 elicited Dr. Surendra KC of Tribhuvan University to wonder aloud that the *sankalpas/strictures* he taught the students at the University for the last 13 years were all a mere farce. The debate fueled Gopal Shivakoti 'Chintan'<sup>19</sup> to write to the Ministry of Energy<sup>20</sup> [November 27, 2009 (*Mangsir 12, 2066*)] requesting information, documents including the *Sankalpa Prastav* on the Mahakali treaty. The Ministry of Energy replied<sup>21</sup> on December 8, 2009 (*Mangsir 23, 2066*) *'... as this Ministry has no record of authoritative information on the passing of Sankalpa Prastav as precondition by the then Parliament prior to the ratification of treaty, please avail all required information through the Legislative Parliament Secretariat.'* Despite the Energy Ministry passing the buck, GS 'Chintan' followed this up at the Parliament Secretariat that replied on August 10, 2010 (*Shrawan 25, 2067*) *'... prior to ratification of treaty the then Parliament, as per the regulations of Parliament, has no officially registered Sankalpa Prastav about the above subject. Before ratification of the above treaty by the Joint Session of Parliament, records indicate Water Resources Minister Pashupati Shumsher JBR on behalf of the government with the concurrence of the main opposition CPN-UML presented the "sahamati ka bunda/agreed points."* The Legislative Parliament Secretariat does mention the existence of the record of **agreed points** between the government and the main opposition CPN-UML.

### E. The Rush to Decide: 'Benefit and Cost, Who Bears How Much?'

So was Prime Minister Deuba with his Ministers Rana, Dr. Lohani including the CPN-UML General Secretary MK Nepal merely playing gimmicks in the Parliament with half-baked *sankalpas/strictures*? They all are still in very responsible positions in their respective parties. The

Parliamentary Joint Monitoring Committee had national statured names like Ram Chandra Poudel, Jhalanath Khanal, Bharat Mohan Adhikari, Bhim Bahadur Rawal, Mahesh Acharya, Subhas Chandra Nembang, Hridayesh Tripathi and the ministers Narhari Acharya, Pashupati Rana and Dr. Prakash Chandra Lohani. If they are the true sons of the soil, they surely are answerable to the Nepalese people about the '*rashtriya sankalpas/national strictures*' and the Monitoring Committee they were members of. Why was Prime Minister MK Nepal itching to truncate the Ministry of Water Resources into that of Energy and Irrigation? Having truncated the Ministry, why should the multipurpose Pancheshwar Project be under the purview of the Ministry of Energy and not that of Irrigation? Water has become a scarce resource globally and, far more so, in the 656 million<sup>22</sup> peopled Gangetic belt.

The failure<sup>23</sup> of India's Prime Minister Man Mohan Singh and Prime Minister Sheikh Hasina Begum of Bangladesh to ink the long festering Teesta water sharing deal in September 2011 should be an eye opener for Nepal. Bangladesh, as the lower riparian, wanted a 'fair' 50-50 percent share of the Teesta waters<sup>24</sup>. But, as the upper riparian, the Chief Minister of West Bengal, Mamata Banerjee, found the about-to-be-signed agreement '*detrimental to the interests*' of West Bengal and objected. Unfortunately, Nepal's policy makers have paid little or no attention at all to water sharing mechanisms. They have already acquiesced to the existing consumptive use demand of India and consented to preclude the claim, in any form, on Nepal's unutilized portion of the Mahakali waters. Nepal, instead, is totally mesmerized by hydroelectricity and electricity alone. Electricity production has other alternatives like coal, gas, nuclear, wind, solar etc. but water for future Nepalese generations has no alternatives at all.

On the Pancheshwar Multipurpose Project, the media<sup>25</sup> reported the Project Chief, DB Singh, as having said that while the formation of Pancheshwar Development Authority has been, in entirety, agreed upon between Nepal and India, only the '*benefit and cost, who bears how much*' requires to be sorted out. The media also reported that '*who bears how much*' was to be decided by the Ministerial level meeting of the two countries. It belated that this could not take place as Prime Minister MK Nepal unfortunately had to resign. This first meeting of the Nepal-India Joint Ministerial Commission on Water Resources between the two countries did take place at New Delhi on February 15, 2012 during Prime Minister Dr. Baburam Bhattarai's tenure. Despite the much publicized feud between the Ministers of Energy and Irrigation as to who leads the Joint Ministerial Commission on Water Resources to New Delhi, the joint Nepal-India press statement regarding Pancheshwar came out merely with: '*Both sides agreed to expedite the setting up of the Pancheshwar Development Authority (PDA) at the earliest for implementation of the Pancheshwar*

*Multipurpose Project.*' This means that PDA is yet to be set up and as for that '*benefit and cost, who bears how much*', fortunately nothing has been agreed upon.

## **F. Conclusion: Grave Mistake to Bypass the Terms of Reference of Parliamentary Monitoring Joint Committee**

Thus, while one, like SN Upadhyay, can question the legality of the *Rashtriya Sankalpas/national strictures*, the fact that the *Sahamati ka Bunda/Agreed Points* do exist at the Legislative Parliament Secretariat cannot be denied. One cannot also deny the fact that a Parliamentary Monitoring Joint Committee was formed under the chairmanship of the Speaker<sup>26</sup> of the House of Representatives '*to give guidance to [the] Nepalese side, during the preparation of the detailed project report, with a view to monitor the process reflecting the resolution and commitment as expressed by the parliament in safeguarding the national interest of Nepal.*' Similarly, one cannot deny the four Terms of Reference, *sankalpas/strictures* or whatever given to the Joint Committee:

- *export of energy and its pricing principle;*
- *formation of Mahakali River Commission;*
- *equal sharing of waters of the Mahakali River after the Pancheshwar project; and*
- *Status of the Mahakali River.*

Over the four year period from November 1996 to August 2000, records indicate that Ram Chandra Poudel and Taranath Bhat as Chairmen conducted 28 meetings of the Monitoring Joint Committee. Many members of that Joint Committee still hold important positions in their respective parties. The minutes of those meetings must be lying in some dust covered cupboards of either the energy or irrigation ministry.

In the absence of the Parliamentary Monitoring Joint Committee, one does discern a distinct air of urgency, the same urgency akin to that during the ratification of the Mahakali Treaty in 1996, to rush through this '*benefit and cost, who bears how much*' issue. The nation is still clueless about the energy pricing mechanism. India has not uttered a single word on whether the price of energy for export to India will be on avoided cost principle or not. Yet the Department of Electricity Development/Ministry of Energy has now rolled out another<sup>27</sup> tantalizing figure of Rs 34.5 billion (US \$ 0.39 Billion) annually from Pancheshwar electricity export. In order to garner local support, the Ministry has dangled the carrot of over 0.23 billion of Rupees annually to each of the famished nine districts<sup>28</sup> in the Mahakali basin. Having acquiesced to India's 'existing consumptive uses', what exactly is that agreed<sup>29</sup> 'existing consumptive use' figure? On equal sharing of the Mahakali waters after Pancheshwar, is this equal sharing '*pre- or post-*' deduction of this 'existing use'? In other words, is it, as Minister Rana had interpreted half-half waters after deducting the existing consumptive uses? Or is it, as Secretary General MK Nepal believed *half-half waters (equal entitlements) prior to*

*deduction* then applying the ‘without prejudice’ clause to existing consumptive uses? Why was PDA constituted instead of the Mahakali River Commission? Above all, why was the PDA manned entirely by the two countries’ bureaucrats, given that crucial mandate to ‘finalize’ that mother of all Pancheshwar DPR? In the last 16 years, there has neither been any progress<sup>30</sup> on determining the source of the Mahakali River nor the inclination of the Indian Government to withdraw her military personnel from Nepal’s Kalapani territory? Similarly, India is not inclined<sup>31</sup> to return that already agreed upon tiny 36.68 acres of land at Brahmadev Mandi, languishing for the last 65 years since the British left India. Didn’t the Joint Session of the two Houses in September 1996 constitute the all party Parliamentary Joint Monitoring Committee to give necessary guidance ‘in safeguarding the national interests of Nepal’?

Public memory is very short and institutions, the bedrock of any society, unfortunately have no memory at all. There is a dire need in this Interim period to constitute an all party mechanism akin to Parliamentary Monitoring Joint Committee. Without such a mechanism giving guidance, Nepal will be making a grave mistake if the Pancheshwar Detailed Project Report is finalized by the all bureaucrat-led PDA. A grave blunder of national proportion because this will set the precedent that, in all likelihood, would be replicated in all future joint Nepal-India water resources projects!

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#### Notes

1. Actually the Treaty had already been initialed on January 29, 1996 at Kathmandu by the two Foreign Ministers Dr. Prakash Chandra Lohani of Nepal and Pranab Mukherjee of India.
2. Also working overtime were the pro-treaty MK Nepal and KP Oli faction of the CPN-UML party.
3. Of 228 MPs present at the Joint Session, 220 MPs voted for and 8 MPs voted against, so that 96.5% of the MPs present in the House voted for ratification of the Mahakali Treaty – 31 MPs (26 from CPN-UML) abstained.
4. From Parliamentary Secretariat’s Verbatim Recordings of the Joint Session of two Houses of Parliament on Ashwin 4, 2053 (September 20, 1996).
5. It is not clear whether this commitment from India was verbal or written. What we do know is that Prime Minister Deuba did make this commitment in writing to MK Nepal through his letter of September 11, 1996 (Bhadra 26, 2053). If India has indeed made this

commitment in writing then the Nepalese public has every right to see it. Indian Ambassador KV Rajan’s letter of September 10, 1996 to Foreign Minister Dr. PC Lohani on Mahakali Treaty matters conveys an otherwise statement: ‘[as] the Parliament of Nepal is currently dealing with the question of ratification of the Treaty, I feel it would be highly inappropriate for us to comment on any aspect since ratification is purely Nepal’s internal affair.’

6. A very important demand of CPN-UML General Secretary, MK Nepal, but one wonders whether Prime Minister Deuba’s government ever bothered to get that interpretation from the Government of India.
7. Op. cit footnote 4
8. Parliamentary Secretariat’s Verbatim Recordings of the Joint Session of two Houses of Parliament on Ashwin 4, 2053 (September 20, 1996).
9. Dhruva Kumar. 2004. Parliament and Public Policy Making: A Case Study of the Mahakali Treaty in Dr. Lok Raj Baral (ed) Nepal Political Parties and Parliament. Delhi. Adroit Publishers.
10. Water Resources Minister Rana, Rs 21 billion; Foreign Minister Dr. Lohani, Rs 24 billion and CPN-UML Mahakali Treaty Study Team coordinator KP Sharma (Oli), Rs 120 billion annually. Now 16 years later in 2012, DOED/Ministry of Energy’s brochure on Pancheshwar project claims Rs 34.5 billions annually.
11. The Mahakali Treaty came into force on June 5, 1997 when the two governments exchanged the instruments of ratification. Ironically, this exchange of instruments was done when Bamdev Gautam, the opponent of treaty ratification, was Deputy Prime Minister during Lokendra Bahadur Chand’s premiership.
12. DN Dhungel and SB Pun (eds). 2009. Nepal-India Water Relationship: Challenges. Springer. Netherlands.
13. Ram Chandra Poudel, the present Parliamentary Leader of Nepali Congress, was the then Speaker.
14. Actually this is 36.68 acres, indicating lack of due diligence by Nepalese bureaucracy. This mistake of 36.68 acres excess land was made during the swapping of lands for the 1920 Sarada barrage at Banbasa. India in July 23, 1946 had already agreed to return this excess land but has not done so even after 66 years!
15. According to the Parliamentary Secretariat letter of 2053/7/16 (November 1, 1996) to the Ministry of Water Resources, the following were the members of the Parliamentary Monitoring Joint Committee: 1. Speaker of Lower House, Ram Chandra Poudel – Chairman 2. Amar Raj Kaini 3. Urba Dutta Pant 4. Jhala Nath Khanal 5. Prem Bahadur Singh 6. Bhakta Bahadur Balayar 7. Bharat Mohan Adhikari 8. Bhim Bahadur Rawal 9. Mahesh Acharya 10. Mahesh Chaudhary 11. Rabindra Nath Sharma 12. Ram Janam Chaudhary 13. Surendra Prasad Chaudhary 14.

- Subhas Chandra Nembang 15. Hridayesh Tripathi. The first meeting of the Committee invited the following ministers as permanent invitees to all meetings of the Committee: 1. Water Resources Minister PSJB Rana 2. Foreign Minister Dr. PC Lohani and 3. Parliamentary Affairs Minister Narahari Acharya.
16. Delay and Drift on the Mahakali. June 2001. Himal South Asian. Kathmandu.
  17. The Secretary level meet decided that the CEO of Pancheshwar Development Authority will be appointed 'either from India or Nepal on competitive basis having required qualification, relevant experience and proven track record.' Such 'relevant experience and proven track record' criteria clearly rules out Nepal ever having her CEO at PDA. Actually as this is a bi-national project, this CEO post should have been shared on a rotational turn by turn basis.
  18. SN Upadhyay. December 2009. The Mahakali Treaty: View from the Negotiating Table. Prof. Ananda P Shrestha and Dr. Pushpa Adhikari edited Mahakali Treaty Pros and Cons for Nepal. Sangam Institute. Kathmandu.
  19. Assistant Professor, Nepal Law Campus, Bhrikuti Mandap, Kathmandu.
  20. By this time Prime Minister Madhav Kumar Nepal had already dismantled the Ministry of Water Resources into that of Energy and Irrigation. MP Nepal is also credited with having fathered the Mahakali Treaty by 'tying up the Sarada barrage of yesterday with Tanakpur barrage of today for Pancheshwar of tomorrow'!
  21. The writer wishes to thank 'Chintan' for availing this letter as well as that from the Legislative Parliament Secretariat to the writer.
  22. World Bank's Final Draft Report on Ganges Strategic Basin Assessment, March 2012.
  23. Kathmandu Post (May 8, 2012) quoting Indo-Asian News Service.
  24. Reports indicate that Bangladesh proposed India the Teesta water sharing of 40% each with 20% release for preserving eco-system. It appears the two sides had agreed on India getting 42.5% and Bangladesh 37.5% of Teesta waters. But as West Bengal Chief Minister, Mamata Banerjee, opposed it, the agreement could not be signed. Packaged with this Teesta water sharing were two other important deals: the exchange of enclaves from British-India times (India's 111 enclaves – 17,158 acres and Bangladesh's 51 enclaves – 7,110 acres) and the strategic Transit Corridor through Bangladesh for access to India's seven north-eastern States. Nepal's policy makers, if they wish, could learn a few things from this Teesta packaged deal on the Mahakali treaty.
  25. The Kantipur Bhadra 7, 2067 (August 23, 2010). DB Singh is presently the Director General of Department of Electricity Development.
  26. Ram Chandra Poudel, the present Parliamentary Leader of Nepali Congress, was the then Speaker.
  27. Earlier Kantipur (Shrawan 29, 2066 – August 13, 2009) had quoted the Pancheshwar Project Chief, DB Singh, that the annual benefits from Pancheshwar were electricity: Rs 45.88 billion, irrigation: Rs 5.69 billion, fisheries: Rs 16 billion and carbon credit: Rs 4.42 billion totaling an annual benefit of Rs 71.99 billion.
  28. The recent DOED/MOE brochure on the Pancheshwar Multipurpose Project claims NRs 34.50 arabs of revenue from Nepal's portion of 6.16 arab units which means NRs 5.60 per unit. Thus the Project has given each of the districts of Darchula, Kanchanpur, Kailali, Doti, Bajhang, Bajura and Achham Rs 0.234 billion annually as royalty. The districts of Baitadi and Dadeldura having the dam and regulating structures will get Rs 0.564 billion and Rs 0.261 billion per annum respectively.
  29. The 2069 calendar distributed by Pancheshwar Multipurpose Project, DOED/MOE, indicates India's Sarada Canal with 326 cubic meters per second discharge. Does this then mean that Nepal has already acquiesced to India's existing consumptive uses of 326 cubic meters per second? Who agreed to this figure and what has happened to MK Nepal's equal entitlements to the waters of the common Mahakali river?
  30. Prime Minister SB Deuba in his letter of Bhadra 26, 2053 (Sept. 11, 1996) informed MK Nepal that the two countries had agreed on a three year program to demarcate the Nepal-India border in a scientific manner. In the last 16 years, nothing has materialized on determining the source of Mahakali river. In the 1996 query of KP Sharma (Oli), Water Resources Minister Rana had stated that Nepal categorically rejects India's version of Kalapani Tal as the source of Kali river.
  31. On the return of excess 36.68 acres of land to Nepal, Indian ambassador KV Rajan on September 21, 1996 – RSV (a day after treaty ratification) replied in this seeming fashion: 'It seems a matter that goes back to 1920 before India became independent. It seems as if after the actual land was measured ... was likely in excess of what was supposed to be the case now. This is a very small, very technical matter. I have no doubt at all that the two countries will be able to resolve this..... to the total satisfaction of Nepal in the very near future.' From publication in Nepali of the Ministry of Water Resources, His Majesty's Government of Nepal dated Kartik 29, 2053 (Nov. 14, 1996) on the Treaty between His Majesty's Government of Nepal and the Government of India concerning the Integrated Development of the Mahakali River including Sarada Barrage, Tanakpur Barrage and Pancheshwar Project.