



राष्ट्रिय मानव अधिकार आयोग

National Human Rights Commission, Nepal

केन्द्रिय कार्यालय Central Office

हरिहर भवन, पुलचोक, ललितपुर, HariharBhawan, Pulchowk, Lalitpur, Nepal



Press Note

16 November, 2018

NHRC Recommends to the Government for the Protection of Right to Environment

National Human Rights Commission has recommended to the government regarding the complaints on right to environment concluding the investigation and monitoring. Due to development and construction actions mitigate the adverse impacts of environmental pollution on public health and non-implementation of the earlier verdicts of the Supreme Court to ensure that the citizen's right live in a clean environment that amplified the environmental pollution in Kathmandu valley as the complaint was lodged in the Commission for monitoring and necessary actions.

The decision made by the Commission comprise including the management of development and construction, regular monitoring and awareness raising, development of accountable system, management of vehicles, implementation of standards and law, Initial Environmental Examination (IEE) and Environmental Impact Assessment (EIA), collection and management of garbage, dumping site, air pollution data collection and analysis. The detailed description of the decisions is attached with this press note.

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Murari Prasad Kharel
Officiating Secretary



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D. N. 951

Date: 16 November, 2018

Office of the Prime Minister and Council of Ministers
Singadurbar, Kathmandu

Subject: Related to the implementation of the decisions

Complaint no. 914, Right to Clean Environment, Central office, Hariharbhawan, Lalitpur - due to development and construction actions mitigate the adverse impacts of environmental pollution on public health on a complaint received by the NHRC regarding the 'right to clean environment' from valley denizens' after monitoring and investigation the Commission delivered a set of recommendations to the government of Nepal to uphold the fundamental rights of citizens and respect the earlier orders of the Supreme Court. Unplanned digging of roads, poor implementation of development projects, unsafe disposal of hospital and industrial wastes, air pollution due to dust and smoke emitted by brick kilns, vehicular emission, irregular collection and disposal of household wastes, delay in blacktopping roads and haphazard dumping of construction materials, among others, were responsible for increasing environmental pollution in the valley. The Commission recommends the followings:

1. Related to Construction and Development Act:

- (a) The government before concluding the construction and development, conduct complete analysis of the project pursuing the human rights based approach to development and develop a schedule comprising the date of commencement and completion of construction work before implementing development activities and monitor whether the full implementation has been adopted or not by the concerned agencies.
- (b) The government conclude the construction work within the timeframe and cause the contractor to abide by pollution control measures as set forth in the laws and to conclude the work on time abiding human rights friendly environment and to monitor regularly. Manage to cause to be fully abided by the related laws.
- (c) To operate the integrated development system managing it to operate the integrated construction work.



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- (d) To develop optimal level of coordination with the concerned locals and concerned stakeholder agencies affected from the projects before the date of commencement of the construction work.

2. Vehicle Management, Standards and Related to the Implementation of Laws:

- (a) The standards implemented by the government of Nepal are mandatory to all, to monitor effectively the implementation status whether they are followed up or not by the monitoring agencies and take legal action too.
- (b) While monitoring, to formulate a law this empowered the concerned authorities to impose on-the-spot fine on vehicles not meeting the existing emission standards as determined by the Nepal Vehicle Emission Standards - 2012, Air Pollution Quality Control Standard - 2012 and Vehicles and Transportation Management Act - 1992.
- (c) To set up vehicular emission testing facilities of public, private and government's vehicles in entry points of the valley and make the green sticker mandatory for vehicles throughout Kathmandu valley and implement after effective monitoring of this.
- (d) To set up regular vehicular emission testing facilities to the two wheelers operated throughout Kathmandu valley.
- (e) Make the vehicle testing function effective coordinating between the Department of Environment, Department of Metropolitan Traffic Police and the Department of Transport Management besides increasing the number of vehicular emission testing facilities from the existing three for the reduction of the air pollution.
- (f) It is found that the regular exhausted emissions from the vehicles, plastic and brick kiln Carbon Dioxide and Black Carbon is being produced. Carbon Dioxide and Black Carbon have the long term grievous effect upon human health and has negative impact, therefore, to implement and cause to implement the essential technology to control and prevent the production of Carbon Dioxide and Black Carbon.

3. Related to Initial Environmental Examination (IEE) and Environmental Impact Assessment (EIA):

- a. While analyzing the ways to reduce the environmental negative effects while developing infrastructure, industries including the physical construction and implementation and what

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are the other alternatives, Initial Environmental Examination (IEE) and Environmental Impact Assessment (EIA) are essential processes but they are not properly implemented so, implement and cause to implement the effective IEE and EIA providing direction to the concerned agencies.

4. Related to the Waste Collection and Management:

- a. While managing the waste, to segregate perishable and non-perishable wastes in sources, collect them separately by the separate vehicles and dispose of waste in landfill site accordingly,
- b. Determine time schedule for collection of waste in every areas and follow this schedule while collecting the waste and manage for the immediate disposal,
- c. Rid the valley of visual pollution caused by posters and pamphlets pasted on utility poles collecting them simultaneously with the garbage by the collectors,
- d. In the absence of regular collection of the waste in the street, the locals fire the waste for disposing it and it produces Carbon that causes the air pollution. Therefore, manage collecting the waste regularly and prevent its disposal by fire,

5. Related to the Landfill Sites:

- a. It has been seen that the slurry created from the heap of the disposed waste in the landfill site Okarpauwa is directed towards the stream so that the toxic and chemically added slurry may cause health hazard to the human beings and other animals, so manage to direct the purified water using treatment plant.
- b. Relocated the directly affected locals in the currently operating land field site Okarpauwa immediately and provide them adequate compensation too,
- c. Due to the operation of unorganized and open land field site, it is found that the locals around Okharpouwa have negative impact on health day by day, make a provision of regular health check-up of the locals and the garbage collecting labours and manage to prevent the negative impact,
- d. The roads in the land field sites are being damaged rapidly due to the waste carrying vehicles so that there is production of dusts or smokes and are not



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repaired timely repair/maintain the road from Balaju to Okharpauwa where the landfill site is situated.

- e. Due to the lack of stable and scientific well managed landfill sites, time and again there is a problem of no collection of waste in the Kathmandu valley so that the heap of waste is piled in the roads, and this generates toxic gas and makes the air polluted so that this can impact on the human health, therefore to manage the landfill sites stably and scientifically.

6. Related to the Management of Chemically Infected and Normal Waste

- a. Manage regular monitoring whether the chemical wastes produced by hospitals, industries and factories have disposed the waste with caution as there is a provision in law that the wastes produced by such institution/agency itself should dispose.

7. Related to Brick Kilns

- a. Implement and cause to implement the effective measures adopting to prevent the pollution and making it scientific and also create the brick kilns environment friendly as there are numerous brick kilns in unsuitable locations operated inside Kathmandu valley which produce dusts and smokes that causes air pollution and has seriously impact upon human health.
- b. Enforce the emission standards set for brick kilns and monitor it effectively centering on the issues of impact on health of dwellers around the brick kilns and the whole pollution of the environment.
- c. Make a provision of regular health check-up of persons and children working in brick kilns as there is direct impact upon health seen on them.

8. Expansion and Analysis of the Air Quality Monitoring Devices

- a. Set the Air Quality Meter the technology in the main entrance of the Valley and monitor and analyze regularly the data as the Department of Environment has set air quality monitoring devices (Air Quality Meter) in Kathmandu valley and has implemented as the right to information displaying the information online.
- b. Make public the date related to the air pollution collecting regularly and inform the concerned agencies mandated to prevent the air pollution, provide direction to the



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Department of Environment to implement all types' of measures identifying the preventive efforts by the concerned offices.

9. Cleanliness of the Footpaths and Management of Greenery

- a. Clean roads and footpaths by 6:00am every day as mismanagement of the wastes in the footpaths and inadequate maintenance of the plants in the footpaths support increasing the environmental pollution, manage the immediate disposal of the collected wastes and to plant near by the streets and implement the protection action plan of the plants.

10. Related to Regular Monitoring, Public Awareness Program and Compensation

- a. Establish the mechanism for the necessary direction, suggestion and action after regular monitoring effectively in accordance with the existing acts, laws and the policy of the government of Nepal as the monitoring mechanism and personnel under the Department of Environment have not seen effective.
- b. Monitor regularly during the project period of all the development and construction projects whether the progress has been in accordance with the law or not and manage the documentation of that.
- c. Conduct awareness programs on the implementation of the development and construction project to the locals and the representatives of the local government together.
- d. Manage immediate free health facility to the victims affected from environmental pollution and formulate necessary laws which required the concerned polluters to pay compensation to the pollution victim as per Article 30 (2) of the Constitution.

The NHRCN urges the government to inform it about the implementation of recommendations within three months as per the provision of Section 17 of the NHRC Nepal act 2012.



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CC for Implementation

Ministry of Home Affairs, Singadurbar, Kathmandu .

Ministry of Forests and Environment, Singadurbar, Kathmandu .

Ministry of Health and Population, Singadurbar, Kathmandu .

CC:

National Human Rights Commission, Province 3 Office, Sanepa.

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Deputy – Director
Investigation Division