

Policy Dialogue Proceeding on

Revisiting Environment Protection Bill for Sustainable Development

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Organized by:



## Introduction

Transition of Nepal from unitary to federal structure is impregnated with policy challenges. While there is a historic opportunity ahead of Nepal to institutionalize federalism and make positive impact in the lives of people, it is equally challenging to formulate effective laws dealing with the issue of natural resource management and environment among others. Of late, various bills pertaining to natural resource management and environment namely- forest bill, water and sanitation bill and environment protection bill have been registered in parliament and are undergoing intense discussion before their finalization as separate acts. The recently introduced Environment Protection bill which will replace the Environment Protection Act 1997 in the federal parliament, has become a matter of heated debate among the academia, research and the broader civic society community. Failing to provide regulatory spaces among the three tiers of government, the bill appears more restrictive than enabling in various ways.

In light of the above, a roundtable discussion was organized jointly by Southasia Institute of Advanced Studies (SIAS), Digo Bikash Institute, Youth Alliance for Environment, Clean Energy Nepal and Nepal Forum of Environment Journalist (NEFEJ). The main objective of the meeting was to foster collective understanding among research scholars, environment activists, advocacy groups and inform the discussion among policy makers towards addressing key concerns raised by stakeholders. Member of parliament, environmental experts, researchers, environment lawyers and government officials participated in the discussion. Key issues discussed in the meeting is summarized below:

### Key Issues:

- **Conceptual Clarity:** The meeting unanimously agreed that there is an underlying problem related to the definition of key terms in the Bill. During the policy dialogue, various participants raised this issue. The bill has failed to comprehensively define the key terms like 'Environment', 'Climate Change Adaptation and Mitigation' among others in line with the internationally accepted principles. Moreover, the approach of integrating climate change and environment in the same bill also remains controversial and the participants had varying opinion on this matter. Discussants also hinted lack of adequate review of the global and regional literature on environment and climate change. It appears that the bill has bypassed the Supreme Court verdict regarding environment protection and climate change. Redefining the key terms based on internationally accepted principles of environment and climate change was strongly recommended during the policy dialogue. In addition, issue was raised regarding the need of a separate climate change act which has not been elaborated in the bill. People working on climate change raised that a separate bill is required regarding climate change but this bill is based on the concept of adaption. The need of reframing the bill from the concept of resilience was also brought in the discussion. Similarly, the bill should prioritize more on mitigation. In addition regarding climate change, new tools like lost and damage which have been well established needs to be incorporated in the bill.
- **Procedural Issue:** Participants raised the issue of inadequate stakeholder consultation in the drafting of bill which has raised a grave question mark over the actual process including the people involved to introduce the bill in the parliament. Participants also raised question over the expertise of the officials who were actually involved in this process. Former senior government officials opined that even the in-house consultation within the line ministries and departments was limited. Deliberations at the province and local level have found to be almost non-existent. One of the environment professional leader stated that no adequate consultation was carried with experts and bill was hastily presented in the parliament.

- **Weak Institutional Arrangement:** The bill fails to provision a robust department of environment. The merger of the environment and forest ministry has undermined the significance of environmental issues opined various experts during the dialogue. Furthermore, the environment section in the merged ministry- Ministry of Forest and Environment has been deliberately weakened without providing any authority to punish the wrongdoings of the industry and transport ministry in terms of damaging environment. In light of the above, majority of experts were for strengthening the department with adequate resource to deal with the pertinent issues of environment. It was strongly recommended to empower department of environment. Most of the participants stated this act if implemented will not implement well as there.
- **Faulty EIA provisions:** This bill has adequately included environment assessment section. The bill has Introduced new tools – strategic environmental analysis (supplementary EIA), (sensitive zone, polluted zone (compensation for victims- good arrangements),but the bill fails to incorporate the notion of Cumulative Impact Assessment. The bill fails to address the problem related to EIA practice which is criticized for being ritualistic and troublesome. Participants suggested that a brutal penalty for EIA practitioners is discouraging. Establishing a flexible licensing provision for EIA practitioners was recommended by the participants during the meeting. Hence, there is a strong need to ease the cumbersome administrative procedures with respect to EIA and establish a rational system of reward and punishment.
- **Environment Inspector qualification:** The provision which states any government officer can be appointed as Environmental Inspector looks problematic. However, participants expressed their serious reservation over this provision as it is likely to discourage aspiring future professionals pursuing the study on environment science, management and engineering. Instead of allowing individuals from any discipline be appointed to this technical post, some serious rethinking in terms of the core competencies and the desired skills is needed as per the experts who put forward their views in the discussion.
- **Defunct Environment Protection Fund:** The bill fails to ensure the funding autonomy of the EPF. In addition, spending authority and accountability mechanisms are totally missing. Despite the fact there is an availability of a fund of around 4 billion , it has not been utilized at all. It is high time that the fund be utilized for developing the coping capacities of the communities who have been contributing to environmental management. It was recommended that a technical committee with functional autonomy under the environment protection council will be crucial.
- **Poor coordination :** The bill is silent on the potential areas of collaboration among the Federal, Provincial and Local government pertaining to the management of environment. Fostering collaboration and linkages among the three tiers of government is key to the success of any law in the changed political context. Establishing both vertical and horizontal linkages will be important.
- **Lack of political commitment:** Experts also pointed out the need of ownership at the level of policy makers for the effective implementation of the bill. Bureaucratic high-handedness in such an act of public significance won't be adequate for the broader welfare of the communities that have been working for the preservation of natural resource and environment. Hence, the participants stressed that political community should demonstrate proactive leadership in carrying the crucial agenda of environment and climate change.
- **Weak monitoring and evaluation mechanisms:** The bill is incomplete in terms of including the adequate provision of third party monitoring for ensuring the effectiveness of environmental

endeavors. In this regard, the need of a environment certification council comprising of environment technicians as a third party instrument came as a useful suggestion during the policy dialogue.

## **Conclusion**

Lack of policy envisioning in the changed politico-administrative context has invited severe criticisms on Environment Protection Bill from concerned stakeholders. The bill appears regressive in terms of missing the useful provisions of the Environment Protection Act 1997 pertaining to the qualifications for Environment Officer, coordination among the central, regional and local units and the uncertainties about the usefulness of environment protection fund among others

Ensuring coherence and consistency in the entire text of the bill with necessary amendments has become urgent. Moreover, there is a need of expanding public space to foster wider deliberation on the bill to ensure that important aspect of environment protection including the general human welfare is captured. Without a sense of ownership at the province and local level, the implementation will be pretty challenging particularly in the new politico-administrative setup in the country. A strong political will to take forward the pertinent issues of environment and climate change has become extremely important. Establishing a strong institutional mechanism to address the pressing environmental issues has become urgent.

Annex: List of Participants

S. No	Name	Affiliation
1	Madan Koirala	CDES, TU
2	Nimesh Regmi	NEFEJ
3	Subodh Gautam	NEFEJ
4	Gehendra Raj Satyal	Radio Sagarmatha
5	Abhishek Shrestha	DIGO Bikash Institute
6	Sahil Shrestha	DIGO Bikash Institute
7	Bijay Thapa	NES, KU
8	Geeta Pandey	KIRDARC
9	Dayasagar Shrestha	National Campaign for Sustainable Development
10	Rusa Maharjan	NHRC
11	Dr. Chiranjibi Bhattarai	NWCF
12	Dr. Dil Khatri	SIAS
13	Batu Upreti	Legal Expert
14	Sanjay Nath Khanal	SchEMS
15	Krishna Gyawali	SIAS
16	Sanat Adhikari	YAE
17	Netra Timsina	SIAS
18	Hon'ble Sher Bahadur Tamang	Member of Parliament
19	Jony Mainali	Advocate
20	Nipun Regmi	DIGO Bikash Institute
21	Kirti K Joshi	KMC
22	Sagar Adhikari	ICIMOD
23	Bhuwan Sharma	Nagarik Daily
24	Khimananda Sharma	GICF
25	Dr. Ram Mandal	SchEMS
26	Subash Bhandari	CDES, TU
27	Tarka Bahadur Chalaune	CDES
28	Kaustuv raj Neupane	SIAS
29	Yogesh Rana Magar	
30	Durga P. Upadhyay	UMN
31	Chhetu Sherpa	NEFEJ
32	Mukesh Pokhrel	Himal media
33	Kushal Pokharel	SIAS
34	Kushal Gurung	WPN
35	Priti Sakha	NYCA
36	Sunil Acharya	Practical Action
37	Kumud Raj Kafle	KU
38	Manjeet Dhakal	Clean Energy Nepal
39	Shrabya Timsina	
40	Anish Shrestha	YFEED Foundation
41	Prayasti Adhikari	TU

42	Padam Shestha	Nepal Bar
43	Santosh Kafley	
44	Mangaleshwori Dhoju	CEN
45	Shankar Sharma	CEN
46	Raju Chauhan	YAE

