

Public Sector Participation in Development Activities, Resettlement and Impact Assessment:

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Abstract

In Nepal, public notification & consultation starts during scoping & terms of reference stage; public hearing during baseline data collection and preparation of draft report are mandatory mainly for public sector participation in environmental impact assessment. In Nepal, mechanism for public sector participation are: a) Publication of public 7 days public notices in national daily newspapers, appealing for written comments and suggestions from local people and stakeholders in the project affected area and severely project affected area b) Conducting public consultation and one-day public hearing programs involving local representatives people, school teachers, officials of local government agencies, executive members of community based organizations etc. c) Uploading environmental impact assessment draft report in website of Ministry of Forests and Environment for public written comments within 7 days of notice publication is another formal mechanism. d) Getting recommendation letter from local elected body. Processes are mandatory by Nepalese laws (Environmental Protection Act 2019 & Environment Protection Regulation 2020). It has made compulsory for all kinds of impact assessments to be conducted. Environmental Protection Act 2019, umbrella act governing impact has strongly emphasized the participation of more and more people in the public hearing program, making it mandatory to inform people. Hydropower projects are mainly dominant in Himalayas and hilly region of Nepal, so meaningful public sector consultation in impact assessment is challenging as geographically, ethnically, culturally, literally and socioeconomically highly diversified Himalayan country; with more than 126 castes and ethnic groups speaking 123 languages and ranges in elevation from the Gangetic plain to the highest peak of the world.

Introduction

Public Participation is the interaction between government and civil society through different mechanisms to design, evaluate and implement development policies, plans, programs and projects by proponent, regulating agencies, stakeholders, mutual coordination and cooperation mechanisms. Impact assessment involves the assessment of short term to long-term significant changes brought about through a development activities different intervention in series which is carried out through many different tools, methodologies and approaches.

Nepal is South Asia country located between India (Indo-Gangetic Plain) and China (Tibetan Plate) with area 141,517 square kilometers. Nepal consists of diverse geographic features, plain, hill to the high mountains of the Himalayan range with highest peak of the world Mount Everest. Nepal's population is about 30 million with more than 126 castes and ethnic groups speaking 125 languages (Central Bureau of Statistics, 2021). Nepal is a developing and one of the fastest growing economies countries. Several infrastructure and development projects, like roads, railways, airport, hydroelectricity, irrigation, hospital, hotels and drinking water projects, have been completed, and other are in rapid construction as well as planned to implement. In focused to these human beings as well as environmental and social impact are being impacted so impact assessment is crucial for minimization of negative impacts, maximization of positive impacts, get benefit from once invested project and overall sustainable development in Nepal. Nepal has high potential of hydropower production, tourism industry, agriculture and natural resources so its harness, optimum utilization, wise and sensible use as well as maximum use without serious impact there is

need and no option of impact assessment in Nepal. Sectoral policies, plan and programs have given emphasis on impact assessment. This paper is focused in Public Sector Participation in Development activities' Impact Assessment at Nepal concerned with twelve sectors identified by schedules 1 to schedule 3 of Environmental Protection Regulation 2020.

Provisions and Practices of Public Sector Participation in Development Activities:

Pasting of Public Notice at project site localities and broadcasting through local F.M. radios for the participation in public hearing in focused to proposed development project. The indeed, witness, consent and recommendation from local government offices or authorized institutions are required as proof.

Public Consultation and Organize one day public hearing programs at one or more than one places at project directly affected areas ensuring the participation of local elected representatives, Community Based Organizations' Executive Member, Professional Working Groups Members, Academic Institutions Faculty, Government Offices officials working at project local government agencies. Proponent and Project affected family's two-way data, information sharing and communication in focused to considered development project and its impacts. If project affect more than one local government administrative unit than public hearing or consultation are required as according to their number or requirement. Meeting or Consultation minutes, audio visual materials are maintained as the evidence and secure the public consultations as right based approach.

Publication of at least Seven days public notices in national daily newspaper or local level newspaper for written comments and suggestions from direct project affected families, local people and stakeholders in the project affected area within mentioned time through any means and medium. For Environmental Impact Assessment required projects public notice publication in national daily newspaper is mandatory. Where as for the Brief Environmental Study or Initial Environmental Examination required projects public notice publication in local level newspaper is mandatory if there are local level newspaper being published.

Recommendation letter in given format mentioning the consent and approval letter from Municipality or local government to implement the project with clauses to augmentation of positive impacts and minimization of negative impacts of the project are mandatory. In case of linear or band projects like road, transmission line, ropeway, rail way etc. recommendation letter from more than one local government may be required based on the affected local areas.

Uploading environmental impact assessment draft report in website of Ministry of Forests and Environment as well as proponent's website too for public written comments within seven days of notice publication is another formal mechanism for public involvement in development activities impact assessment.

For Compensation of loss due to project there is practice of Formation of Compensatory committee in the chairmanship of Chief District Administrator Office considering the market price and minimum government fixed price and balancing through negotiation and consent with project

directly affected family. Severely Project Affected Families and Project Affected Families are considered for compensation scheme.

Rehabilitation Action Plan (RAP) for the project displaced family is focused to their house, sociocultural practices etc. Resettlement carried out by negotiation and free prior consent of displaced people possibly nearby their previous residence.

Polluters Pay Principle is being practiced by compelling to pay compensation for the negative activities performed.

Environment Protection Act 2019 (EPA 2019) and Environment Protection Regulation 2020 (EPR 2020) has made mandatory to implement the above-mentioned provisions as like in Environment Protection Act and Environment Protection Regulation 1997. Mainly in project level environmental assessment namely Brief Environmental Study, Initial Environmental Examination and Environmental Impact Assessment in Development activities' Impact Assessment carried out at Nepal.

Implementation of Provisions of Public Sector Participation in Development activities' Impact Assessment at Nepal are very challenging as due to geographical diversity, lingual diversity, ethical diversity, sociocultural diversity, literacy level diversity, economic diversity.

Provisions and Practices of Impact Assessment in Development Activities:

Informally Impact Assessment (IA) in focused to development activities was started in Nepal by studying the conducted development projects in the decade of 1980s. In the 1990s decade the milestone decisions, legislations and activities were implemented. National Environmental Impact Assessment Guideline 1993 was formulated and implemented. The impact assessment umbrella law Environment Protection Act 1997 and Environment Protection Regulation 1997 were formulated and implemented in Nepal for the first time. After the two-decade implementation experience and federal republic ruling system in Nepal Environment Protection Act 2019 and Environment Protection Regulation 2020 are formulated and implemented as according to new ruling system. Environment Protection Act 2019 has Environmental Assessment provisions both at Strategic Level (Policy, Plan, Programs-SEA) and Project Level. With in Project Level Environmental Assessment (PEA) there are three types of Environmental Assessment namely Brief Environmental Study (BES); Initial Environmental Examination (IEE) and Environmental Impact Assessment (EIA). BES, IEE or EIA requirements are decided either based on threshold values of their magnitude, scale or location or nature or financial investment in some projects. With in Project Level Environmental Assessment there are 12 sectors for impact assessment namely forest, tourism, education, industry, transportation, energy, energy, drinking water, solid waste management, mining, buildings and residence, agriculture. There are seven province level Environment Protection Act and Environment Protection Regulation as well as 753 local level Environment Protection Act and Environment Protection Regulation with implementation requirement and no contradiction with Environment Protection Act 2019 and Environment Protection Regulation 2020. Local level 753 government have rights to approve Brief Environment Study and Initial Environment Examination only. Province and Central government have rights to approve all Brief Environment Study, Initial Environment Examination and Environmental Impact Assessment. Approval rights of Brief Environmental Study, Initial Environmental Examination, Environmental Impact Assessment at one of three level of government is decided based on government's rights as mentioned in schedules 5 to schedule 9 of constitution, sectoral acts' provisions for registration and renewal, financial investor in project as proponent etc.

At Central level of government Ministry of Environment approve the Environmental Impact Assessment and other sectoral ministries approve both Initial Environmental Examination and Brief Environmental Study. At Province level similar provisions are there like in central level government. At local level Environment unit carry out all the approval activities. Environmental Impact Assessment is carried out in two stages namely Scoping, Terms of Reference (ToR) Stage and main Environmental Assessment stage. Initial Environmental Examination and Brief Environmental Study are carried out in two stages namely Terms of Reference and main Brief Environmental Study or Initial Environmental Examination. For implementation surveillance there are provisions of monitoring as according to Project Level Environmental Assessment report and reporting to regulating agency every six months. Project Level Environmental Assessment report implementation to start construction of project has validity period of maximum five years from the date of report approval in any cases. In all of the above-mentioned impact assessment and procedural activities there are provisions of public participation, consultation, hearing or public auditing too.

Discussion

Proponent, regulating agencies, project affected local people and consultant or consultancy are the major involved parties in impact assessment. These four parties have different level of understanding, expertise, experiences, requirement and priorities or hidden interest in impact assessment procedural activities as well as the output of these activities. Also, there are high geographical diversity, lingual diversity, ethical diversity, sociocultural diversity, literacy level diversity, economic diversity in Nepal. There are gaps and differences in provisions, study reports and practices mainly due to financial and technical requirement, understanding level of importance of Impact Assessment; result based monitoring and evaluation of implementations. On the other hand, Environmental Assessment draft reports are not easily available to general public before consultation or during the time of public hearing. This again make the Impact Assessment challenging. Professional accreditation and certification as well as licensing mechanism through council and other best mechanism is lacking due to which nonprofessional and nonethical activities are sometime observed due to which there are questions even on whole Impact Assessment system. Actual Baseline data collection lacking in some cases due to very difficult terrain

Conclusions

Impact Assessment in Nepal informally started from 1980s decade and continued formally from 1990s decade and till date. In this duration National Environmental Impact Assessment Guideline 1993 Environment Protection Assessment and Environment Protect Regulation 1997 were formulated and implemented. As according to new ruling system in Nepal, Environment Protection Act 2019 and Environment Protection Regulation 2020 were formulated and implemented as umbrella Impact Assessment provisions both at strategic level as well as project level. All the mentioned legal instruments have provisions of Impact Assessment and being implemented in development projects activities. Considering all aspects meaningful public sector consultation and meaningful participation in impact assessment is challenging as due to geographical, ethnical, cultural, literal and socioeconomic diversified Himalayan country.

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