



संयुक्त राष्ट्र संघका लागि नेपालको स्थायी नियोग
PERMANENT MISSION OF NEPAL
TO THE UNITED NATIONS
GENEVA

No. G/SR/152

The Permanent Mission of Nepal to the United Nations and Other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights, Special Procedures Branch, and with reference to the joint allegation letter with Reference No. AL Housing (2000-9) Food (2000-9) Health (2002-7) Water (2008-1) sent by the Special Rapporteur on the right to food; the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and the Special Rapporteur on the human right to safe drinking water and sanitation, dated 30 April 2012, has the honour to transmit herewith the response received from the concerned authorities of the Government of Nepal in this respect.

The Permanent Mission of Nepal to the United Nations and Other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights, Special Procedures Branch, the assurances of its highest consideration.


Geneva, 20 September 2012
PERMANENT MISSION OF NEPAL
TO THE UNITED NATIONS
GENEVA

Office of the High Commissioner for Human Rights
Special Procedures Branch
Palais des Nations
CH-1211 Geneva 10.

OHCHR REGISTRY

24 SEP 2012

Recipients: SPD

Response of the Government of Nepal to the queries of the Special Rapporteur on the right to food; Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; and Special Rapporteur on the human right to safe drinking water and sanitation made through their letter dated 30 April 2012

The Government of Nepal is aware of the fact that the Laxmanpur Dam and the Kalkwala Afflux Bund constructed unilaterally by India have been causing annual flooding and as a consequence several communities in Banke District of Nepal are facing difficulties in enjoying their rights especially relating to access to food, housing, water and sanitation and healthcare. The Government of Nepal is trying its best to minimize the impact of flooding in the area.

The Laxmanpur Dam is located in Srawasti District of Uttar Pradesh, India, close to Nepal-India border. India started building this Dam in 1985 and completed the construction works including those of the Kalkwala Afflux Bund in 2000. Some parts of the Kalkwala Afflux Bund which is on the right edge are very close to Nepal-India border line at the Holiya Village Development Committee of Banke District, Nepal. Since the time of the construction of the Kalkwala Afflux Bund, the Government of Nepal has seriously been raising issues with the Government of India on flooding and soil erosion in the Nepalese territory caused by this and asking the latter to find out the solution to minimize the impact of the dam and the afflux bund.

The Government of Nepal has also been raising these issues with the Government of India in all bilateral meetings on water resources including in the meetings of the Joint Ministerial Committee on Water Resources (JMCWR), Joint Committee on Water Resources (JCWR), Joint Standing Technical Committee (JSTC) and Joint Committee on Inundation and Flood Management (JCIFM).

Considering the fact that both the dam and the afflux bund have obstructed the smooth flow of the West Rapti River, the first meeting of the JCWR agreed to construct a dam with priority to save the damage to be caused in the Nepalese territory. Based on the said agreement, the Government of Nepal prepared a Detailed Project Report (DPR) and submitted to the Government of India at the fifth meeting of the JCWR held on 20-22 November, 2009. The DPR estimates a cost of Nepalese Rupees 1.8 billion for this work. However, this has not been implemented as of now.

The Government of Nepal has been trying to make available necessary budget for the construction of the physical structures necessary to resolve the problem of flooding in the Nepalese territory due to the Laxmanpur Dam and the Kalkwala Afflux Bund constructed unilaterally by India.

As an immediate relief to the victims of the annual floods, various ministries and government departments are doing their best in providing support to the affected people of the area. The number of the flood affected people during the rainy season varies each year. However, the Government of Nepal has been engaged in providing relief and support to all affected people irrespective of the number. The Natural Calamity (Relief) Act, 1982, Disaster Risk Management Strategy, 2010, the Standard on Disaster Victims Relief and Rescue, 2008, are some of the legal measures related to providing relief, rescue and support to the people affected by floods and other disasters. The Ministry of Home Affairs has conducted various

activities concerning the relief, rescue and support to flood victims every year as a regular and one of the core functions.

The Ministry of Agricultural Development has been engaged in providing seeds of banana, sugarcane and vegetables including technical support to the affected families with the objective of promoting and strengthening food security. It has also instructed its local office in Banke to engage in organizing agriculture and livestock related programs by giving priority to food security. Small irrigation projects are in operation to encourage farmers to engage in agriculture related income generation activities in the area. The Ministry is also engaged in organizing awareness raising programs on climate change and natural disasters.

The Government of Nepal has set a vision of providing water and sanitation for all including the flood affected people by 2017 and thus is working hard towards that end. Program of activities have been designed and are being implemented in line with Nepal's global commitment to achieve the Millennium Development Goals (MDGs) by 2015. The Government is arranging all possible resources to invest in water, sanitation and hygiene (WASH) sector. Progressive increment of the budget allocation in recent years indicates that the Government is conscious of improving present status of WASH. The Sanitation and Hygiene Master Plan 2010 and its plan of action 2011 are expected to improve the sanitation and hygiene system in all areas including flood affected areas in Nepal.

The local authorities at the district and village levels are also engaged in providing rescue, relief and rehabilitation services at the site. They are supportive to the victims and affected people in providing support services as decided by the District Natural Disaster Rescue Committee.

The Ministry of Health and Population is engaged in providing healthcare services in the affected areas. The Ministry has established health centers in Bethani, Holiya, Gangapur, Mataiya, Fatyepur and Bankatti which are providing basic health and free treatment services. Under the District Natural Disaster Rescue Committee, a disaster preparedness plan has been prepared and a health and nutrition cluster has been formed which is prepared to serve any time as may be required. Until now, about 35,000 people have benefited from such services. The Ministry has also been engaged in spraying toxins for the prevention of malaria and other vector-borne diseases and distributing medicated net to each family in the affected area. Each year, medical camps are set up and people are treated with the help of Medical Colleges and other organizations. For prevention, control and treatment of diarrhea and other epidemics, a rapid response team has been formed. Likewise, the local women health volunteers have been mobilized to distribute anti-dehydration medication including chlorine tablets. The local media has been mobilized to make people aware of prevention from epidemics and communicable diseases. The Ministry of Health and Population is also active in expanding the services of Primary Health Care Outreach Clinic (PHC/ORC) and immunization clinics to provide health services at the community level in the affected areas in Banke District.

Against this background, the Government of Nepal would like to respond to the specific queries of the special rapporteurs as follows:

1. It is true that the annual flooding caused by the Lakshmanpur Dam and Kalkwala Afflux Bund constructed unilaterally by the Government of India has impacted the people living in Banke District, Nepal. The Government of Nepal is engaged with the Government of India to minimize the impact of such flooding.
2. The Government of Nepal is engaged in negotiations with the Government of India in order to find solutions that could reduce the negative impact of the annual flooding so

that people in the area could freely enjoy the rights to adequate food, adequate housing, safe water and sanitation and health care.

3. As mentioned above, the Laxmanpur Dam and Kalkwala Afflux Bund are located in Srawasti District of Uttar Pradesh, India, close to Nepal-India border. Since the dam and the afflux bund were constructed by India, the Government of Nepal was not able to have a human rights impact assessment regarding their construction.
4. As the Government of Nepal has prepared a separate DPR for the construction of a dam in the Holiya Sector on the right edge of the Rapati River which is in priority for ensuring safety from the annual flooding of the Rapati River and submitted to the Government of India, the meeting of the JSTC held on 13-14 September 2011 in New Delhi, India, decided to submit the DPR after having its joint field verification. Accordingly, the DPR has been jointly verified and submitted to the concerned authority of the Government of India, i.e., the Ganga Flood Control Commission (GFCC). It is expected that the joint verification report will be submitted to the next meeting of the JSTC and will be implemented upon the approval of the JSTC.
5. The Government of Nepal is engaged with the Government of India in bilateral negotiations to reduce the impact of the annual flooding in totality. The Government of Nepal has provided compensation and reparation to flood victims as interim relief.
6. The Government of Nepal has prepared a DPR for construction of a dam in the Holiya Sector on the right edge of the Rapati River to minimise negative impact of the flooding in the area. This DPR is yet to be implemented.
7. The Government of Nepal has been doing its best to ensure that the affected communities in Banke District have access to adequate food, adequate housing, safe water and sanitation and health care facilities, the details of which have already been mentioned above.

