

[Joint Statement] India: Indian authorities must investigate South Korean company's hazardous operations and ensure accountability after fatal gas leak

(Bangkok, 15 May 2020) – The recent gas leak at a South Korea-owned factory in Visakhapatnam, India, last week starkly showcases how private companies and the Indian authorities have not learnt from the 1984 Bhopal disaster,¹ said the Asian Forum for Human Rights and Development (FORUM-ASIA).

Together with FORUM-ASIA's Indian and South Korean members, the collective said that Indian authorities must ensure that a thorough investigation on the company's operations is conducted, especially on its re-opening during a pandemic, to ensure that efficient accountability processes and remediation measures are in place.

Around 2:30am on 7 May 2020, styrene gas had reportedly leaked inside a chemical factory owned by South Korean multinational LG Chem, registered in India under the name LG Polymers India Pvt Ltd and located in the middle of a village inhabited by some 15,000 people. According to latest reports, at least 11 people died after inhaling styrene, classified as a 'hazardous and toxic chemical' under India's Manufacture, Storage and Import of Hazardous Chemical Rules.² Hundreds of people are still hospitalised.

While no official cause of the gas leak has been announced, reports state that non-maintenance and negligence, in a haste to restart operations after a temporary suspension due to COVID-19 lockdown measures, could have enabled the leak of roughly three tonnes of toxic gas within a five kilometre radius.³

LG Polymers India confirmed in a statement published on 9 May that the situation was already under control, adding that a 'special task force' had been set up to oversee support – albeit unspecified – for the victims.⁴

However, a second leak the next morning on 8 May prompted locals to escape from temporary government shelters. Though officials clarified that the second leak was a 'miniscule technical leak', almost 1,000 residents fled for relatives' homes.⁵

On 14 May, LG Chem sent a task force from Seoul to 'promptly support responsible rehabilitation.' Meanwhile, the National Green Tribunal in India imposed an interim penalty of Rs 50 crore to the company, with a five-member committee set up to investigate the incident.⁶

¹ The 1984 Bhopal gas leak, identified as the world's worst industrial disaster, was a gas leak incident at the Union Carbide India Limited (UCIL) pesticide plant that left thousands killed in the Indian city of Bhopal. No cleanup efforts have been made at the gas leak site to this day.

² <https://www.cseindia.org/gas-leak-in-vizag-10107>

³ <https://timesofindia.indiatimes.com/india/human-error-negligence-led-to-vizag-gas-leak-forensic-report/articleshow/75666352.cms>

⁴ <https://www.republicworld.com/india-news/accidents-and-disasters/vizag-gas-leak-lg-polymers-andhra-pradesh-vishapatnam.html>

⁵ <https://www.thenewsminute.com/article/residents-who-survived-vizag-gas-leak-flee-temporary-shelters-fearing-another-leak-124255>

⁶ <https://www.thenewsminute.com/article/vizag-gas-leak-team-south-korea-sent-investigate-incident-oversee-rehab-124514>

FORUM-ASIA and its Indian and South Korean members strongly urge the Indian authorities to not further repeat the same mistakes of the 1984 Bhopal disaster. Immediate support should be provided to affected communities. A thorough investigation on the company's operations is imperative, as reports surfacing at the time of writing indicate that LG Polymer's Andhra Pradesh unit lacked a valid environmental clearance (EC) from relevant agencies from 1997 to 2019. Further, production at the plant has reportedly gone beyond the allowable limit.⁷

FORUM-ASIA and its members specifically call on:

The Indian authorities, especially the Government of Andhra Pradesh:

- To respect, protect and fulfil the right to effective remedies to victims that guarantee, at the minimum, restitution, compensation, rehabilitation, satisfaction, and non-repetition in accordance to the United Nations Guiding Principles on Business and Human Rights⁸;
- To ensure proper and sustained efforts for clean-ups in the gas leak site;
- To conduct a thorough investigation of how LG Polymer was allowed to operate without an EC between 1997 and 2019, how it subsequently managed to expand production at the plant, and resumed operations without adequate safety checks after the easing of the COVID-19 lockdown measures;
- To systematically involve and take into account testimonies and recommendations provided by civil society organisations and affected communities;
- To prevent similar events from taking place by prioritising environmental protection and livelihood of its people, rather than easing environmental clearance procedures and allowing hazardous business operations in densely populated residential areas;
- To ensure accountability by empowering, instead of undermining, the National Green Tribunal (NGT) and public consultation in the draft Environmental Impact Assessment (EIA) notification 2020.⁹

LG Chem:

- To provide for and cooperate in the remediation through a legitimate process in accordance to the United Nations Guiding Principles on Business and Human Rights (UNGPs on BHR),¹⁰ including immediate and adequate support, treatment, and rehabilitation to all affected individuals and families;
- To promptly investigate the cause of the leak and the lack of effective, preventive measures and safety checks, including an emergency plan to warn about leaks
- To take all necessary steps to prevent such incidents from recurring;
- To exercise effective human rights due diligence in all of its operations;
- To take into account testimonies and inputs from affected communities as well as both Indian and South Korean civil society organisations during the incident investigation process as well as the design of an effective human rights due diligence process.

The National Human Rights Commission (NHRC) of India:

⁷<https://thewire.in/government/vizag-styrene-gas-leak-lg-polymers-environmental-clearance>

⁸ <https://undocs.org/A/72/162>

⁹ http://moef.gov.in/wp-content/uploads/2020/03/Draft_EIA2020.pdf

¹⁰ <https://globalnaps.org/ungp/guiding-principle-22/>

- To play an active role in facilitating access to remedy for the victims in accordance to the UNGPs and the Edinburgh Declaration on the role of national human rights institutions in BHR;
- To ensure that responses by the different authorities¹¹ are provided on time to the NHRC and utilise these outcomes to provide recommendations to the Government, as well as monitor the ongoing practice of the company; and
- To bilaterally engage with the National Human Rights Commission of Korea (NHRCK) to ensure proper follow ups in addressing the issue.

The Government of South Korea:

- To play a more proactive role in ensuring that Korean companies, including multinationals like LG Chem, set up clear and specific human rights due diligence standards, including operational grievance mechanisms;
- To restructure the National Contact Point (NCP) for the OECD Guidelines for Multinational Enterprises framework¹², ensuring greater independence and inclusion of civil society organisations to enable the NCP to receive complaints, including those stemming from violations committed by South Korean-owned companies abroad.

Co-signed by:

Banglar Manabdhikar Suraksha Mancha (MASUM), India
 Centre for the Sustainable Use of Natural and Social Resources (CSNR), India
 Dalit Foundation, India
 Human Rights Alert (HRA), India
 Korean House for International Solidarity (KHIS), South Korea
 People's Solidarity for Participatory Democracy (PSPD), South Korea
 People's Vigilance Committee on Human Rights (PVCHR), India
 People's Watch (PW), India

***The Asian Forum for Human Rights and Development (FORUM-ASIA)** is a Bangkok-based regional network of 81 member organisations across 21 Asian countries, with consultative status with the United Nations Economic and Social Council, and consultative relationship with the ASEAN Intergovernmental Commission on Human Rights. Founded in 1991, FORUM-ASIA works to strengthen movements for human rights and sustainable development through research, advocacy, capacity-development and solidarity actions in Asia and beyond. It has sub-regional offices in Geneva, Jakarta, and Kathmandu. www.forum-asia.org*

For more information, please contact:

- Development and Knowledge Management Programme, FORUM-ASIA, dkm@forum-asia.org

¹¹ <https://nhrc.nic.in/media/press-release/nhrc-notice-andhra-pradesh-government-and-centre-over-deaths-and-sufferings>

¹² South Korea's NCP structure is limited to government bodies with little to no participation from civil society organisations, restricted to handle only 'general enquiries', and is not established through a legal or administrative instrument. More information here: <https://mneguidelines.oecd.org/Structures-and-procedures-of-NCPs-for-the-OECD-guidelines-for-multinational-enterprises.pdf>

For media inquiries, please contact:

- Yi-Lan, Communication and Media Programme, FORUM-ASIA, communication@forum-asia.org