**Research on Chrysotile Asbestos: Failure of Ethics by National Institute of Occupational Health and National Human Rights Commission**

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**Abstract:** The pre-condition of pursuit of the good is that there must be a notion of what counts as ethically good in research and what is ethically appropriate action and right conduct. Department of Chemicals and Petrochemicals, Ministry of Chemicals and Fertilizers had entrusted National Institute of Occupational Health (NIOH), Ministry of Health and Family Welfare to carry out a study on Health Hazards/Environmental Hazards resulting from the use of Chrysotile variety of Asbestos in the country. The application under Right to Application Act revealed that this was co-sponsored by asbestos industry. This has been admitted by two ministries in the Parliament. National Human Rights Commission (NHRC) relied on this admittedly conflict of interest ridden study to decline action. The paper will point out specific instances of unethical practice by both NIOH and NHRC. The paper will point out the improprieties in the research, which financed by the chrysotile asbestos cement industries association. It will examine the ToR of the study and the proceedings of the NHRC. The paper will share its findings based on the scrutiny of the relevant official documents about the necessity of strict adoption of Conflict of Interest Guidelines by research institutions like NIOH and public institutions like NHRC. The relationship between the case in question and the principle of right conduct will be inferred.

**Introduction**

As per Government of India’s National Health Portal, “All forms of asbestos (chrysotile, crocidolite, amosite, tremolite, actinolite and anthophyllite) are carcinogenic to humans. Exposure to asbestos causes cancer of the lung, larynx, and ovaries, and also mesothelioma (a cancer of the pleural and peritoneal linings). Asbestos exposure is also responsible for other diseases such as asbestosis (fibrosis of the lungs), and plaques, thickening and effusion in the pleura” (National Health Portal, Ministry of Health and Family Welfare)[[1]](#footnote-1). It observes: “Exposure to asbestos occurs through inhalation of fibers in air in the working environment, ambient air in the vicinity of point sources such as factories handling asbestos, or indoor air in housing and buildings containing friable asbestos materials” underlines that both occupational and non-occupational exposures to asbestos fibers are a cause of concern.

This paper presents experiences from Gujarat based National Institute of Occupational Health (NIOH) and New Delhi based National Human Rights Commission (NHRC). It brings forth the violation of ethics by these two institutions in the matter of research on white chrysotile asbestos by the former and the use of the outcome of this research by the latter. Ignoring scientific and medical evidence of public health hazard and its own order about the harmful effect of asbestos, NHRC refrained from prohibiting use of carcinogenic mineral fibers of white chrysotile asbestos using an irrelevant and an admittedly questionable study by NIOH. NHRC committed a grave error by merely reproducing the submission of one Assistant Industrial Advisor, Ministry of Chemicals & Fertilizers, Department of Chemicals and Petrochemicals as part of its “Directions” (NHRC, 2016)[[2]](#footnote-2).

In doing so, NHRC ignored its own order (NHRC, 1998)[[3]](#footnote-3). In this case NHRC’s direction reads: “Replace the asbestos sheets roofing with roofing made up of some other material that would not be harmful to inmates. It is evident from it that the NHRC considered asbestos sheets as harmful but it allowed itself to be misled by NIOH’s study. In effect, it illegally and illegitimately reviewed its own order.

**Scientific unanimity about harmful impact of white chrysotile asbestos**

As early as 1898, Chennai born Lucy Deane, a factory inspector in the UK was the first to warn about "The evil effects of asbestos have also attracted my attention….the effect have been found to be injurious, as might have been expected.” Her report in this regard recorded the harmful effects of asbestos in the Annual Report of the Chief Inspector of Factories and Work (Deane, 1900)[[4]](#footnote-4).

The government agencies like Directorate General, Factory Advice Service and Labour Institutes (DGFASLI) took note of Prevalence of Asbestosis and Related Disorders in an Asbestos Fiber Processing Unit in West Bengal as early as in 1996 (DGFASLI, 1996)[[5]](#footnote-5). But unmindful of Supreme Court’s order of 1995 no steps have been taken by the central and state governments for complete ban on asbestos despite admitting the “deleterious effect of asbestos on the health” and in spite of imposing ban on grant, renewal and expansion of asbestos mining in the year 1986, sixty two years after the first diagnosis of asbestosis was made in the UK in 1924 (Cooke, 1924)[[6]](#footnote-6).

As per the information shared with Parliament by the Union Minister for Health and Family Welfare in a written reply, Indian Council of Medical Research (ICMR) has “informed that major health hazards of asbestos include cancer of lung, mesothelioma of pleura and peritoneum and specific fibrous disease of lung known as asbestosis. All types of asbestos fibers are responsible for human mortality and morbidity….Directorate General Factory Advice Service and Labour Institutes, (DGFASLI) under Ministry of Labour & Employment has intimated data of workers suffering from Asbestosis in factories registered under the Factories Act, 1948.As per the information provided by DGFASLI, it is informed that 21 no. of Asbestosis cases were reported in Gujarat in 2010 and 2 cases in Maharashtra in the year 2012” (Azad, 2014)[[7]](#footnote-7).

It is significant that the Ministry of Mines has informed that “the Grant of fresh mining leases and renewal of existing mining leases for Asbestos are presently banned in the country on Health Grounds”(PIB, 2003)[[8]](#footnote-8). Government had imposed this ban on mining of all kinds of asbestos in 1986. Although India has banned mining and trade of asbestos waste (dust and fibers), India has emerged as the biggest consumer of Russian white chrysotile asbestos even as Indian railways is currently phasing out of asbestos roofs from some 8000 railway stations across the country (Nair, 2018)[[9]](#footnote-9). It is significant that bitter protests of villagers led to the cancellation of asbestos based factories in Bhojpur[[10]](#footnote-10), Muzaffarpur[[11]](#footnote-11), Vaishali, West Champaran and Madhubani[[12]](#footnote-12) in Bihar[[13]](#footnote-13).

In such a backdrop, both the tutored “findings” of the study by NIOH and unscientific “Direction” by NHRC have grave ethical implications that undermine their stature as public institutions.

While numerous studies have established the harmful impact of all kinds of asbestos including white chrysotile asbestos, in an apparent unethical exercise aimed at creating doubt in public mind, Asbestos Cement Product Manufacturers Association, an industry body which claims to be a non-profit NGO co-sponsored a “study on Health Hazards/Environmental Hazards resulting from the use of Chrysotile variety of Asbestos in the country” to be undertaken by NIOH.[[14]](#footnote-14) NIOH ended up taking the fiscal support from the chrysotile asbestos industry to complete a study which is consistently being used at UN’s Rotterdam Convention meetings. Studies by NIOH conducted in that past defended workers' health but the asbestos industry association co-sponsored study along with Union Ministry of Chemicals & Fertilizers has damaged its ethical reputation. The study's terms of reference revealed the intent. Here is what the ministry's April 2006 letter demanded of NIOH[[15]](#footnote-15): "The deliverables will include generation of data which would justify the safe standards of its usage and the reasons justifying its non-inclusion/or otherwise in the pic (Prior Informed Consent) ambit." The minutes of an April 2007 meeting of the ministry's review committee (half of which comprised of asbestos industry representatives) gave NIOH a sharper focus: "It will specifically indicate as to how technology has made working conditions better. The same will include relevant photographs showing protective measures being undertaken." The minutes of the Review Committee obtained through Right to Information Act dated 19 December, 2006 reads: "The report will be finalised after due discussions with the asbestos industry" (Krishna, 2008)[[16]](#footnote-16).

Revealing the tainted character of the study by NIOH, Union Minister of State for Environment and Forests informed the Rajya Sabha in a written reply that the study of the health status of the workers and the residents in the vicinity of the asbestos industry by NIOH, Ahmedabad was co-sponsored by the Asbestos Cement Products Manufactures Association (ACPMA). Out of a total of Rs. 59.66 lacs allocated for the study by Ministry of Chemicals and Fertilizers, the Asbestos Cement Products Manufactures Association has contributed Rs. 16 lacs (PIB, 2008)[[17]](#footnote-17). The reply demonstrated that NIOH became complicit in an unethical work.

**NHRC’s acts of omission**

Ignoring glaring and indisputable scientific, medical and judicial findings and submissions, Justice H.L. Dattu headed NHRC has issued the following Direction: “Pursuant to the directions of the Commission, Dr. Rohit Misra, Assistant Industrial Advisor, Ministry of Chemicals & Fertilizers, Deptt. of Chemicals and Petrochemicals, Government of India vide letter dated 4th July, 2016 has informed the Commission that in order to take an appropriate and scientific stand in the International Forum on the issue related to health hazards posed by Chrysotile variety of Asbestos, Department of Chemicals and Petrochemicals had entrusted National Institute of Occupational Health (NIOH) to carry out a study on Health Hazards/Environmental Hazards resulting from the use of Chrysotile variety of Asbestos in the country. Later, with the approval of Minister of State (Independent Charge) Chemicals & Fertilizers, it was decided to set up an Inter-Ministerial Committee for considering the issue of continuance or otherwise of the use of Chrysotile variety of asbestos in India, taking into account of NIOH report and other related issues. On 27.8.2014, a meeting was held under the Chairmanship of Minister (Chemicals & Fertilizers) to consider the NIOH report. It was decided in the meeting that the NIOH report does not indicate any significant health/environment hazards resulting from the use of Chrysotile asbestos under proper conditions, coupled with the fact that asbestos products are quite cost effective for use by the masses, India may not support the inclusion of Chrysotile in Annexure-III at the Conference of Parties (COP) Meeting in 2015. In the light of the above report, no further action by the Commission is called for. The case is closed.” The NHRC concluded the case on August 8, 2016.

The ministry which chaired the Inter-Ministerial Committee to consider the issue of continuance or otherwise of the use of Chrysotile variety of asbestos in India was headed by Ananth Kumar who died of Adenocarcinoma on 12 November, 2018 at Sri Shankara Cancer Hospital and Research Centre, Bengaluru. It is germane to note that the minister grew up in the MTS colony, a Railway employees colony in Hubli, Karnataka. His father, H. N. Narayan Shastry, was employed with the Indian Railways. It is noteworthy that most railway colonies houses have asbestos roofs. The possibility of the minister having been exposed to asbestos cannot be ruled out. It is quite likely that he suffered from asbestos related Adenocarcinoma. A significant association has been found between Adenocarcinoma and asbestos exposure[[18]](#footnote-18) (Mollo, 1995). The possibility of excess of adenocarcinoma in the asbestos- exposed patients has been observed[[19]](#footnote-19) (Pursiainen, 1999).

In such a context, it is quite bizarre that views of Secretary, Medical Education & Research & Assistant Labour Commissioner, Chandigarh Administration and Joint Secretary, Uttarakhand Government have been disregarded by NHRC.

NHRC ignored the fact that at the first meeting, the Chemical Review Committee (CRC) under the Rotterdam Convention on the Prior Informed Consent (PIC) Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, the committee agreed to recommend to the Conference of the Parties that Chrysotile Asbestos should be listed in Annex III of the Rotterdam Convention.

NHRC chose to ignore the decision of Kerala Human Rights Commission dated January 31, 2009 recommending replacement of asbestos roofs of all school buildings under its control with country tiles in a phased manner.

NHRC ignored the reply to NHRC dated May 29, 2012, Joint Secretary, Government of Uttarakhand, wherein it submitted: “There is no cure. Stopping exposure to asbestos is essential.”

NHRC ignored the submission of Secretary, Medical Education & Research, Chandigarh Administration which has categorically informed NHRC that “No. of cancer deaths due to asbestos requires further large scale study from India and that it is “definitely harmful material, causing cancer and other related diseases.” The Chandigarh Administration concluded saying, “Hence, use of white asbestos should be completely banned in India also and the same may be replaced by some safe alternative material.”

NHRC’s direction must be read jointly with the observation of the National Health Portal, Government of India which states that “The burden of asbestos-related diseases is still rising, even in countries that banned the use of asbestos in the early 1990s. Because of the long latency periods attached to the asbestos related diseases, stopping the use of asbestos now will result in a decrease in the number of asbestos related deaths only after a number of decades. There is no safe use of asbestos and no safe limits set by WHO, ILO”.

The final official brief for the Indian delegation to the meeting of Rotterdam Convention stated that “The implication of listing of chemicals is rise in trade cost” and delay in import/export of hazardous chemicals. This is far from the truth. National Health Portal discloses that “The prevalence of asbestosis in four cement factories (Ahmadabad, Hyderabad, Coimbatore and Mumbai) varied from 3% to 5%” and “In asbestos textile industry prevalence of asbestosis was 9% in workers having less than 10 years exposure, in contrast to the reported average duration of over 20 years” (National Health Portal, Government of India)[[20]](#footnote-20). It is evident that the official brief is caught in a time warp. In its myopia, the brief does not factor in the health cost incurred due unrestricted trade in hazardous chemicals.

**Conclusion**

It emerges from the National Health Portal and reply of Minister of Health and Family Welfare based on the considered scientific opinion of the ICMR and revised opinion of NIOH that the NHRC erred in disregarding the submission of the minister in Parliament and in according superior status to the letter of an Assistant Industrial Advisor, Ministry of Chemicals & Fertilizers, Department of Chemicals and Petrochemicals, Government of India.

NHRC also erred in closing the case by merely reiterating Assistant Industrial Advisor’s position on the inclusion of white chrysotile asbestos in the list of Rotterdam Convention on Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade. Its inference stating that “no further action by the Commission is called for” is flawed. NHRC also recorded that the complainant had sought “grant of a compensation package for present and future victims of Asbestos diseases” (NHRC, 2011)[[21]](#footnote-21). NHRC also noted that it has been alleged that government is taking “contradictory position” with regard to mining asbestos and trade, manufacturing and use of white chrysotile asbestos. It failed to appreciate that no one has disputed the fact regarding government’s “contradictory position”.

Disregarding Court’s findings and global practices, admittedly questionable study by NIOH and directions of NHRC based on such a study has made Indian position scientifically and ethically inconsistent wherein while India has rightly banned mining of all kinds of asbestos and trade in asbestos waste but it continues to export and import asbestos from countries like Russia. Such manifestly unethical and unscientific position is endangering the life and public health of present and future generations.

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