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Report of the release of

'Green Tapism: A Review of the Environment Impact Assessment Notification - 2006'

4th June 2007

Institute for Agricultural Technologists, Bangalore

Dignitaries Present:

- **Dr. B. K. Chandrashekar, Hon'ble Chairman, Karnataka Legislative Council**
 - Dr. Vinod Vyasulu, Economist & Director, Centre for Budget & Policy Studies, Bangalore
 - Dr. H. C. Sharatchandra, Chairman, Karnataka State Pollution Control Board
 - Dr. Ravi Chellam, Director, Ashoka Trust for Research in Ecology and Environment
 - Ms. Madhu Bhushan, Social Activist, Vimochana
 - Dr. Subbarayan Prasanna, Urban & Regional Planner and Retd. Professor IIM – Bangalore
 - Mr. R. C. Purohit, President, Federation of Karnataka Chamber of Commerce and Industry
 - Mr. Nagesh Hegde, Senior Journalist and Professor, Indian Inst of Journalism and New Media
 - Mr. A. B. Harapanahalli, Director, Regional Office Min of Environment and Forests, (Southern Cell), GOI.
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Introduction

"Green Tapism: A Review of the Environmental Impact Assessment Notification 2006" was released on 4th June 2007 at the Institute of Agricultural Technologists (IAT), Bangalore. People started walking into the venue at around 2.30pm and informal greetings were exchanged over tea and cookies. The formal event took off with a bright welcome note from Mrs. Bhargavi. S. Rao (ESG) which included a brief overview of ESG's activities over the past decade. She also remembered Prashanth Shetty of Janajagriti Samiti, Nandikur, Dakshina Kannada and Sanjay Sangvai of Narmada Bachao Andolan. Both were stalwarts in struggles against ecologically unsound decisions and they will be sorely missed.

Thereafter, Mr. Leo F Saldanha (ESG) outlined briefly the history and issues regarding the Environment Impact Assessment Notification 2006 that have been detailed in *Green Tapism*. He mentioned that the reform to the 1994 EIA Notification was projected by the Ministry of Environment and Forest (MoEF) as important on the following terms:

- Incorporate necessary environmental safeguards at planning stage;
- Involve stakeholders in the public consultation process;
- Identify developmental projects based on impact potential instead of the investment criteria.

Through the course of studying the Notification it was instead discovered that the EIA Notification 2006 would result in:

- Weak review of environment and social impacts;
- Reduced involvement of local governance and the wider public;
- A preferred status to investment over environmental and social concerns.

While contextualizing the book he further elaborated on the worrying direction of the economy wherein our Finance Minister openly proclaimed that the Government of India was "*willing to tolerate debate, and perhaps even dissent, as long as it does not come in the way of 8 per cent growth*". This

being diametrically in opposition to progressive understanding of development and its relation with the environment as opined by Justice Krishna Iyer a few years ago in Bangalore- *"If life is dear, environment too is dear and environmental justice is thus a foremost constitutional value."*



Mr. Leo Saldanha gives an overview of "Green Tapism"

The EIA Notification 2006 dilutions of the EIA process are worrying by themselves but the fear is that a more harmful legislation which is being proposed in the Parliament – the Environmental Clearance Self Certification Bill - might be passed in a further push of an investment friendly environment for industries. In face of glaringly poor monitoring of environmental regulations, this law could worsen the state of the affairs drastically.

Mr. Saldanha also outlined briefly the role of the World Bank and foreign consultancy firms such as ERM in defining the EIA norms of India. He also mentioned the strong influence that the Govindrajan committee had on the new Notification. The resulting 'reengineering' process was guided by the then Secretary to the Ministry of Environment and Forest- Dr. Prodipto Ghosh. His approach during his tenure with the ministry has famously been to project the Ministry as an investment and industry friendly entity instead of being the guardian of our environment.

Objections to the Notification were also elaborated upon. While the process of finalizing the Notification was troubling enough in providing almost no space for discussion or debate from civil society members (in abject violation of clause Rule 5 (3) (c) of the EPA), the new EIA process is shockingly regressive especially where clauses regarding participation and access to information are concerned. The consultation process now doesn't allow participation of any other parties other than locally affected to attend the hearing. The panel for the hearing has also been axed to now merely include a magistrate (District Commissioner or his/her representative) and a representative of the SPCB. Panchayat Raj and Nagarpalika institutions, the third tier of Government which had previously been a part of

the panel, has now been completely neglected in the new Notification. Decentralisation has merely meant the division of project clearance between the Centre and the States and has not resulted in any real change in decision making processes.

A new technical bureaucracy has been created to support the new EC process but no provisions are made to provide the resources to maintain or manage such a system. The Notification also completely ignores existing bodies such as the PCBs who already have the capacity and expertise to manage such matters. The Notification is not even fully functional presently and already it is floundering. This is obvious from the several corrigendum's and circulars the Ministry has had to publish in order to deal with the smallest of issues.

In conclusion Mr. Saldanha mentioned that in consideration of the welfare of the environment of the country the 2006 Notification must be repealed.

The dignitaries were then invited to the stage and Dr. B. K. Chandrashekar released 'Green Tapism: A Review of the Environmental Impact Assessment Notification 2006' amidst great applause.

Dr. B. K. Chandrashekar, Hon'ble Chairman, Karnataka Legislative Council

The Hon'ble Chairperson of the Karnataka Legislative Council, Dr. B. K. Chandrashekar, then addressed the gathering. In a speech marked with many examples and experiences from his political career, Dr. Chandrashekar expressed his grave concern for the state of the environment in the country. He mentioned that *"What has fascinated me as a lawyer is the continuing tension ever since the EIA concept was introduced or accepted"*.

He further clarified the nature of the tension by taking the example of the effects of Kudremukh mining on the Tungabhadra river. As a minister in the S.M. Krishna Government he had attempted to share his concern over the issue with other representatives and found that the *"differences or gap held between party (any political party) and the people about this issue has not changed"*. Often enough 'development' was placed over social and environmental concerns expressed by the affected and other such parties. He also spoke about various experiences where he was faced with a serious lack of information. He specifically outlined the issue of access to information saying that *"If there is such hesitation in agreeing to a public debate- placing for the people all the facts that is at that point of time within the reach of the Govt, if there is hesitation at that time... the tension that I refer to is not resolved."*

Dr. Chandrashekar also voiced his concern over the fact that a legislation of such *"far reaching consequences"* is not placed in front of the legislature or the parliament. *"I wish to suggest that these regulations should be discussed not only in the Parliament, these legislations should be discussed even in the State Legislatures..."*

I would certainly take it up myself. Such issues must be taken up and I shall try my best to persuade my friends in the Legislative Council on this issue”.



Dr. B K Chandrashekar with his presiding remarks

Praising the exhaustive research undertaken in 'Green Tapism', the Hon'ble Chairman agreed that the general inclination of the government over the past years was to primarily consider investments and often social justice issues took a backseat. Having noticed the mention of Mr. Montek Singh Ahluwalia (Dy Chairman, Planning Commission) in the book, Dr. Chandrashekar said that he would definitely recommend his friend to undertake a discussion on this issue in his next visit to Bangalore.

Expressing his pleasure over releasing the book, he concluded with the hope that the book would fuel healthy discussion and the issue be widely reported in local languages and various forms of media.

Dr. H. C. Sharatchandra, Chairman, KSPCB

Dr. Sharatchandra began with an observation that as a bureaucrat it was difficult to keep up with a Notification which after being published was amended so many times. He felt that the process of pushing for dilution of EIA norms begun with the 2004 amendment which brought the construction industry into its gamut. The question he found relevant was why the current paradigm of understanding pitched development against environment instead of "development with environment". An example of such behaviour he mentioned was represented in the case of groundwater usage in B'lore. While B'lore continues to face grave water shortage, projects which would grossly exploit this resource are being cleared by the dozens.

He felt that an important missing link was the "lack of sectoral and regional EIAs". While Karnataka could claim to be one of the first states to have undertaken such an endeavour in Dakshina Kannada through the Environmental Master Plan Study, it was disappointing to note that the interventions that were to follow

never took off. It was important that EIAs be developed along environmental cycles and in-depth studies as guidelines. He felt that currently EIA was increasingly becoming a bureaucratic tool instead of a decision making tool.

He also suggested that "instead of having industries wherever the industry prefers we should have good well developed industrial estates including the environmental services required for them along with regional EIAs." An issue of grave importance, he felt, was the quality of EIAs being produced in the country. EIAs are essentially produced by a "one man show" where the consultant was a social scientist, ecologist, meteorologist ...all rolled into one. He expressed hope in the Ministry's initiative of recognising agencies which would ensure quality EIAs.

A disturbing factor he found within the Notification was the division of the environmental clearance process. In particular he mentioned that under the scoping phase- before site clearance (No Objection Certificate) is provided under the Water and Air Act by the PCB, the project can obtain environmental clearance under this Notification. "My recommendation is that only when site clearance has been given a detailed EIA should be done. Project should become operational only after complete clearance."

He also expressed concern over the multiplicity of bodies within the new environmental clearance process and the lack of information regarding the relation between the new agencies created under the Notification and the existing bodies such as the PCBs. He also felt that wider consultation regarding all such issues should be mandatory.

In conclusion, Dr. Sharatchandra said that at a recent meeting of Pollution Control Board Chairpersons and Member Secretaries meeting in Delhi he raised some of these issues and MoEF has asked him to organize a workshop on Law Reforms relating to Environment. It would be held in July and comments from everyone were welcome- he said.

Mr. A. B. Harapanahalli, Director, Regional Office MoEF (Southern Cell)

Mr. Harapanahalli, from the Regional Office of MoEF, began by saying that most of the observations he was going to make were personal and not necessarily representative of the MoEFs stand. He then elaborated on how most legislation around the world has been the outcome of a problem. In the case of the Notification the amendments are to be viewed as solutions to issues that came up.

He also commented that often things looked easier from the outside and issues were understood only when one was implementing. He clearly defined his position by saying that "when you want to develop something you have to sacrifice something. Then comes how best you can mitigate or minimize the trauma... If you have to taste a fish you have to bear the smell."

While he found *Green Tapism* to be a well written document he felt that there was almost no mention of any positive aspect. He questioned if this was possible. He felt that everything was open to interpretation and it remained the prerogative of an individual to interpret a document positively or negatively. He also felt that Ministry had to take a balanced view on things and couldn't be swayed by opinions held by one section of the society.

In his opinion the Notification had covered more projects now and the process was decentralized. *"For small projects one would have to run to Delhi. Previous law was anti people. For as a developer I am also a public... I maybe called an industrialist but I'm public."* He opined that both participation and access to information had improved with this Notification. *"How many places must the EIA be available...the investor will have to give 30-40 copies of it!"*

To end he said that *"There are positive aspects in the Notification too. And I think it is too early to comment for many of the things are related to implementation. If you are implementing with sincerity then whether it's the 1994 or 2006 Notification you will find positive results."*

Mr. R. C. Purohit, President, Federation of Karnataka Chamber of Commerce and Industry

The President of FKCCI, Mr.Purohit, began by addressing the surprise and pleasure registered by previous speakers on the presence of an industry representative in the panel. *"We are as much public as any so there is no reason why FKCCI shouldn't participate in any public debate or any subject or issue. Industry cannot be other than the common man... we are part of the public only."*

Green Tapism was fantastic, he said, in terms of the amount of information compiled. Yet he held a strong objection against the mention of 'vested interests of industrial lobbies'. He felt that no vested interests were involved. As any other sector and like the NGO sector, the industry too in sincerity forwards its concerns to the Government.

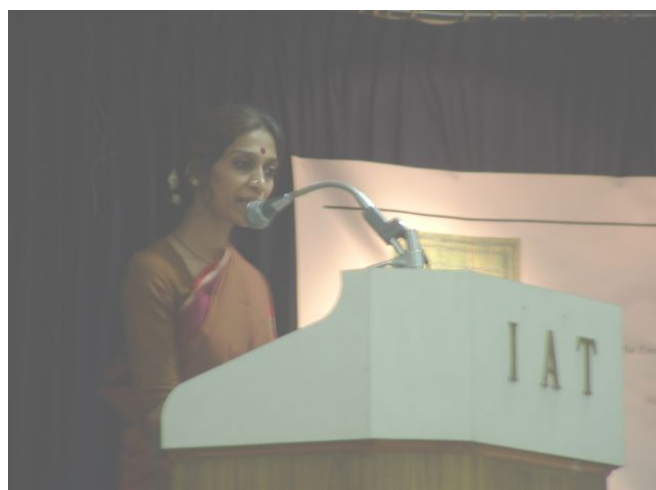
The main issue that the Industries felt strongly about was the excessive time environmental clearance procedures took in the country. *"Our request to the government was that if you want to reject a particular project reject it but within a particular time frame. Don't keep industries on tenterhooks."* They also felt that there was duplication of processes which could be reduced and the process simplified.

On the issue of deemed clearances, Mr.Purohit, recollected that even Section 4 of the ID Act contained deemed approvals. *"This clause is mainly to inform the authority that you are responsible. My request is that don't accuse the industry."* He did agree on the aspect that wider discussion and wider publicity should have preceded the finalization of the EIA Notification 2006.

Mr. Purohit, in conclusion, pointed out that the new generation of industrialists was well aware of the current crisis of environmental imbalances. *"They are educated and are aware of their limitations and responsibilities."*

Ms. Madhu Bhushan, Social Activist

Though not necessarily a person with an expertise in the area of environment it was from the capacity of being a social activist that, Ms.Madhu Bhushan said, she approached the book *Green Tapism*. Before commenting on the book she shared her skepticism for public participation in any decision-making process undertaken by the government. As an example she quoted her own experience of working on the 1995 draft for an 'Action for Women' document which the Government and civil society organisations had been jointly working on. She realized after a point that while superficial changes to the basic policies concerning women were welcome, the framework on which these rested could not be touched. Hence no effective changes resulted from the document.



Ms. Madhu Bhushan, Social Activist

She also mentioned her recent experience of working on a documentary on mining and tribals and felt that *Green Tapism* resonates the concerns of such disadvantaged groups. Yet, she added, that while the cause mentioned in the book should definitely be forwarded it should be done with caution and sensitivity. She elaborated on the idea with a story of a struggle against uranium mining by the Aborigines in Australia. By the time the various parties recognised the need to hear the Aborigines, there was only a single survivor of the struggle left and the grave irony of the situation was that no one could understand his language.

While she felt that the book was very sharp in its critique of the law she felt that the context needed to be emphasized more. She also read lines from the book which referred to good regulation being helpful in providing a healthy environment for investment and asked if it was not slightly contradictory to the larger ideology the book propagated. She felt that an

economists' view of things was a path to "bring prosperity to a few at the cost of the others".

In conclusion, she felt that ideology was an important point to raise in face of the fear that we might lose out on the larger whole while discussing the nitty-gritty's of law.

Mr. Nagesh Hegde, Senior Journalist and Professor, Indian Institute of Journalism and New Media, Bangalore

Mr. Hegde began by saying that he did not have an elaborate speech prepared but only wanted to share an experience he had had in Bedathi village where he was fighting the construction of a dam. A villager asked him a rather poignant question- *"In the olden days people were asked to sacrifice for the freedom of the mother land and nation but now when the country is free, for whose sake should I sacrifice? Why should I sacrifice for the people of Bangalore and Davanagere?"*



Mr. Nagesh Hegde, Senior Journalist

The senior journalist shared his concern over the simple fact that often it was the poor and the already marginalized that ended up paying the costs of development. EIA he felt was just another tool to ensure that trend continued. He again quoted from his experience that in EIAs done in north Karnataka projects, several times endangered species etc were listed out but while activities like dam construction flourish, no action has been taken to protect the natural habitat of those species. He hence felt that *"EIA should work in well established uniform mechanism and its retrospective effects should be placed in check."*

Dr. Ravi Chellam, Director, ATREE

Dr. Chellam began by congratulating ESG on its publication. He prefaced his comments saying that they were his own beliefs and not necessarily reflective of the organisation he worked with. He introduced himself as a wildlife biologist who had been working in the field of conservation for quite sometime.

He mentioned that being the penultimate speaker in the panel meant that he had the pleasure of listening to the other speakers. His fear though was that maybe in the process of expressing our opinions on the issue we were losing what the book was trying to communicate. He felt that often enough we weren't learning from previous experiences at the individual, national or global level. He said that an interesting example was in context of globalization. We take in certain aspects of globalization and neglect the other relating aspects such as environmental and social responsibilities- he said.

He felt that like opinions expressed previously by other speakers, there was a need to *'better contextualize'* the book. For it reflects the language that the powers to be are speaking. The legislation, he felt, was an obvious product of the development strategy. *"As long as we measure growth according to the GDP matrix this is what we deserve. The GDP matrix looks at a monetized way of measuring economy. Environment has never been properly been monetized."* The question he raised was whether it was possible to attach a value tag to any aspect of the environment. He mentioned how even a single tree being cut can never truly be replaced by planting many others because functional ecosystems cannot be monetarily valued and replaced.

He emphasized the need to root any action in fact and research. *'The minute action moves away from fact, we're waging a losing battle'*. He also laid emphasis on participatory decision making processes and said that the result of such processes would surely lead to more inclusive socially and environmentally just decisions. The need to engage with well meaning officials from the government and other sectors was also highlighted. The need was to act now in context of an issue as large as climate change. As an endnote he mentioned the need to evaluate our individual lives before questioning larger aspects.

Dr. Vinod Vyasulu, Economist & Director, Centre for Budget & Policy Studies, Bangalore

Dr. Vyasulu concluded the session with a mention of the number of issues that were embroiled in this discussion. His question was whether an EIA was a tool large enough to be responsible for managing all such issues. He mentioned that EIAs in the country were often done without doing a proper alternatives study for projects. The last point he made was in response to a statement made by Mr. Harapanahalli regarding the need to sacrifice for achieving development. *"Those who reap benefits are not those who pay the costs. In such a case is there a way in which this person can be compensated properly? If you don't do that then we have a problem here"*.

Questions from the floor

Various questions and responses were elicited from the audience. An important concern brought out by multiple participants was on the neglected issue of environmental health. Doctors shared their experiences in various States where they had seen the serious health consequences of not monitoring hazardous industries. Often the ones paying the price of such development then become the poor and tribals living in such areas.

An audience member strongly criticized the statements made by Mr. Harapanahalli. He said that it was shocking to hear from an Environment Ministry official the sort of language that claimed that an industrialist was also equally regarded as public. Giving the example of iron mining in north Karnataka, he outlined the obvious vested interest in exploiting resources that industrialists have. He said that this reflected the biased perspective of the Ministry.

Concerns were also raised regarding projects such as the interlinking of rivers in the country and the advent of SEZs all around the country. A participant wondered if monetization of the environment might actually help people realize its value. In reply to this Dr. Ravi Chellam again emphasized that monetization was a step in the wrong direction for it was akin to putting a value on a life. *"By attaching a numerical value to the environment what we do effectively is open it for bidding."*

Ms. Madhu then ended the session by concluding that the discussion should yet be in cognizance of the understanding that *"even if we create a perfect legislation on the ground life is very different from law."*

Ms. Harminder, a member of ESG, then warmly thanked the panelists and audience for attending and actively participating in the discussions. The event was concluded with the hope that the book would help anchor important debates on environmental regulation across the country.