

Green Tapism

*A Review of the
Environmental Impact Assessment Notification - 2006*

Leo F. Saldanha, Abhayraj Naik,
Arpita Joshi, Subramanya Sastry



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Authors: Leo F. Saldanha, Abhayraj Naik, Arpita Joshi and Subramanya Sastry

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Website: www.esgindia.org

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Association for India's Development
1 888-8255-2-243
P.O. Box F
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Email: info@aidindia
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Global Green Grants Fund
2840 Wilderness Place
Suite A
Boulder, CO 80301 USA
Phone: +1 303.939.9866
Fax: +1 303.939.9867
Website: www.greengrants.org

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PREFACE

We are happy to present to you “*Green Tapism: A Review of the Environmental Impact Assessment Notification - 2006*”. This Notification was issued on 14 September 2006 and its journey from the draft stage to its final form and after has been marked by controversy and widespread protests.

This review was undertaken acknowledging the widespread concern that the EIA Notification was manipulated to suit certain vested interests thus putting to enormous risk the ecological and livelihood security of India. The fact that the Notification is the only legal instrument that explicitly mandates and defines the process for public involvement in environmental decision-making, and that this very process was being undermined, compelled us even more to undertake this task. In so doing we have had to review the objectives by which the Union Ministry of Environment and Forests (MoEF, which issued the Notification) was established. Clearly the mandate has always been to make the task of conservation and environmental management everyone’s responsibility and not subject to “expert systems”. In that sense it is natural to expect that MoEF would meaningfully involve the public in all stages of the process of formulation of the Notification.

As we discuss in this review, the Ministry made no effort to actively involve the public besides organising token consultations with a few invited NGOs (which, by no stretch of the imagination, can be considered to adequately represent the wider public). During the finalization of the Notification, however, the Indian Environment Ministry went so far as to firmly shut its doors on the public and admittedly consulted only industrial and investor lobbies. State Governments and parliamentarians too were not accorded such a privilege. This has serious consequences to democratic decision making in India.

The resulting legislation clearly subordinates environmental and social concerns to the interests of industry and investment. This Notification was hurriedly finalized and is atrociously drafted. Rather than simplifying the process of environmental decision making in an effort to include the wide public, the Notification complicates clearance procedures to such an extent that even officials within the Ministry have difficulty understanding its provisions and implement them. A good indication of this is about 10 documents as notes/ circulars/ corrigenda that the Ministry has already issued in clarification since the Notification came into effect about seven months ago. Foxed by widespread demands for clarification regarding operational difficulties with the Notification, the Ministry has weakly responded by even decreeing a *carte blanche* abeyance of the Notification’s operation till 30 June 2007. *The Notification is in operation, and yet it is not.*

We empathise with you if you have had problems understanding the EIA Notification – 2006. We too have struggled to understand many parts of the Notification, and in some cases we have simply not been able to appreciate what is being stated.

We sincerely feel that at a stage when India is fast expanding its manufacturing and infrastructure sectors, and the consequent environmental and social impacts are being felt almost everywhere, the formulation of EIA norms represent a wonderful opportunity to help rationalize the push-pull factors between sustaining development and ensuring ecological and livelihood security. We fear that this opportunity has been lost as the Union Ministry of Environment and Forests - driven by a zeal to promote itself as a pro-investment Ministry – has compromised the very purpose for which it was constituted.

It is likely that the EIA Notification – 2006 will cause widespread confusion when it is fully implemented. We also fear that this Notification will unnecessarily burden courts with a variety of litigations. All of this could easily have been avoided if the Ministry had adopted a transparent approach and had objectively listened to all views, and not just those of powerful industrial and investment lobbies. The misery resulting from the Notification’s complicated and confusing approach will most likely be borne by project-affected communities, who most often are the economically and politically weaker sections of our society. This is a truly unfortunate outcome of this Notification.

In our review, we make a very strong case for this Notification to be repealed. We would be grateful for your support if you agree with our position, and do welcome your criticisms if you disagree with our views. In any case, we hope this review will fuel a healthy debate on the nature and consequences of the EIA Notification – 2006.

The responsibility for all omissions and misinterpretations remains fully ours.

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The task of writing a review of a very poorly drafted legislation is quite cumbersome and one is often tempted to not persevere. Had we not had the active encouragement of our families, our colleagues at ESG and associates from various networks, especially the Campaign for Environmental Justice – India, this review would never have been possible.

In particular we want to acknowledge the contribution of Souparna Lahiri (Dehi), Kalpavriksh members Kanchi Kohli, Manju Menon and Divya Badami, and Ravindranath of Rural Volunteers Centre (Akajan, Assam), who provided incisive comments and helped us focus on developing a clearer structure to our review. Abhinav Srivatsav and Pranshu Bhutra, students of the NALSAR University of Law, Hyderabad, and Jyotsna Jayaraman of Christ College of Law, Bangalore, who interned with us, supported us with extensive legal research on the import of many provisions of the Notification. We thank all of them sincerely for their support.

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While writing the review is one part of the task, effectively disseminating the review is important for fueling the debate over the EIA Notification. This has been made seamless by the efforts of Mallika Biddappa, student at Tata Institute of Social Sciences, Mumbai, and Dolly Kalitha, volunteering at ESG, who have together built an excellent repository of contacts. Rajanna has further lightened the burden for us by providing much needed logistical support for dissemination. We sincerely thank them all.

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ABBREVIATIONS

ASSOCHAM- Associated Chambers of Commerce and Industry of India

BMIC - Bangalore-Mysore Infrastructure Corridor

BMP - Bangalore Mahanagar Palike

BRO – Border Roads Organisation

CDP – Comprehensive Development Plan

CEJI - Campaign for Environment Justice- India

CFE- Consent for Establishment

CII- Confederation of Indian Industries

CMSWMF - Common Municipal Solid Waste Management Facility

CPCB - Central Pollution Control Board

CREDAI- Confederation of Real Estate Developer’s Associations of India

CRZ - Coastal Regulation Zone, 1991

DPC- District Planning Committee

EAC - Expert Assessment Committee

EC- Environmental Clearance

EEZ - Exclusive Economic Zones

EIA - Environment Impact Assessment

EIS - Environment Impact Statement

EMCB – Environmental Management Capacity Building

EMP - Environment Management Plan

EPA - Environment Protection Act, 1986

EPR - Environment Protection Rules, 1986

EPZ - Export Processing Zones

ERM – Environmental Resources Management

ESG – Environment Support Group

ETP - Effluent Treatment Plant

FICCI- Federation of Indian Chambers of Commerce and Industry

GC - General Conditions

GEAC - Genetic Engineering Approval Committee

GMB - Gujarat Maritime Board

GOI- Government of India

IDA - International Development Association
IAA - Impact Assessment Agency
IPCC – Intergovernmental Panel on Climate Change
JNNURM - Jawaharlal Nehru National Urban Renewal Mission
KSPCB - Karnataka State Pollution Control Board
MKSS - Mazdoor Kisan Shakti Sangathan
MoEF - Ministry for Environment and Forest
NBA - Narmada Bachao Andolan
NEEPCO - North Eastern Electric Power Corporation
NEERI - National Environmental Engineering Research Institute
NEP - National Environment Policy 2005
NGO - Non-Governmental Organisation
NOC- No Objection Certificate
NRBPT - National Registration Board for Personnel and Training
PESA- Panchayat (Extension to the Scheduled Areas) Act, 1996
PMO- Prime Minister’s Office
RTI Act - Right to Information Act, 2005
SC - Special Conditions
SCMC - Supreme Court Monitoring Committee
SEAC - State Expert Appraisal Committee
SEIAA - State Environment Impact Assessment Authority
SEZ - Special Economic Zones
SPCB - State Pollution Control Board
TOR – Terms of Reference
UNECE - United Nations Economic Commission for Europe
UNEP - United Nations Environment Programme
UNESCAP - United Nations Economic and Social Commission for the Asia and the Pacific
UPA – United Progressive Alliance
UTPCC - Union territory Pollution Control Committee
WCPM - West Coast Paper Mills
WMO – World Meteorological Organization

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