



ENVIRONMENT IMPACT ASSESSMENT FOR SUSTAINABLE DEVELOPMENT: A REVIEW OF CURRENT ISSUES AND FUTURE NEEDS

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ABSTRACT :

Despite the early genesis of Environment Impact assessment in the regulatory framework of many countries, we can still of the opinion that its progress is at an alarming stage. We need to figure out the reasons behind this truth as to its roadblock with regard to its efficient implementation. Undoubtedly, the aim of this emerging concept was to achieve the goals towards sustainable development. The practice very well indicates that EIA is often used as means to an end rather than as a beneficial planning tool in itself. EIA is the prediction of future changes related to the environment and society and also evaluating these multiple transformative changes to fulfill the objectives. It is a fundamental step required for attaining the sustainable development.

The symbiotic relation between natural environment and EIA is a much debated topic at the present with a point of view to protect the flora, fauna and natural landscape of the earth. The paper analyses the concept of sustainable development vis a vis environment. The paper evaluates the current issues, deficiencies and future needs in implementation of the stages of EIA to achieve ecological as well as economic benefits.

Keywords: Environment, Sustainable, Development, Assessment, Regulations etc.

Introduction :

As rightly quoting UN's 'First Environmental Rule of Law Report',¹ a bench of Justices D Y Chandrachud and Hemant Gupta said, "Environmental rule of law provides an essential platform underpinning the four pillars of sustainable development — economic, social, and environmental and peace. Environmental rule of law becomes a priority particularly when we acknowledge that benefits of environmental rule of law extends beyond the environmental sector."²

The countries around the world aspire for the sustainable development to happen, so almost all the nations globally agreed to focus on all development initiatives directed towards sustainability of resources. It basically can be defined as "Development that meets the needs of the present without compromising the ability of future generations to meet their own needs".³ It is tried to harmoniously integrate the concept of Sustainable Development which implies combining Economic Development, Environment Protection, Social Reform and People's Empowerment. Sustainable Development is a much broader concept which includes so many facets of sustainable development which points out a concerns pertaining to social, health and ethical dimensions of human welfare and just transition.⁴

The initiatives towards achieving the aim of sustainable development, the process of environmental impact assessment plays an important role to minimize the impact of development through industrialization etc., society as well as on nature. To explain Environmental Impact Assessment (EIA)⁵, it is a process

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¹ Environmental Rule Of Law: First Global Report, United Nations Environment Programme (2019), Available at: <https://wedocs.unep.org/handle/20.500.11822/27279#:~:text=The%20Report%20proposes%20an%20indicator,strengthen%20environmental%20rule%20of%20law> (Last visited on 23rd March, 2021).

² Dhananjay Mahapatra, Goa airport hits Supreme Court's green rule of law hurdle. Available at: <https://timesofindia.indiatimes.com/india/goa-airport-hits-supreme-courts-green-rule-of-law-hurdle/articleshow/68651258.cms> (Last visited on 23rd March, 2021).

³ Our Common Future, Report of the World Commission on Environment and Development, World Commission on Environment and Development, 1987. Published as Annex to General Assembly document A/42/427, Development and International Co-operation: Environment August 2, 1987 (Last visited on 23rd March, 2021).

⁴ Justice Mensah, Sustainable development: Meaning, history, principles, pillars, and implications for human action, Available at: <https://www.tandfonline.com/doi/full/10.1080/23311886.2019.1653531> (Last visited on 21st March, 2021).

⁵ Environmental Impact Assessment hereinafter referred as EIA.

used to evaluate the potential environmental effects of a proposed project or development. It considers the likely impacts on the environment, including interrelated socio-economic, cultural, and human health aspects, assessing both positive and negative consequences..⁶

It is assessed that such a step has a determined and preventive approach towards environment sustainability but a lot of complexities arises when this process is adopted and practiced.

In this paper, the author shall try to evaluate and applicability of laws and it's effectiveness of various processes in the present time taking into account the changing dynamics of the environment and society. It also deals with the procedural aspects of Environmental Impact Assessments and its regulatory framework. Further, the author also tries to assess problems of implementation that plague EIAs. Therefore, an effort has been made to evaluate the deficiencies present in our EIA system and considered as a roadblock in achieving the aim of sustainable development.

Scope and its applicability :

The Global world has recognised the importance of assessing impacts that a range of activities can have on the environment and also the processes in order to mitigate these impacts as far as possible. The various key developments at the global and regional level helped to design the process and concept of EIA legislation.

Developments at the Global level :

Impact assessments play a crucial role in predicting and evaluating the environmental, social, and health effects of proposed projects, aiding informed decision-making. They are generally categorized into three types⁷:

- I. Environmental Impact Assessment (EIA): Focuses on assessing the potential effects on the local and regional environment, including pollution and resource depletion.
- II. Social Impact Assessment (SIA): Examines the potential impact on local communities, particularly their society, livelihoods, and culture.
- III. Health Impact Assessment (HIA): Evaluates the potential direct and indirect effects of a proposed project on human health at local and regional levels.

These assessments are not strictly independent; they often overlap and complement each other.⁸

The United Nations Environment Programme (UNEP)⁹ defines Environmental Impact Assessment (EIA) as a tool to identify the environmental, social, and economic impacts of a project before decisions are made. Its objective is to predict environmental effects early in the project planning and design phases, develop strategies to minimize adverse impacts, adapt projects to the local environment, and provide decision-makers with well-informed options.¹⁰

The concept of EIA was being discussed at the international forum being the Environment (Stockholm 1972), then Environment and Development (1992, Rio de Janeiro), and on Sustainable Development (2002, Johannesburg and 2012, Rio de Janeiro, often referred to as Rio+20). This debate was triggered through various developments at the national level.

The Stockholm Declaration (1972) does not explicitly give the reference of EIA. Principle 14 and Principle 15¹¹ emphasize the significance of planning as a crucial tool for balancing development needs with environmental protection. Principle 14 highlights rational planning as essential for resolving conflicts between development and environmental preservation, while Principle 15 stresses the need for planning in human settlements and urbanization to prevent environmental harm and maximize social, economic, and environmental benefits. It also calls for the abandonment of projects driven by colonialist or racist motives. Environmental Impact Assessments (EIAs) were extensively considered during the drafting of Principle 20, which established the obligation of states to provide information when their actions pose a threat to the environment of other nations. EIAs were also a key topic in discussions leading up to the United Nations Conference on the Human Environment.¹²

However, due to various issues of a potential conflicts between EIAs and the right to development, no agreement was possible to be reached and hence, the principle was not included in the Declaration.

A series of other non-binding instruments referring to EIAs were adopted between the 1970s and 1980s.

⁶ Ibid.

⁷ Birley (2011):

⁸ Adithya Pradyumna, Economic and Political Weekly, Available at: <http://www.epw.in/rgnul/remotexs.in/journal/2015/8> (Last visited on 23rd March, 2021).

⁹ United Nations Environmental Programme.

¹⁰ Convention on Biological Diversity, "What is Impact Assessment?" Available at: <https://www.cbd.int/impact/whatis.shtml> (Last visited on 21st March, 2021).

¹¹ Principle 14-Rational planning constitutes an essential tool for reconciling any conflict between the needs of development and the need to protect and improve the environment.

Principle 15-Planning must be applied to human settlements and urbanization with a view to avoiding adverse effects on the environment and obtaining maximum social, economic and environmental benefits for all. In this respect projects which are designed for colonialist and racist domination must be abandoned.

¹² Declaration of the United Nations Conference on the Human Environment, Available at: https://www.ipcc.ch/apps/nj-lite/srex/nj-lite_download.php?id=6471 (Last visited on 21st March, 2021).

Another major development in this direction was recognized in the report “Our Common Future”, often referred to as the Brundtland Report and EIAs became a globally recognised principle of international environmental law in 1992 at the Rio Conference which was provided in Principle 17¹³ and Principle 10¹⁴ of the Rio Declaration.¹⁵

The concept of EIA was recognised in several binding agreements such as United Nations Convention on the Law of the Sea (UNCLOS, 1982), requires that countries have to assess effects and consequences of planned activities on the marine environment under their jurisdiction or control.¹⁶ Additionally, the International Seabed Authority (ISA), established under UNCLOS and the 1994 Agreement on the Implementation of Part XI of UNCLOS, serves as the regulatory body for seabed mining. It is responsible for formulating international rules, regulations, and procedures to prevent, reduce, and control marine pollution resulting from mining activities in the Area—the seabed beyond national jurisdiction.¹⁷

There are other conventions such as Convention on Biological Diversity (CBD) and the United Nations Framework Convention on Climate Change (UNFCCC) includes provisions relating to impact assessments.

Moreover, the reference of EIA is mentioned in the Paris agreement to assess the degree of human interference with the atmosphere which plays a key role in climate change. Subsequently to the Paris Agreement, a similar consensus exists globally over the urgency of any policy solutions to the climate problem and also to assess the socio-economic impacts of realistic baskets of climate policies.

The concept of environment impact assessment has its genesis in the U.S.A. The national Environment Protection Agency incorporated this concept under the National Environmental Policy Act (NEPA) enacted in 1969.¹⁸

Development of EIA at the national level

The origin of Environmental Impact Assessment (EIA) in India dates back to 1976-77, when the Planning Commission of India directed the Department of Science and Technology to evaluate various river valley projects, emphasizing environmental considerations. Over time, this assessment framework was expanded to include projects requiring approval from the Public Investment Board. However, until 1994, environmental clearance from the Central Government remained an administrative decision without legislative backing.¹⁹

On 27 January 1994, the Union Ministry of Environment and Forests (MoEF), Government of India, issued an EIA notification, making Environmental Clearance (EC) mandatory for the expansion, modernization, or establishment of new projects listed in Schedule 1 of the notification under the Environment (Protection) Act, 1986. This notification was significantly influenced by the International Conference on Environmental Impact Analysis for Developing Countries, held in New Delhi in 1988. Since its introduction, the 1994 EIA notification has undergone multiple amendments.²⁰

The Ministry of Environment, Forest and Climate Change (MoEF&CC) released the draft Environmental Impact Assessment (EIA) Notification 2020, aiming to replace the existing EIA Notification 2006, which was issued under the Environment (Protection) Act, 1986.²¹

¹³ Principle 17: Environmental impact assessment, as a national instrument, shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a competent national authority.

¹⁴ Principle 10: Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.

¹⁵ Report of the United Nations Conference on Environment and Development Rio de Janeiro, 3-14 June 1992. Available at: <https://www.un.org/en/conferences/environment/rio1992> (Last visited on 22nd March, 2021)

¹⁶ Article 206 Assessment of potential effects of activities When States have reasonable grounds for believing that planned activities under their jurisdiction or control may cause substantial pollution of or significant and harmful changes to the marine environment, they shall, as far as practicable, assess the potential effects of such activities on the marine environment and shall communicate reports of the results of such assessments in the manner provided in article 205, Available at: https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf (Last visited on 22nd March, 2021).

¹⁷ International Seabed Authority, Available at: <https://www.isa.org.jm/> (Last visited on 22nd March, 2021).

¹⁸ Historical Background of EIA, Available at: https://nitsri.ac.in/Department/Civil%20Engineering/CWE_222_Lectures_19,20,21.pdf (Last visited on 22nd March, 2021).

¹⁹ Understanding EIA, Available at: [cseindia.org/understanding-eia-](http://cseindia.org/understanding-eia-383#:~:text=The%20Indian%20experience%20with%20Environmental,projects%20from%20an%20environmental%20angle.&text=The%20MoEF%20recently%20notified%20new%20EIA%20legislation%20in%20September%202006)

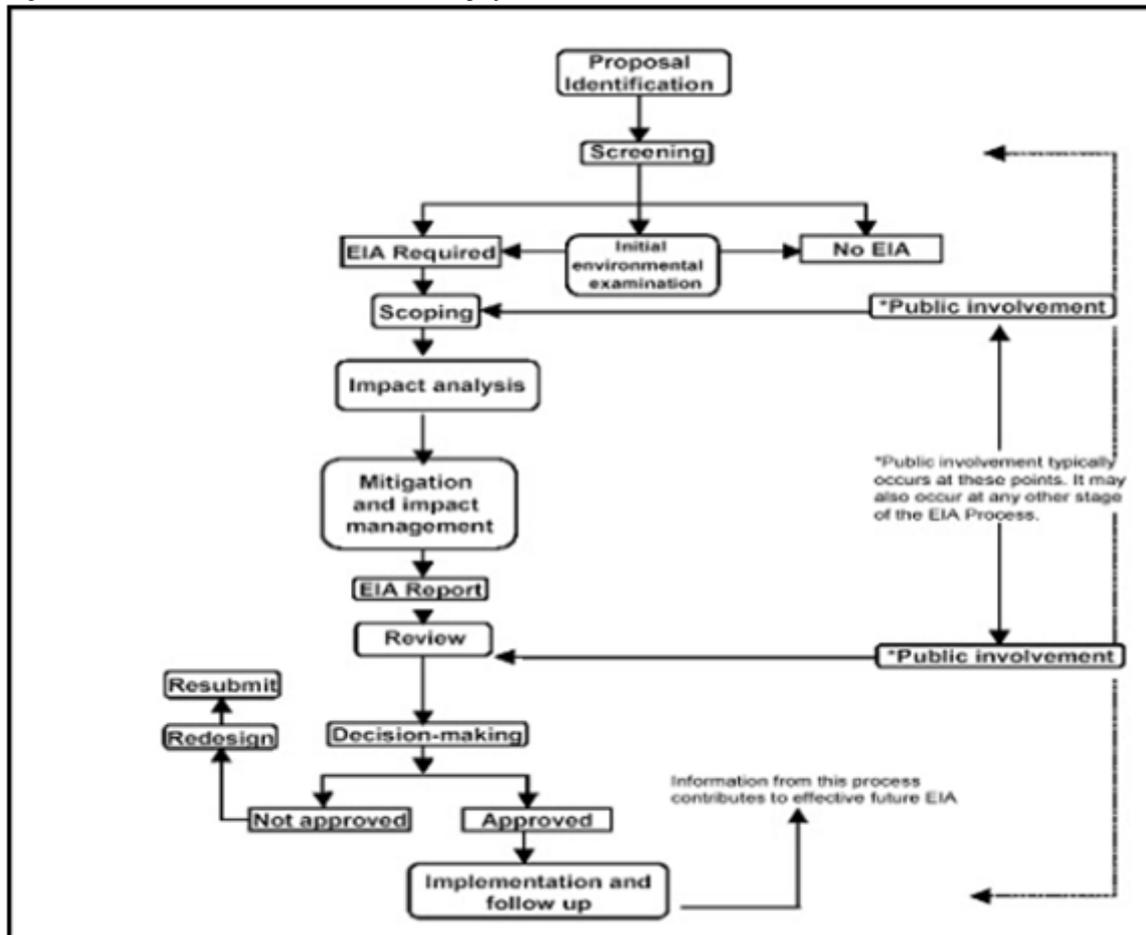
383#:~:text=The%20Indian%20experience%20with%20Environmental,projects%20from%20an%20environmental%20angle.&text=The%20MoEF%20recently%20notified%20new%20EIA%20legislation%20in%20September%202006 (Last visited on 23rd March).

²⁰ *Ibid*

²¹ G. Ananthkrishnan, What are the key changes in the Environment Impact Assessment Notification 2020? Available at: <https://www.thehindu.com/sci-tech/energy-and-environment/the-hindu-explains-what-are-the-key-changes-in-the-environment-impact-assessment-notification-2020/article32249807.ece> dated AUGUST 02, 2020 (Last visited on 23rd March).

Procedure for Implementation of EIA in India²²

Environmental impact assessments conducted are based on the technical and scientific information and data received and taken from the site of the various projects. The procedure which are followed while conducting such impact assessments gets influenced by local laws and practices. However, there is a structured generic format based on which such evaluations of projects are carried out:



Steps involved in Environmental Impact Assessment (EIA)

Diagram 1: It explains the process of Environmental Impact Assessment.²³

This figure explains the different stages involved as a part of the EIA process. The process begins with proposal identification, screening²⁴ and thereafter Initial environmental examination. It shows the circumstances where EIA is required or not required. The procedural steps where EIA is required are Scoping²⁵, Impact analysis, Mitigation and impact assessment, EIA report, review, Decision making which is divided into two parts i.e. approved and not approved. If it is not approved, it has to be redesigned and resubmitted.

Public involvement is encouraged during the stages of Scoping, Impact analysis, Mitigation and impact assessment, EIA report and review.

Each step under EIA process is significantly important in determining the overall performance of the project. However, most EIA processes have a common structure and the application of these important stages is a basic standard of good implementation practice.

Strategic Environmental Assessment: Integration and Sustainability

²² Historical Background of EIA, Available at: https://nitsri.ac.in/Department/Civil%20Engineering/CWE_222_Lectures_19,20,21.pdf (Last visited on 22nd March, 2021).

²³ Environmental Impact Assessment, Available at: <https://blog.forumias.com/eia/> (Last visited on 12th August, 2022).

²⁴ At this stage, it is decided to conduct or not to conduct EIA. If required, then the subsequent steps follow

²⁵ At this stage, a study is initiated by which various concerns and impacts are identified. Agencies and representatives related with the project are consulted at this stage.

Review of the Current Deficiencies and future needs :

In the present initiatives towards protection of environment, the process of EIA is accepted across the world and the use of this tool to arrive at a decision, introspecting various issues which associated with entire process and also with its results. After evaluation, it could be clearly carved out there are several issues arises like - diversity of dilemma of public relating to processes, various steps regarding the future aspects, assessment of environmental cost and its effectiveness in entire process and also in the decision making process.

The government of India came up with the draft Environment Impact Assessment (EIA) Notification 2020 through which it was attempted to incorporate certain modifications. Through an EIA process, a scientific estimate of the future impacts of a project is ascertained, such as mining activity, construction of dams, industrial unit or waste treatment plant. There is also a provision for public consultation in the EIA process, including a public hearing at which the people from local community and interested persons can give opinions and can also raise objections, based on the draft EIA report prepared by experts for the projects.²⁶

After evaluating the various regulations, an effort has been made to examine the deficiencies present in the draft Environment Impact Assessment (EIA) Notification 2020. The deficiencies are:

The EIA framework in India has only the status of a 'Notification' which is provided under the Environment Protection Act, 1986 ('the Act'). Therefore, it has the value of a subordinate legislation, which has been brought into effect as executive decisions, lacks power when compared with statutory law, and without discussions in the legislature.²⁷

Further, there were no consultations being conducted among different stakeholders and even no public consultation in relation to the draft Environment Impact Assessment (EIA) Notification 2020.

As public consultation has always been one of the key step for getting clearance relating to various projects. The process of Public consultation is done in 2 ways- firstly, through a public hearing and secondly, through the written submissions. After evaluating the past records, it is concluded that Local communities always have been at the forefront in resisting against the projects pointing out harmful impacts on the environment. In this process of carrying out this technical process of the EIA, public consultation is the only platform where the affected people can raise their objections and come up with the underlying impact of the project. However, there are several exceptions as well as limitations which exists within the public consultation process that has to be adhered to while implementing the EIA process.²⁸ For instance, the agency which has been delegated to conduct the public hearing can give the report that there is no to conduct the public hearing in a manner that will enable concerned local persons to express their views freely. Based on this, the Authority may decide that public consultation in the case need not include a public hearing.²⁹

There is also a procedural aspect related to EIA which is stated under the Appendix attached to the 2006 Notification where it provides that authorities were required to 'widely publicize' the draft EIA Report within their respective jurisdictions. This provision has 'now been removed' which is very important to be part of EIA process.³⁰

Another aspects of 'Several exemptions to public consultation' are provided under Paragraph 14(2) of the 2020 Draft Notification, including for Category B2 projects, building construction, industries like chemical fertilizers, and several others that fall within Industrial Estates, defense projects, and others. These exemptions surely reflects both the sides of the coins as these exemption could trigger the commission of the projects and well as on the other hand it broadens the exemption and hampers the introspection procedure.³¹

Another aspect relating to EIA is the 'time for public hearing' has been reduced to 40 days from 45 days, thereby providing less time to affected persons to formulate their responses and suggestions. No doubt that there are some significant loopholes that exists within the EIA 2020 Draft Notification.³²

There is one of the most crucial deficiency under the 2006 Notification has been the failure to symbiotically integrate EIA with other environmental laws which ensures environmental governance. Even in 2020 Draft Notification, this aspect was not dealt. Nevertheless, it is the high time that we need to acknowledge that the rights of indigenous peoples and local communities which plays a very important role in environmental governance.³³

Moreover, the Draft EIA 2020 allows the concept of post-facto approval in several projects. Without prior environmental clearance, various projects like dump mining of major minerals including coal, acids manufacturing, all projects of airports and heliports, inland waterways, highways, expressways, multimodal corridors, ring roads, elevated roads will get approval. According to this exemption clause, these projects shall not be required to be placed

²⁶ *Supranote*, at 16.

²⁷ Stella James and Nayana Udayashankar, "From 2006 to 2020: The Ongoing Problems of the EIA" Available at: <https://www.sociolegalreview.com/post/from-2006-to-2020-the-ongoing-problems-of-the-eia> (last visited on 24th March, 2021)

²⁸ *Ibid.*

²⁹ *Draft* EIA Notification 2020, para 14 (8); EIA Notification 2006, para 2 (III) (v).

³⁰ *Ibid.*

³¹ ³¹ *Draft* EIA Notification 2020.

³² *Ibid.*

³³ *Supranote*, at 19.

before the Appraisal Committee, hence these projects have been exempted from undergoing EIA processes. Meanwhile, the Supreme Court of India has out rightly disapproved the concept of post-facto environmental clearances to industrial projects that are initiated without a clearance.³⁴

According to the draft, all projects concerning national defense and security or involving other strategic considerations, as determined by the Central Government, no information relating to such projects shall be placed in public domain. But there is no specific definition of the "strategic" provided in Draft EIA 2020. So, this will certainly lead to vagueness and ambiguities and defeat the purpose of this clause.

In India, the rights of communities settled in forest have been recognized under several laws such as the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 under which consent for land acquisition was made mandatory. Other laws, such as the Biological Diversity Act, 2002, the Panchayats (Extension to Scheduled Areas) Act, 1996, and Panchayati Raj Acts of different states, and several other laws give rights to regional governments to manage environmental resources. Also while introspecting these issues, we also need to take into consideration Article 21 of Constitution of India³⁵ which ensures to protect the lives and livelihood of communities that are resource-dependent and to allow citizen participation in developmental decisions.³⁶

The EIA process must should work in consonance with other laws and decentralization of efforts is very important. The time has come to recognize the critical role of local institutions and structure in the development of the area by ensuring full participation and consent of the Panchayat from the initial stage itself.

Another aspect which is very essential to work in coordination with other committees and agencies. The Forest Rights Act, 2006, and the Biodiversity Act, 2002 have created concerned committees with the explicit purpose of environmental protection. These local environment protection committees must be associated in the process of assessing impacts and planning mitigation measures.

The draft EIA Notification, 2020 has included a number of definitions relating to the major aspects involved in EIA process. If compared to this notification with the notifications of 1994 as well as in 2006, this comprehensive list was not present. This is a great steps because it will certainly assist the courts in construing the intention of the legislature in deciding disputes. As with regard to the interpretation of statutes, assistance from the legislature help the court in speedy and efficient decisions.³⁷

Lastly, there are some global norms relating to sustainable environment which each and every countries are bound to observe. The Draft EIA 2020 should meet the requirements of these globally accepted principles such as precautionary principle³⁸ of avoiding harm, and intergenerational equity³⁹.

India should modify the EIA notification after doing exhaustive regarding environmental rights and human rights and that could only reap the ways to achieve sustainable development. But again for achieving this all the stakeholders such as government, NGO'S and public must cooperate and then only the satisfactory outcome would be achieved. Moreover, any regulations relating to the environment should always take into consideration the emerging issue of climate change and biodiversity.

There is also less possibility of a public hearing. According to the draft, a minimum notice period of twenty days shall be provided to the public for furnishing their responses. 20 days is too short a time to respond for local affected people and others who have a stake in the environmental impact of the project(s).⁴⁰

Environment Impact Assessment (EIA) Rules Amendment, 2022

Recently, The Ministry of Environment, Forests and Climate Change has notified amendment to the Environment Impact Assessment (EIA) Rules, exempting highway projects of strategic and defense importance from an environmental clearance before construction which are 100 km from the Line of Control with other locations as well.⁴¹

³⁴ Akash Lohia, "Problems with Draft EIA 2020: "Violator-Friendly" Says Fridays For Future India" Available at:

<https://www.thecitizen.in/index.php/en/NewsDetail/index/13/19162/Problems-with-Draft-EIA-2020-Violator-Friendly-Says-Fridays-For-Future-India-> (Last visited on 24th March, 2021)

³⁵ Article 21 of Constitution of India: Protection of Life and Personal Liberty. Article 21 states that "No person shall be deprived of his life or personal liberty except according to a procedure established by law."

³⁶ *Supranote*, at 25.

³⁷ By Ayush Verma, "Critical analysis of the draft EIA notification, 2020" Available at: <https://blog.ipleaders.in/critical-analysis-draft-eia-notification-2020/> (Last visited on 24th March, 2021)

³⁸ The Rio Declaration (or Agenda 21) of 1992, states that:

"In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

³⁹ "Every generation holds the Earth in common with members of the present generation and with other generations, past and future. The principle articulates a concept of fairness among generations in the use and conservation of the environment and its natural resources".

⁴⁰ *Ibid*

⁴¹ EIA rules amended: projects near LoC, those of strategic value won't need green nod, The Indian Express, updated on July 20, 2022 6:53:59 am.

To encourage activities such as thermal power plants up to 15 MW based on biomass or non-hazardous municipal solid waste using auxiliary fuel such as coal, lignite or petroleum products up to 15 per cent, it has been decided exemption from environmental clearance. The only parameter which is required is that the fuel mix should be eco-friendly.⁴²

In order to think about the most sensitive issues of livelihood security of fishermen involved at fish handling ports and harbors, the exemption from environmental clearance for increasing the threshold of ports which exclusively deals in fish handling, and caters to small fishermen.⁴³

In a landmark case *Jayant Kumar v. Ministry of Environment, Forest and Climate Change*,

Lessons from other Countries :

Necessity for a strategic EIA

Strategic environmental assessment (SEA) is widely recognized as a promising approach to take account of the environmental effects of policy, plans and programmes. Although relatively new, its development and adoption in the last decade has been impressive. Formal provision for SEA has been made by a number of countries, mainly in Europe and North America, but with some notable examples elsewhere.

Use of SEA in developing and transitional countries is promoted for a number of reasons. Because of its requirements, this approach can help to strengthen openness and transparency in decision-making processes. It also can be a step toward more proactive, integrative approaches to impact assessment and environmental management, as emphasized in discussions at WSSD, and the resulting Plan of Implementation.

Transboundary Environment Impact Assessment

The transboundary environmental impact assessment in international law has of great significance. It has several dominant elements such as:

- (1) According to customary international law, it prohibits transboundary pollution;
- (2) According to the classic version of this prohibition, which is contained in Principle 21 of the 1972 Stockholm Declaration, states must ensure that activities within their territory or under their control do not harm the environment beyond their territory;
- (3) The states must assess the potential transboundary effects of the activities so as to ensure that activities within their jurisdiction will not cause transboundary harm; and
- (4) It is very important that states must enter into international agreements between the states which requires them to carry out transboundary environmental impact assessment (transboundary EIA) for activities that has the possibility to cause transboundary harm.⁴⁴

EIA laws, which contain detailed procedural obligations and provide important avenues for public participation but at the same time are limited in scope. With respect to extra-territorial jurisdiction, there should be no discrimination while applying the EIA laws beyond national jurisdiction. In many countries, the regional EIA agreements resembles municipal laws. Moreover, even if we are relying on domestic EIA procedures to be reflected in the regional transboundary EIA agreements, then it is necessary to analyze its effects locally before implementing it at transboundary level.⁴⁵

Use of mediation in conflict resolution relating to EIA

EIA follows a preventative and inclusive approach for any project planning but the process has a number of inherent problems and roadblocks to it which includes interpretive, procedural and administrative problems. Normally, these problems take the route of adversarial approach to solve the conflicts. Thereafter, the problems of “win-lose” philosophy comes into the picture and in order to avoid this, there was a need of a new mechanism i.e. Environmental mediation.

After analyzing the present scenario where the environmental issues has been given utmost importance, environmental mediations plays a pivotal role in resolving disputes arising out of EIA process. As EIA aids as planning tool for any upcoming projects, environmental mediation has the similar essence which has been followed in various advanced countries.⁴⁶

Conclusion :

The EIA framework is an important element of environment protection. It is considered to be a balancing weapon to ensure the symbiotic relation among environmental protection, economic development of any nation and human rights, and. However, in India, certain aspects relating to EIA framework has failed to ensure environmental governance as well as environmental restoration and often criticized for its narrow spatial and temporal scope. Even, the adequate attention to rights of indigenous communities are affected because of the gaps in the EIA framework. The primary focus is sustainable

⁴²Ibid

⁴³ Ibid.

⁴⁴ John H. Knox, *The Myth and Reality of Transboundary Environmental Impact Assessment*, *The American Journal of International Law*, Cambridge University Press 96 (Apr., 2002) 219-319 Available at: <https://www.jstor.org/stable/2693925> (Last visited on 28th December, 2022).

⁴⁵ Ibid.

⁴⁶ Fred A. Curtis, *Integrating Environmental Mediation into EIA* (1983) 17-25 Available at: <https://doi.org/10.1080/07349165.1983.9725975>. (Last visited on 28th December, 2022).

development but the irony is that we are rushing towards development and trying to relax the processes involved in environment protection and focusing only towards economic development of a nation. It is really unacceptable to give birth to the crisis in this environmental systems of our country.

During the course of pandemic, the society has witnessed the the unexpected positive changes in our environment system. The environmental picture during the period of pandemic has certainly shown us the real picture about the positive attitude towards the environment. Now, the onus is on us to protect, preserve and restore it.

It is the time now, that each and every one of us should take a pledge to make the efforts towards our ecosystem preservation and restoration. Each and every towards this promise will certainly create a positive outlook for others as well as various governmental and non governmental institutions. The central government should always work in cooperation with the federal government. The government of India through several schemes and programs is really working hard to achieve the desired objectives. Referring to the concept of Separation of Power, all the three wings of the democracy be Legislature, Executive and Judiciary has to cooperate with each other and also should work in coordination.

If we want to achieve the standard quality of EIA, these three principles of Sustainability, utility and integrity has to be followed and adopt a positive approach towards our ecosystems in a post-COVID world. For this, it is crucial to amend and strengthen the EIA framework and doesn't ignore the gift our mother nature and at the same time, we need to take care of the society at large following the theme – “Vasudhaiva Kutumbakam — One Earth, One Family, One Future”⁴⁷.

⁴⁷ G 20 Summit, 2023.