

Enviro-Health Dimensions of Environment Impact Assessment (EIA) Draft Notification 2020 and COVID-19 Pandemic

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Abstract: The enviro-health dimensions of the Environment Impact Assessment (EIA) Draft Notification 2020 and the COVID-19 pandemic in India needs dispassionate reading despite its criticism of being medically motivated and relaxing public scrutiny of B2 projects. The EIA law began in 1994 has finished 25 years of its authorisation and work in 2019. The EIA law encouraged excellent administration and ecological equity. The EIA law is in the constant deluge of experimentation, as evident from the 55-time changes and 230 government circulars from 2006-2021. The EIA Notification, 2006, has intensified the disarray and alteration in EIA law arrangement. The salubrious enactment made statutory requirements on the continuous relaxing mode. The worldwide rankings on the working of EIA law in 2020 by Yale University's Environmental Performance Index positioned India as 168 out of 180 nations. The fundamental qualities of benchmarking contain 32 markers and decade execution patterns. The EIA Notification, 2020 subsumes these concerns by providing public participation, *ex-post-facto* clearances, and speedy authorisations of environmental projects. The EIA law gets promissory to ecological improvement, contamination control standards and health protection.

Key words: Enviro-health, EIA law, environmental benchmarking, medicinal projects, fast track clearances, COVID-19.

Introduction

The health and environment during the COVID-19 pandemic in the context of the *EIA Draft Notification, 2020* is an exciting inquiry into the current EIA law in India (Pradyumna, 2015). The enviro-health dimensions of the *EIA Draft Notification, 2020* and the COVID-19 pandemic in India is a unique addition to the corpus of EIA law (Nomani et al., 2020). The EIA law is essential to achieve sustainable development and intergenerational value. The goal of the EIA is to anticipate the natural effects in a multi-stakeholding society and shared obligation regarding ecological assurance (Glasson, 1997). The legal structure of EIA law has grown solely after eight years of India's

omnibus enactment of the *Environment (Protection) Act, 1986*. The *Constitution of India, 1950* has proclaimed climate and feasible improvement as a sacred objective for the nation's advancement (Nomani, 2000). While containing salubrious prerequisites for the contamination control component, ecological cycle evaluation, and social legacy protection, the EIA law likewise foreshadowed biodiversity-rich legacy and bio-prospecting of regular assets in India (Rodgers, 1993). The administrative history of Indian EIA Law from 1994 to 2020 is 25 years of work reflecting globally acclaimed rehearses (Jha-Thakur et al., 2021). The enviro-health dimensions of the *EIA Draft Notification, 2020* during the COVID-19 pandemic triggered the innovation of medicinal products for human use and

consequent unprecedented levels of antiviral emissions to the aquatic environment (Singer et al., 2014). The prediction of the environmental impact of representative medicinal products, antiparasitic chloroquines and ivermectin, glucocorticoids, macrolide antibiotics and antiviral drugs including their pharmacokinetic boosters (Tarazona et al., 2021) renewed fresh interest in the environmental impact assessment law and jurisprudence in the specificities of the *EIA Draft Notification*, 2020. The article engages in the legislative evaluation of EIA laws from 1994-2020 in the context of enviro-health dimensions of *EIA Draft Notification*, 2020 and the COVID-19 pandemic in India.

Material and Methods

This authoritative review of EIA law starts officially in *Espoo Convention*, 1991 globally (Glasson et al., 2013) and *EIA Notification*, 1994 nationally. The EIA law is the branch of the *Environment (Protection) Act*, 1986. The *EIA Notification*, 1997, *EIA Notification*, 2006 and *EIA Notification*, 2019 and *EIA Notification*, 2020 culled out ecology and economy viability (Chowdhury, 2014). The methodological measurements in EIA clearances are viewed as a transformative improvement of institutional ability and systemic guidelines (Nomani, 2019). The ecological approaches and systematic guideline necessitates generic environmental evaluation and life cycle assessment in the upstream and downstream production chain of COVID-19 generic medicines (Tukker, 2000). The constant battle to offset financial improvement with environmental honesty in the legal cycle moots the inquiry of plausibility, adequacy, and difficulties in principle and practice (Haapio et al., 2008). The essential modification of natural equity and ecological approaches to EIA Law during 1994-2020 is a legitimate experimentation of COVID-19 pandemic in India (Nomani et al., 2021). There is a dearth of ecotoxicological studies assessing the environmental impact of COVID-19 therapeutic solutions and the environmental risk of human drugs (Oelkers, 2020) along with the consequential exposure assessment during the pandemic (Singer et al., 2011), and the environment treatment methods for COVID-19 medication (Azuma et al., 2015).

Results

The EIA law requires evaluating its prosperity and disappointments during the 25 years of working. The

EIA Notification, 1994 is cast in the light of proposals of the Bradford Morse Committee Report, 1992 on EIA measurements of the Narmada power project (Morse et al., 1992). The EIA approach in the Narmada project and the Supreme Court's mandatory compliance contributed to its effective implementation (Nomani, 2007). However, the EIA has regularly seen a likely piece of manageability law and soothsaying of natural equity in India as a subordinate enactment.

Highlights of EIA Amendments

The *EIA Notification*, 2020 improved the legitimacy of the environmental clearances from 10 years to 15 years on account of long-haul natural and health impacts (Dhar, 2020) in mining (Nomani et al., 2020a) and stream valley projects (Nomani et al., 2020b). The B2 projects are absolved from the EIA and formal review interaction and EIA divulgence in the public area. It envelops 40 regular asset-creating and foundation enterprises, which genuinely bargain natural and social effect evaluation. The presentation of *ex-post facto* environmental clearances on the undertaking allowed on the medical and drug projects. It exposed the COVID-19 expedencies by a preponderance of the 1.5-multiple times of 'the natural harm evaluation and monetary advantage *vis-à-vis* infringement.' The public representation of ecological harm is muddled, and the public authority and designer alone can decide the degree and size of the environmental harm appraisal (Nomani et al., 2021a). The correcting arrangement is contradictory to the multilateral environmental agreements endorsed by municipal EIA laws. The *National Environmental Policy Act (NEPA)*, 1969 the US, contains comparable exclusions (CATEXs) accessible for ventures having no critical impact on the climate (Karkkainen, 2002). The unwinding of the EIA's public standing nullifies the *Espoo Convention*, 1991 (Boyle, 2011). It derogates the *Aarhus Convention*, 1998, which centres around public consultation of environmental projects (Hartley et al., 2005).

EIA Notification, 2006

The reference to the *EIA Notification*, 2006 assumes seminal importance as it incorporated a four-pronged strategy of screening, feasibility assessment, public hearing approval and monitoring. The *EIA Notification*, 2006 supplanted the 1994 and 1997 warnings and re-designed ecological leeway measures by the reception of best worldwide practices. The significant shift incorporates screening and checking the actual ecological

needs (Panigrahi et al., 2012). The *EIA Notification*, 2006, provided natural leeway dependent on the effect potential rather than venture standards. Formal review procedures re-organised and decentralised through the State Level Environment Impact Assessment Authority (SEIAA). The State Level Expert Appraisal Committee (SEAC) was made responsible for projects under a recommended edge speculation rule. The development projects are impressively streamlined and absolved from the formal review for enhancement of the land area. The decentralisation to State level Environment Impact Assessment Agencies (SEIAAs) is limited to Category 'B' projects portraying EIA as a corporate law (Nomani, 2011). The SEAC and the Expert Appraisal Committee (EAC) suggestions are conclusive in the endorsement of the undertaking. The State and State Pollution Control currently gets liable for directing the formal public consultation by taking Social Impact Assessment and Strategic Environmental Assessment.

EIA Public Hearing Notification, 1997

Since participation is cardinal to the EIA law, it is imperative to refer to the EIA Public Hearing Notification, 1997. The Notification made space for public standing and cooperation (Nomani, 2010). Under the EIA Notification, 1994, as Impact Assessment Agency was not bound to visit the destinations or plants and communicate with the affected populace of the environmental sites, the EIA required a Summary Feasibility Report (SFR), EIA Report, Technical Assessment, Document, and Data by project specialists. The *Public Hearing Notification*, 1997 remained exceptionally concentrated on Constitution 73rd and 74th Amendments, 1992. The participatory EIA normalised government administration and public support by fusing a formal conference strategy. The developer is put under a required obligation to present the Executive Summary and request remarks from bonafide occupants, public gatherings and influenced individuals. The public hearing arrangement comprises the State Government, State Pollution Control Board (SPCB), District Collector, Local Bodies, and Citizens. The chief outline will be made accessible at District Collector Office Industry Center and Municipal Corporations to guarantee significant interest and helpful federalism (Thomas, 2017). There are six arrangements of exercises without sufficient clarifications that are absolved from the interaction of public meetings. The formal review measure is imperfect by unmistakably restricting public cooperation in the ecological dynamics of the life cycle

assessment of EIA (Rajvanshi, 2003). However, the EIA Notification, 2020, under fast clearances of medically motivated projects, circumvents public standing and participation.

Discussion

The administrative structure of EIA law is derived from the Constitution of India, 1950, and the *Environment (Protection) Act*, 1986. The *EIA Notification*, 1994; *EIA Notification*, 1997, *EIA Notification*, 2006 and *EIA Notification*, 2020 reflect consistent experimentations in their substance and system and gradual curtailment of the procedural environmental rights (Dharmadhikary et al., 2019). The *EIA Draft Notification*, 2020 is the COVID-19 pandemic-specific amendment to foster diagnostic and therapeutic redressal (Lokhandwala et al., 2020). The Ministry of Environment, Forest, and Climate Change put the mass medications and intermediates pharmaceuticals under the B2 class of the venture to manage the pestilence pandemic circumstances.

EIA and Pandemic Exigencies

COVID-19 has created cascading and devastating effects on health and the environment with an alarming spike in mortality and morbidity. The global and national environmental implications of COVID-19 forego sustainable development and environmental impact assessment in the context of public health and sociocultural development (Nomani et al., 2021c). The EIA Draft Notification 2020 is laced under the cross-currents of the environmental parameters, sustainable strategies and COVID-19 pandemic priorities (Kareem et al., 2021). The present legislative reform is an exigency move by excluding Category B2 Projects from Baseline information, EIA Studies, and public consultation. The highlights of the alteration identified with the shortening of the formal proceedings and natural leeway. These enterprises are permitted in naturally temperate regions disregarding biological, social, and health impacts (Nomani et al., 2020c). It represents a need to keep moving and crisis to set new terms for the EIA, SIA, and SEA in India. As a large portion of India's laws, for the most part, passed in the scenery of the cataclysmic modern mishaps, the current proposition has its beginning in the LG Polymers plant in Visakhapatnam and the fire at Oil India Limited's Baghjan oil well in Assam. The law practicality emerged for change in the hooks and technical deficiencies. The proposed *EIA Notification*, 2020 is set to supplant the

EIA Notification, 2006, considering the loopholes and leeway measures. A significant number of changes borders around the four basic territories, including SIA. However, the speedy endorsement of mining projects cripples the strength of EIA law. Under the *Environment (Protection) Act*, 1986, from 1994 to 2006, the EIA's obligatory character mellowed the liberal economic needs of the nation than the environment (Chakraborty et al., 2020). The *EIA Notification*, 2020 also sidetracks the ground of ecological, social and critical appraisal of development projects.

EIA Notification, 2020

The *EIA Notification*, 2020 hit public cooperation in ecological clearances. According to the MoEFCC, it is essential to fasten medications and prognostic undertakings under the B2 classification. The progressions brought from Category 'A' apparently meet the exigencies of the prompt conveyance of medications during the COVID-19 pandemic (Nomani et al., 2020d). Thus, the Category B2 projects are absolved from gathering Baseline information, EIA Studies, and public hearings to fast track the environmental clearances (Saadat et al., 2020). That is the reason it evoked enormous recommendations from the pharma area for speedy environmental endorsements. The EIA Notification's highlights slant towards shortening public meeting hearings to a limit of 40 days. The public consultation and data sources likewise diminish from 30 to 20 days. The consolidated impact is the slicing of the formal proceeding and speedy ecological leeway under lawful approaches to EIA (Nomani et al., 2019). The pharma industry is characteristically environmentally hazardous. However, it allowed these inherently hazardous operations in ecologically sensitive zones without formal proceedings and ecological clearances. It applies to undertakings of mining, oil, gas, and shale investigation (Nomani et al., 2021b), hydroelectric tasks up to 25 megawatts, water system projects somewhere in the range of 2,000 and 10,000 hectares of order region, all inland stream projects (Salahuddin et al., 2021). The development of these projects applies to the expansion or widening of highways between 25 km and 100 km. Subsequently, Category B2 projects distinguished 40 key enterprises beyond the purview of the public consultation and environmental clearance process.

Citizen Standing and Judicial Process

The *EIA Notification*, 2020 needs dispassionate reading in the context of the international and national

precedents. The International Court of Justice (ICJ) in *Costa Rica v. Nicaragua* maintained the public cooperation clause in Aarhus Convention, 1998, quintessential to EIA law (Harrison, 2012). The ICJ has made up for Nicaraguan sway infringement and critical ecological harms to the Colorado River by a model pay dependent on EIA and SIA measures (Fitzmaurice, 2010). The EIA Notification, 2020 disregards essential precepts, prudent guidelines and public trust regulation. The courts in India have settled these standards as the rule that everyone must follow in *M.C. Mehta v. Kamal Nath* and *Vellore Citizen Forum v. Union of India* in domestic EIA law. The public standing has a fundamental bearing to test the integrity of *EIA Notification*, 2020. In a contradicting opinion, Justice S.P. Bharucha in the Narmada Bachao Andolan case discredited the *ex post facto* approval of environmental projects. The supreme court finally ordered the full-scale EIA under EIA Notification, 1994 in 2000. The Wednesbury rule of EIA law discovered a categoric reference in the Supreme Court choice in *Prof. M.V.Nayudu Case* (2000(3) SCALE 354). The refinement in EIA methods should pass the *fraus et jus nuneum companion* test, meaning misrepresentation and equity, subsequently never abide together. The Andhra Pradesh High Court in *Reliance Granite Pvt. Ltd. Case* (AIR 2006 AP 292) maintained the proverb by expecting to be that 'non-revelation and concealment of material circumstances in getting ecological clearance to add up to downright misrepresentation.' Thus the EIA Draft Notification, 2020 encumbers participatory environmental governance and probity of information.

Conclusion

Environmental pollution wreaks havoc on the environment and harms people's health. India has one of the world's most degraded environments, for which the Indian population ought to pay a high health price. India witnessed the second and third waves of COVID-19 and crossed 3,42,85,612 positive cases and 4,58,470 deaths till 1.11.2021 (Covid19india, 2021). The COVID-19 pandemic and EIA Draft Notification, 2020 have myriad effects on environmental benchmarking, impact evaluation, and proffering solutions to the current health and environmental crisis. However, the industry has become an integral part of modern society to serve the common good and people's health. The enviro-health dimensions of the *EIA Draft Notification*, 2020 and the COVID-19 pandemic justify the bulk drugs and intermediates project for fast-track approval. The

exemption of Category B2 Projects from Baseline data, EIA Studies, and public consultation violates Espoo Convention, 1991 and Aarhus Convention, 1998. The present notification contravenes the legal precept and judicial policies of India EIA Laws. The structural domain of integrating environment and health sector-specific policy integration. The significant institutional barriers to the integration of enviro-health policy should identify a holistic approach. The EIA Draft Notification 2020 and COVID-19 pandemic expedencies are well deserved, but the EIA law should not be a push to a limit of loss of identity.

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