

# DILUTING THE EIA PROCESS SPELLS A PATH OF NO RETURN

Relevant for: Environment | Topic: Environmental Conservation, Sustainable Development, and EIA

On July 12, [Fridays for Future India](#) (FFF), a collective of young environmental campaigners, received a notice from the Delhi police that accused it of committing offences under the Unlawful Activities (Prevention) Act. Its alleged crime: “sending too many emails” to the Minister for Environment, Forest and Climate Change, Prakash Javadekar, with subjects tagged “EIA 2020”. Over the last few weeks, the FFF has organised a sustained protest against a proposed new notification, which aims to replace the existing model of conducting environmental impact assessments (EIA) in India. The notice the group received claimed that the campaign’s details published on its website contained “objectionable contents” and constituted “unlawful activities or terrorists act[s]” which were “dangerous for the peace, tranquillity and sovereignty of India”.

Even though the notice was eventually withdrawn, after the police cited a “clerical” error, that the country’s anti-terror law can be invoked with such facile ease is a shuddering thought. But equally this must also make us wonder what it is about the FFF’s campaign that drew such ire out of the government. Is the new draft EIA policy so critical to the state’s programme that even the slightest acts of dissent are to be quashed with maximum force?

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The wreckages of COVID-19, one would have thought, would have given the government a chance to reassess what its goals towards climate justice ought to be. After all, the pandemic has had a searing effect on how we lead our lives. It has altered our relationships not only with each other but also with the environment. During this time, the decades of pitiful investment in public health and education have clearly been brought to the fore, as has the fragility of our basic infrastructure.

But the responses to the crisis seem to mirror the failures of the past: the more that goes wrong, the more we want to do the same things again, as though all that we desire is a return to a pre-pandemic status quo. What we do not seem to understand is that the supposed normality that we are craving does not mean that there are no fresh disasters ahead. And those disasters, as every sign demonstrates, are likely to be all the more catastrophic unless we contend with the deplorable neglect that we have shown towards the environment. It is time we recognised, as Bill McKibben wrote in *The New Yorker*, that “normal is the enemy”.

Yet, the proposed new EIA policy symbolises a rush to restore society to where it was before COVID-19 halted its motor of progress. The draft notification takes an already inadequate system and seeks to infuse into it a culture of disregard. It is almost as though, to the state, the global climate emergency is operating in a parallel universe of its own.

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Around the world, legislative interventions mandating EIAs began to burgeon in the late 1960s. The basic credo of these measures was to ensure that the state had at its possession a disinterested analysis of any development project and the potential impact that it might have on the environment. It took India, though, until 1994 before it notified its first set of assessment norms, under the Environment (Protection) Act, 1986. This policy mandated that projects beyond a certain size from certain sectors — such as mining, thermal power plants, ports, airports and

atomic energy — secure an environmental clearance as a precondition to their commencement. But the notification, subject as it was to regular amendments, proved a failure.

In 2006, a new EIA programme was conceived, ironically on the back of corporate pressure. There was a belief that the 1994 system hindered speedy growth. The new draft attempted to decentralise the process. It increased the number of projects that required an environmental clearance, but also created appraisal committees at the level of both the Centre and States, the recommendations of which were made a qualification for a sanctioning. What is more, the programme also mandated that pollution control boards hold a public hearing to glean the concerns of those living around the site of a project.

But, in practice, the 2006 notification also proved regressive. The course remained mired in opacity. The final EIA report, for example, was not made available to the public; the procedure for securing clearances for certain kinds of projects was accelerated; and there was little scope available for independent judicial review. When clearances were challenged, the courts treated the views of the assessment authorities as sacrosanct. In the process, EIAs, far from serving as a bulwark for environmental justice, came to be regarded as a mere inconvenience, as a bureaucratic exercise that promoters of a project had to simply navigate through.

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Now, as we find ourselves amidst not just a pandemic but also a global climate emergency, it is hard not to despair at the nature of changes that we need to make, to not merely our laws and regulations, but also to how we lead our lives. Yet, the government is on a warpath to further weaken an already fragile system. As many campaigners have highlighted, the new draft is riddled with problems. It enables a sweeping clearance apparatus to a number of critical projects that previously required an EIA of special rigour; where some industries require expert appraisal under the existing 2006 notification, they will, under the new notification, be subject to less demanding processes. These include aerial ropeways, metallurgical industries, and a raft of irrigation projects, among others.

What is more, the new proposal does nothing to strengthen the expert appraisal committees on which so much responsibility is reposed, leaving the body rudderless. It also does away with the need for public consultation for a slew of different sectors, negating perhaps a redeeming feature of the 2006 notification. But, most egregiously, the proposal opens up a window for securing post-facto clearances. That is, companies which have commenced a project without a valid certificate will be allowed to regularise their operations by paying a fine. If there is a singular logic to the EIA process, it is that an environmental clearance is a prerequisite to the launching of a project. But here the government wants to reverse that fundamental tenet.

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There is no doubt that a mere strengthening of the existing EIA norms will not by itself be sufficient. We need a renewed vision for the country; one that sees the protection of the environment as not merely a value unto itself but as something even more foundational to our democracy. To that end, we must begin to imagine a future where, as the American law professor, Jedediah S. Purdy, argues, our ecological and egalitarian projects can fuse together.

For this to happen, though, we have to see ourselves as not distinct from the environment that we live in, but as an intrinsic part of it. Under such a model, our economic solutions will have to necessarily subsume a commitment to our natural surroundings. To achieve this broader vision we will need deeper thinking, greater political initiative, and a leap of faith.

But, in the meantime, to allow the government to weaken the EIA process has the potential to make things irredeemable. And here, Wendell Berry's words are worth recalling: "Whether we and our politicians know it or not, nature is party to all our deals and decisions," and it "has more votes, a longer memory, and a sterner sense of justice than we do."

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