

A Study of Changes in Provisions of Environmental Clearances and their Political-Economic Perspective

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Abstract

India has been one of the worst hit countries due to Climate change. Frequent and increasingly severe draughts, excessive and deficient rains, changing regional climate cycles, growing effects of Al-nino are some of the symptoms of the cost Indians in general and Indian farmers in particular are forced to bear. What is the responsibility of various stakeholders in inviting and aggravating this calamity. There appears to be a clash between environment and economic development. Post liberalisation there has been increasing thrust on development even at the cost of environmental degradation. Successive governments have been instrumental in diluting the provisions of environmental clearance and making it easy for the industry to violate environmental laws. Easier land acquisition provisions, undermining the rights of tribal and avoiding environmental impact assessment in clearing development projects etc. have been quite obvious in policy making. More importantly during COVID 19 such clearances were quite rampant, especially in case of thermal power projects, mining and similar other industries. Such policies have aggravated the already precarious environmental conditions in India. This paper attempts to study provisions of environmental clearance and find a link between such policies and the cost of environmental degradation.

Keywords: Environmental Clearance, Environmental Impact Assessment, Al Nino, Thermal Power Projects, Environment Ministry.

1. Introduction

Development and environment have been competing against each other since the advancement of industrial capitalism. A rapid growth requires a lot of natural and physical resources. These resources come from the stock of the nature. The mineral resources as well as the forest resources come at the cost of environmental degradation, particularly when there is lack of planning and a mismatch in the demand and supply of these resources. The policy paper titled Environmental Policy paradigm shifts in the post-1990 period in India, the Environmental Management & Policy Research Institute says, "The hectic economic activity during this period is experiencing a severe contest between environmental conservation and economic development needs. As a result, significant changes are observed in decision making mechanisms (that promote stakeholder consultation and participation), delivery of environmental justice

(courts inclined towards environmental conservation and rights-based approach to environmental justice), environmental governance (prevention of and accountability for natural resources depletion and pollution), and support institutions."

Environmental Laws: Subject to Continuous Changes: Since the 1990s, India has seen significant changes and developments in environmental laws, reflecting a growing recognition of the importance of environmental protection in the face of rapid industrialization and urbanization. These changes have been driven by a combination of factors, including judicial activism, public awareness, international commitments, and incidents highlighting the need for stronger environmental governance. Here's a brief overview of some of the key changes and developments in India's environmental laws since the 1990s:

1.1 Early 1990s: Foundation and Awareness

- **Public Interest Litigation (PIL) and Judicial Activism:** The Supreme Court of India and various High Courts began to take a proactive role in environmental protection through the mechanism of PIL, leading to significant rulings that enforced and expanded environmental regulations.
- **Environmental Impact Assessment (EIA) Notification, 1994:** This was a key development that required the assessment of environmental impacts for projects in sectors like mining, thermal power, infrastructure, etc., before they could proceed [1].

1.2 Late 1990s to 2000s: Strengthening Regulations and Institutional Framework

- **The National Environment Tribunal Act, 1995:** This Act provided for the establishment of a tribunal for the effective and expeditious disposal of the cases related to environmental protection, thereby reducing the burden on courts.
- **The National Environment Appellate Authority Act, 1997:** Established to hear appeals with respect to the restriction of areas in which any industries, operations, or processes shall not be carried out or shall be carried out subject to certain safeguards.
- **Amendments to the Environment (Protection) Act, 1986:** Various amendments were made to strengthen the act, including the introduction of new rules and regulations concerning hazardous waste management, coastal regulation zones, and ozone-depleting substances [2].

1.3 2010s Onwards: Focus on Sustainability and Climate Change

- **National Green Tribunal (NGT) Act, 2010:** The establishment of the NGT was a landmark in India's environmental legal landscape, aimed at the expeditious disposal of cases pertaining to environmental protection and conservation of forests.
- **Enhanced Role of EIA and Environmental Clearance Process:** There has been a

continuous evolution in the EIA process to make it more stringent and inclusive, involving public hearings and considering the socio-economic impacts of projects.

- **International Commitments:** India's environmental laws have also been influenced by its commitments under international agreements, such as the Paris Agreement on climate change. This has led to the introduction of policies and targets for renewable energy, energy efficiency, and reduction of greenhouse gas emissions.
- **Waste Management Rules:** Over the years, India has introduced and updated various waste management rules (solid waste, biomedical waste, e-waste, etc.) to address the growing challenge of waste management in a comprehensive manner [3].

1.4 Recent Developments

Amendment to the Forest Conservation Act: Recent proposals and amendments aim to further regulate the diversion of forest land for non-forest purposes, reflecting the ongoing tension between development and conservation needs [4].

Plastic Waste Management: India has introduced rules aimed at phasing out single-use plastics and managing plastic waste more effectively.

These changes reflect an ongoing evolution in India's approach to environmental protection, balancing the needs for economic development with the imperative of environmental sustainability. The legal framework continues to evolve in response to emerging challenges, scientific advancements, and societal expectations.

1.5 A brief Description of environmental clearances given by various governments since 2000

Since the year 2000, the process of granting environmental clearances in India has undergone several significant transformations, reflecting the country's evolving regulatory landscape, developmental priorities, and environmental consciousness. Environmental clearance is a critical process in India, required for a wide range of projects, including mining, infrastructure, industrial development, and more, to ensure environmental

protection and sustainable development. Here's a brief overview of the trajectory of environmental clearances in India since 2000:

1.6 Early 2000s: Streamlining Processes

In the early 2000s, the focus was on streamlining the environmental clearance process to make it more transparent and efficient, while ensuring that environmental concerns were adequately addressed. The Environmental Impact Assessment (EIA) Notification of 1994 laid the groundwork for this, and subsequent years saw efforts to refine and improve the process.

1.7 Mid-2000s: EIA Notification 2006

A significant milestone came in 2006 with the EIA Notification issued under the Environment (Protection) Act, 1986. This notification sought to make the clearance process more structured and comprehensive, specifying detailed procedures for the submission and evaluation of applications. It introduced categorization of projects based on their potential environmental impact, requiring different levels of scrutiny. The 2006 notification also emphasized public participation as a crucial component of the environmental clearance process, mandating public hearings for projects in certain categories, thereby giving communities a voice in projects that could affect their environment and health.

1.8 2010s: National Green Tribunal and Increased Scrutiny

The establishment of the National Green Tribunal (NGT) in 2010 was a landmark development, providing a specialized forum for the effective and expeditious disposal of cases relating to environmental protection and conservation of forests. The NGT played a critical role in scrutinizing environmental clearances, ensuring compliance with laws, and addressing grievances. Throughout the 2010s, there was an increased emphasis on sustainability and the environmental impacts of development projects. This period saw the Ministry of Environment, Forest and Climate Change (MoEFCC) being more cautious in granting clearances, especially for projects in ecologically sensitive areas.

1.9 Late 2010s to Present: Balancing

Development and Environment

In recent years, there has been a noticeable push towards facilitating ease of doing business, including efforts to further streamline the environmental clearance process. This includes the introduction of online submission and tracking of applications to enhance transparency and efficiency. The government has also been working on amendments to existing regulations to balance the needs for economic development with environmental protection. This includes proposals to amend the EIA Notification, which have been subject to public debate and scrutiny for their potential impact on environmental safeguards and public participation. The period has also seen controversy over some projects that received environmental clearance, sparking public protests and legal battles. These incidents have highlighted the ongoing tensions between developmental projects and environmental conservation efforts.

1.10 Future Outlook

Looking forward, the challenge for India lies in further refining the environmental clearance process to ensure it is both efficient for project proponents and robust enough to protect the environment and communities. This includes improving the quality of Environmental Impact Assessments, ensuring meaningful public participation, and balancing developmental needs with sustainability goals.

The trajectory of environmental clearances in India since 2000 illustrates the complex interplay between development, environmental protection, and public participation. As India continues to grow and urbanize, the effectiveness of its environmental clearance process will be crucial in determining the sustainability of its developmental trajectory.

2. Have Governments Become More Liberal in Granting Environment Clearances for Developmental Projects?

The trend towards governments becoming more liberal in granting environmental clearances for developmental projects varies across different time periods and is influenced by the prevailing political, economic, and environmental priorities. However, there are several factors and observations that suggest a trend towards a more streamlined and

potentially more liberal approach in recent years, particularly with the aim of promoting economic development and facilitating ease of doing business. This trend needs to be considered in the context of trying to balance environmental protection with developmental needs. Here are some key points that outline this trend [5]:

2.1 Emphasis on Streamlining Processes

Ease of Doing Business: In recent years, there has been a global and national emphasis on improving the ease of doing business rankings. Part of this effort involves streamlining regulatory processes, including environmental clearances, to reduce delays and uncertainties for developers and investors. This has led to efforts to make the clearance process more efficient, which can sometimes be perceived as being more liberal in granting clearances.

2.2 Introduction of Online Systems

Digitalization: The introduction of online systems for submitting and tracking environmental clearance applications has made the process more transparent and faster. While this is primarily aimed at efficiency, it can also contribute to a perception of a more liberal approach by reducing procedural bottlenecks.

2.3 Policy and Regulatory Changes

Regulatory Adjustments: There have been instances where governments have proposed or implemented changes to environmental regulations and guidelines that are aimed at simplifying the clearance process. For example, amendments to the Environmental Impact Assessment (EIA) Notification or modifications to other environmental regulations may be intended to facilitate developmental activities, which can lead to concerns about the rigor of environmental protections.

2.4 Sector-Specific Approaches

Focus on Critical Sectors: Governments often prioritize certain sectors for economic growth, such as infrastructure, mining, energy, and manufacturing. In some cases, this has led to more streamlined clearance processes for projects in these sectors to attract investment and accelerate development, raising concerns among

environmentalists and communities about the potential for compromised environmental safeguards.

2.5 Balancing Act

Development vs. Environment: The trend towards streamlining environmental clearances is often justified by the need to balance developmental objectives with environmental protection. Governments argue that creating a more conducive environment for investment and development is essential for economic growth and can be achieved without necessarily compromising environmental standards.

2.6 Public and Judicial Scrutiny

Increased Scrutiny: While there may be a trend towards streamlining, it's also important to note that environmental clearances are subject to increased public scrutiny and judicial review. The role of the judiciary, particularly the National Green Tribunal (NGT) in India, and civil society's active participation, have been crucial in ensuring that environmental clearances do not compromise environmental integrity.

In summary, while there are indications that some governments have adopted a more streamlined and potentially more liberal approach to granting environmental clearances for developmental projects, this trend is complex and multifaceted. It reflects a broader attempt to balance economic development with environmental sustainability, amidst varying degrees of public and judicial oversight.

3. How Do the Easier Environmental Clearances Environment and Climate Changes?

Easing the process for environmental clearances can have multifaceted impacts on the environment and climate change, ranging from promoting economic development to potentially increasing environmental and ecological risks. The effects are largely contingent on how these clearances are managed, the oversight mechanisms in place, and the commitments to sustainable development practices. Here are some of the key impacts:

3.1 Potential Negative Impacts

Increased Pollution and Habitat Destruction: Easier environmental clearances could lead to a higher

number of projects being approved, including those in sensitive ecological zones. This can result in increased pollution, loss of biodiversity, deforestation, and habitat destruction, which are direct contributors to environmental degradation.

Climate Change Acceleration: Projects that significantly contribute to greenhouse gas emissions, such as large-scale industrial and infrastructure projects, can be fast-tracked. This accelerates climate change by increasing carbon footprint, especially if renewable energy and sustainable practices are not integral to these projects.

Water Resources and Soil Degradation: Without stringent environmental reviews, projects could lead to overutilization of water resources, affecting water availability and quality. Moreover, industrial and agricultural projects can contribute to soil degradation and pollution, affecting food security and ecosystems.

Social and Health Impacts: Communities, particularly those in proximity to development projects, could face health risks due to air and water pollution. The loss of access to natural resources and displacement without adequate compensation or rehabilitation also poses significant social risks.

3.2 Potential Positive Aspects

Economic Growth and Infrastructure Development: Easing environmental clearances can facilitate infrastructure development and industrial growth, which are critical for economic development. This can lead to job creation, improved connectivity, and access to services.

Renewable Energy Projects: Streamlined clearances can also benefit renewable energy projects by reducing the time and bureaucratic hurdles to set up wind, solar, and other renewable energy facilities, thus supporting climate change mitigation efforts.

Adaptive and Resilient Infrastructure: With the right regulatory framework, easier clearances can prioritize projects that are adaptive to climate change impacts and incorporate resilient practices, contributing positively to climate change adaptation strategies.

3.3 The Role of Governance and Oversight

The balance between economic development and environmental protection hinges on the governance framework and the rigor of the environmental impact assessments (EIA) process. Ensuring that projects adhere to high environmental standards, incorporating sustainable practices, and engaging with communities for inclusive development are crucial aspects. Additionally, oversight mechanisms, including judicial review and public participation, play a critical role in safeguarding environmental and social interests.

Conclusion

The approach to easing environmental clearances needs to be nuanced, prioritizing sustainability, and incorporating rigorous environmental and social impact assessments. While streamlined processes can contribute to economic development and potentially support climate change mitigation through renewable energy projects, they require robust oversight to prevent negative environmental and social impacts. Balancing these aspects is key to achieving sustainable development goals and mitigating climate change. The civil society, which is a direct victim to the environmental degradations, must be taken into confidence. Also, it is true that the tribals of the country have been natural protectors of our jungles and environment. At the same time, they are the anthropological heritage of the country. Hence their concerns must be considered. Finally, and most importantly, the environmental concerns can best be best addressed by the society in general, rather than the private entrepreneurs, who are best guided by profits and wealth rather than issues of sustainability. Here, the control of such decisions must remain in the hands of the society in general and the democratic forces in particular.

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