

Tuesday, August 11th, 2020



To: Secretary Ministry of Environment, Forests and Climate Change
Indira Paryavaran Bhawan,
Jor Bagh, New Delhi
New Delhi, India

Subject: Response of the INDIAN SOCIETY OF LANDSCAPE ARCHITECTS (ISOLA)
To the DRAFT OF THE ENVIRONMENTAL IMPACT ASSESSMENT 2020

This note is the response of ISOLA to the excerpt from the Government of India circular which includes the following:

‘AND WHEREAS, the Central Government hereby publishes this draft notification in exercise of the powers conferred by sub-section (1) and clause (v) of sub-section (2) of section 3 and section 23 of the Environment (Protection) Act, 1986, read with clause (d) of sub-rule (3) or rule 5 of the Environment (Protection) Rules, 1986 and in supersession of the notification number S.O. 1533 (E) dated the 14th September, 2006 read with subsequent amendments, notification numbers S.O. 190 (E) dated the 20th January, 2016, S.O. 4307(E) dated the 29th November, 2019, S.O. 750(E) dated the 17th February, 2020, except in respect of things done or omitted to be done before such supersession. 1. Short title and commencement: - i. This notification may be called the Environment Impact Assessment Notification, 2020 (hereinafter referred to as ‘EIA Notification, 2020’). ii. This notification shall come into force on the date of publication of final notification in the Official Gazette. 2. Application of the notification: - This notification is applicable to whole of India including territorial waters’

The notification also adds:

‘Any person interested in making any objections or suggestions on the proposal contained in the draft notification may forward the same in writing for consideration of the Central Government within the period so specified to the Secretary, Ministry of Environment, Forest and Climate Change, Indira Paryavaran Bhawan, Jor Bagh Road, Aliganj, New Delhi 110 003, or send it to the e-mail address at eia2020-moefcc@gov.in.’

Further, the notification states the following:

“‘Environment Impact Assessment (hereinafter referred to as ‘EIA’) Report” is the document prepared by the Project Proponent through an ACO for the proposed project based on the Terms of Reference prescribed by the Regulatory Authority and as per the generic structure given in the Appendix-X of this notification; a. “Draft EIA Report” is the EIA Report prepared for the purpose of Public Consultation or in accordance with the directions of the Regulatory Authority; b. “Final EIA Report” is the EIA Report prepared, after public consultation, including mitigation measures duly addressing the concerns raised by the public, time bound action plan, budgetary provision for the commitments made therein by the project proponent, for the purpose of appraisal;

Following are the suggestions of ISOLA for the various points in EIA which we believe need to be relooked at.

INDIAN SOCIETY OF LANDSCAPE ARCHITECTS

Registered under Indian Societies Act 1860 Sec. 21 No.: **Guj2557** & Bombay Trust Act 1950 Section 29 No.: **F9417**

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OBJECTIONS AND SUGGESTIONS

1. EIA must be done before the starting of the project, not at the end.
2. Post-facto legalization of violations by projects must be avoided and made available to monitor at the various stages of Environmental clearances.
3. Environmental Clearance reports at various stages of a project should be made available to monitor the on-site assessment like EIA 2006
4. **Clause 4 (3)**
Permission is given for leveling of the land without any tree felling without prior EP or prior EC can cause considerable damage to the existing terrain. This can lead to the destruction of seasonal wetlands, marshes, and associated flora and fauna, grassland habitats, hilly terrain and rivulets, and streams. Hence it is recommended that leveling of land should not be done without prior EC.
5. **Clause no 6, 7, 8, 9 and 11**
The constitution of important committees should be decentralized rather than Ministry having the sole right.
6. **Clause 6 (3)**
 - a. EAC committee criteria: at this time, it is not mandatory for members to have Environmental Science or Environmental Conservation backgrounds; this can lead to a lack of experts from these important fields, hence affecting the assessment decisions taken, which may not be in favor of environmental protection.
 - b. The eligibility criteria in the EIA Draft 2020 states that 'The Chairman or Chairperson shall be an eminent person having experience in Environmental Policy related issues, in management or in public administration dealing with various developmental sectors.'
 - c. This statement shows that a person lacking a background of environmental or ecological expertise can be a Chairperson. In this case, a Chairperson may assess a project with a lack of environmental knowledge, possibly in favour of development instead of in favour of environmental protection. Hence the Chairperson must be an eminent expert in Landscape Architecture, Environmental Science, Environmental Protection, Ecological Conservation, Sustainable Development, and other Ecology related fields.
7. **Clause 13(b)**
As mentioned, the collection of baseline data for a minimum of 3 seasons and not only one season besides the monsoon is necessary because physical, biological, chemical properties of sites vary in each season. For example, sites with wetlands or marshland habitats may dry up during summer and may act as an active habitat for various migratory birds during the winter season. If no data of the winter season is collected, it may lead to developmental decisions that can disturb wetland habitats.
8. Re-categorization of projects so as to exempt a large number of polluting industries and Oil & Gas exploration industries in Category B2, which do not require scrutiny by Appraisal Committees and or public consultation, is against the EIA 2006 and the Environment Protection Act 1986
9. **Clause 14**
 - a. The changes will lead to dilution and in some cases, elimination of the process of public consultation.
 - b. Public consultation must be done in online and offline mode, giving a window of a minimum of 60 days and should not be cut to 20 days. Public hearing during agricultural seasons should be avoided.
 - c. Clause 14.8 is objectionable as it gives permission to scrap public hearings if the local situation warrants it.
 - d. Clause 14.9: the EIA Report should be accessible online in the languages of the state without any written request.
 - e. It is shocking and unacceptable that only projects of 50,000- 1,50,000 sq.m. built-up area have to seek scrutiny by the Appraisal Committee; Construction projects of 20,000-50,000 sq. m need not be appraised and are exempt from the public hearing, while those below 20,000 sq. m do not require prior EC/EP at all



10. Clause 15.7

Strategic projects such as power generation, building private ports, defense, and security projects, etc. must be appraised from environmental impact considerations

11. Clause 26

Includes solar thermal power projects, solar parks, coal, and non-coal mineral prospecting, minor irrigation projects with a command area up to 2000 hectares, defense manufacturing units for explosives and several other and should be appraised from environmental impact considerations

12. Clause 22 and 23:

Dealing with violation Cases: this entire section from Clause 22.1-15 should be reframed as it helps offenders and does not recognize the rights of the local people.

13. Clause 23: deals with condoning non-compliance needs to have a legal provision because Clause 3 (16) does not bind the amount to be paid and is included as part of the project cost

14. In EIA 2006 the mining lease was for 30 years but the EIA 2020 draft proposes it to be 50-year, which needs to revise to 5 years as the assembly is for 5 years.

15. Paying fines is not a correct solution to non-submission of annual compliance reports. The maximum time given should be 6 months, after which non-fulfilment of conditions should be met with heavy penalties and legal action

16. Clause 24.3 b:

District Mineral Fund to augment funds for implementation of EIA or EMP should mention Tribes for grant

17. Clause 25:

Appeal made to the NGT against prior EC or EP should be extended to between 60 to 90 days instead of 30 days

18. The EIA 2020 should be fast and transparent, using online platforms for real-time data with the help of sensors; at the same time, the voice of the public should be incorporated in online and offline modes.

RECOMMENDATIONS

1. The EIA should become a regulatory component during the entire life of the industry project.
Recommendations for the EIA are divided into various stages of the industrialization process. All these processes must be included in the EIA component of any new industry.
2. During Impact Assessment Evaluation
 - a. All development scales must undergo all environmental clearances as stated in the 2006 notification
 - b. The criteria EIA report must be expanded to account for
 - i. Cultural and heritage importance of land and
 - ii. The scenic beauty of the landscape with respect to pre-established criteria. Some countries such as Hong Kong have a Landscape Character Assessment and Visual Impact Assessment as an integral part of their EIA, which helps in the protection of the heritage, natural and cultural character of the landscape.
3. Stakeholder Meetings
 - a. It must be admitted that the Centre or State government is not the sole owner of the natural resources of the country. They must be seen as co-owners, along with the stakeholders of the land in question.
 - b. There must be larger and more robust participation of industries with the local population and environmental experts.
 - c. The interaction between industries and stakeholders must be moderated in a public forum by a panel appointed equally from amongst the industry, the state, and the local inhabitants.
 - d. There must be mandatory participation of one of the following experts in the moderation panel of the stakeholder meeting: landscape architects, ecologists, or naturalists.

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- e. The proceedings of this participation must be documented and made public in the local and state gazetteers. These proceedings must include the EIA report, participation dialogue notes, and responses.
- f. All plans and designs must be approved by the community who may have a stake in the said project.

4. Before installation of the said Industries

(In case relocation and rehabilitation is part of the industrial development)

- a. The relocated lands must include all-natural resource lands that previously played a part in the life and ecosystem of the affected natives, in addition to the owned property. This includes sacred groves, water catchment areas, attached forests, and grazing grounds.
- b. All these relocated lands must be approved as a functional natural system by the moderating panel before an allocation can begin.
- c. All relocated lands must be allotted before any construction processes can begin.

5. During the Running of the industry

- a. No land may be sold to any of the developing authorities but may be leased/ or rented to them. Thus the locals will have access to a steady income, instead of a one-time payment, thus allowing them to continue to 'live off' their land.
- b. Return to/ recognition of native ownership: the Contracting Parties cannot sell the land to anyone else without offering it to the State or the community first.
- c. There must be a guaranteed provision of easements or a rite of passage either through the site or to the forests within particular sites, for the benefit of the locals.
- d. There must be stringent restrictions on water, land, and air pollution.
- e. For any development, 100% of industrial and non-industrial sewage waste must be treated by the industry/ developer
- f. Conservation of local heritage must be part of the development programs of the new development authorities in the region. There must be Development prohibitions on ecologically and culturally sensitive lands.

6. Compensation measures and CSR activity of the Industries

- a. The new industry must compensate for the loss of ecology by carrying out ecological rejuvenation and ecological restoration of the surrounding areas.
- b. In addition, the new industry authority must support local students to 'realize their schooling, vocational, training and tertiary ambitions.'
- c. CSR activities of these industries must be revised to prioritize education, irrigation, ecological restoration & rejuvenation, and infrastructure development (the State/ development authority must respond to local requests for improved transport and other infrastructure) of the native settlements (also de-prioritizing projects that stress mere beautification).

Thank you

Sujata Kohli
Honorary President

Sridevi Rao
Honorary Vice President

Nidhi Madan
Honorary Secretary

Jitendra Pawgi
Honorary Treasurer

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The Indian Society of Landscape Architects (ISOLA), the professional body of landscape architects, includes over 600 members across India and around the world. The mission of ISOLA, established in 2003, is to nurture and enhance the profession of landscape architecture by providing leadership in the creation of artistic and ecologically sound designs, and in the shaping and management of our human-made, cultural and natural environments. The organisation has also been accorded the status as a member of the International Federation of Landscape Architects (IFLA) - a body representing the concerns of the profession worldwide. Details of the organisation can be accessed at www.isola.org.in.

** Landscape Architecture aims to achieve the well-being of humans as well as other species along with their associated communities, structures, and functions. It involves settings ranging from the urbanised to the natural across all scales within the human range, from the microscale to the macroscale. The discipline and the profession involve, but are not limited to, the fields of ecosystem analyses, vegetation studies, hydrology, sociology, environmental psychology, cultural studies, spatial design, and construction technology.*

Landscape Architects are professionals with a recognized qualification in Landscape Architecture. They are trained to analyse the intersections of nature and culture in space and time. They provide services for site selection, programming, conceptualizing, site and master planning, design development, designing and detailing. Therefore landscape architects evaluate environments of various types so as to holistically define and address various protection, conservation, restoration, regeneration, and development issues and opportunities.

Decisions in Landscape Architecture are taken to integrate and enhance natural and human interactions within the designed and built environments, to positively affect the quality of land, water and air.

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