

Concerned Citizens of India

c/o Brinelle D'souza, jcor.india.west@gmail.com, 9004688770
Justice Coalition of Religious, West India
Mumbai 400088

8th August, 2020

Shri Prakash Javadekar
Honourable Minister for Environment, Forest and Climate Change,
Government of India.

Subject. Objections to the Draft Environment Impact Assessment (EIA) Notification 2020 and demand for its withdrawal.

We, concerned citizens of India strongly oppose the draft EIA 2020 and seek its immediate withdrawal. The fact that this draft legislation is being introduced and public objections invited at a time when the country is grappling with the Covid-19 pandemic and a restrictive lockdown, completely defeats the democratic process of public participation in making this policy which will affect one and all. Moreover, the local groups, affected communities and marginalised sections who will be most impacted by this legislation have been effectively left out from the process due to non-publication of the draft legislation in local languages and effective publication in mediums other than the written word. The notification itself is highly problematic, in that it is a serious dilution of the present rules and favours projects that violate rules and operate without environment clearance. It will cause a landmark shift in the way clearances are obtained in the country. Environment rules in India, including the EIA 2006 have always privileged the interests of corporates by whittling down public consultations, accepting flawed and faulty EIA reports due to external pressures and ignoring the non-renewable nature of resources and people's relation to those resources. The draft EIA 2020 further deepens the impact of that paradigm. In its present form the draft notification promotes indiscriminate exploitation and is *anti-people*.

Some specific objections with the draft EIA are as follows:-

1. **Post-facto grant of approval:** The draft EIA 2020 seeks to legitimise projects that have violated environment clearance norms by giving them a chance for post-facto approvals as long as that project is permissible in an area. Allowing post facto clearances will be detrimental to the environment. The Supreme Court of India has disapproved the concept of post facto environmental clearances to industrial projects that are initiated without a clearance. By allowing projects violating the law, the Government is going against the 'polluter pays principle'. The draft EIA is instead propagating a pollute, pay and operate principle that says 'come, damage and then get away by paying a fine.'

2. **Unacceptable exemptions from EIA:**

(a) The draft EIA has removed 40 types of projects from the requirement of prior environment clearance or prior environment permission altogether. This includes solar thermal power plants, common effluent treatment plants, dredging for dams, extraction for linear projects such as roads, pipelines, manufacturing units under Ministry of Defence etc.

(b) The Notification 2020 has created a new sub-category of projects under the B2 category that will not be required to be placed before the expert appraisal committee, but will only require prior environment permission from the Regulatory Authority. For instance, commercial heliports, projects in respect of inland waterways, building construction projects up to 50,000 sq.m. built up area, certain medium enterprises involved in petroleum product processing, cement plants, mineral beneficiation etc.

(c) The draft EIA 2020 has also moved several polluting projects to B2 category so as to exempt them from mandatory approval of expert committee for environment clearance. These include all offshore and onshore oil & gas including CBM and shale gas projects and eases procedure for clearance of all projects in respect of ports, harbours, backwaters and capital dredging (inside and outside the ports or harbours and channels) in inland waterways, certain SEZs, CEZs, EPZs. The exemption from EIA for listed B2 category activity and expansion and modernization projects will seriously affect the environment since these will be carried out without oversight.

(d) Similarly, for project modernisation and expansion, the norms in Notification 2020 are liberal, with only those involving more than 25% increase requiring EIA, and only those involving more than 50% increase attracting public consultation. Under the proposed changes, project proponents are expected to submit only one annual report on compliance with conditions, compared to the existing requirement of biannual reporting. The move is highly retrograde.

3. **Excludes reporting by the public of violation and non-compliance:** The EIA Notification 2020 does not provide for reporting by the public of violations and non-compliance. It states that the government will take cognisance of reports only from the violator-promoter, government authority, Appraisal Committee or Regulatory Authority. Such projects may then be approved with conditions, including remediation of ecological damage, which, again, will be assessed and reported by the violator and not an independent agency. This provision is deeply problematic and goes against the right of citizens to participate in environmental decision making. Affected communities, stakeholders, experts, NGOs, public spirited individuals must be able to report on proposals affecting the environment, or plans and programmes relating to the environment and these comments need to be taken into due account in decision-making by the State authorities.

4. **Dilution of the Public Consultation process:** The Draft proposes to expand the list of projects that do not require Public Consultation for Environmental Clearance. This

undermines the rights of the people to know what is going to happen to them in the future. Further, the process in the new EIA limits the notion of who constitute the stakeholders. Copies of the draft EIA report are required to be furnished only to those within whose jurisdiction the project is proposed to be located, whereas in effect there can be bodies within whose jurisdiction the proposed project may not be located but may have impact. Moreover, the notice period for public hearing has been reduced from 30 to 20 days. This will make it difficult to study the draft EIA report, more so when it is not widely available or provided in the regional language and in a medium that is reachable. Every citizen must have the right to participate in environmental decision making in an informed manner.

5. **Denial of Information to People:** The draft EIA 2020 denies people the opportunity to know the impact a proposed project will have on the environment, on their lives and livelihoods. It further denies them, therefore, the possibility to record their objections and also the possibilities of a management plan.
6. **Not factoring people's views of existing EIAs:** Even with the existing safeguards, we have not been able to avoid environmental degradation and accidents in which a number of people often get killed. Therefore time and again, people have sought for more safeguards and also for the implementation of the existing ones. Improvements sought on the existing EIA Notification 2006, have included avoiding piecemeal project clearances without contextualising the same with other contemporary developments in the region, factoring in cumulative impact of projects, widely advertised public hearings, paradox of environment impact assessment consultants engaged by the project proponent being involved in preparing the EIA Report. Instead of tightening and streamlining the environment impact assessment process and the monitoring of the same, the Draft EIA 2020 notification, has discarded suggestions such as these and has instead further diluted the process.
7. **Impact on vulnerable sections:** A majority of poor, for example, Adivasis and fishing communities residing in forest and coastal areas are dependent on the environment for their lives, livelihood and their experience of community life. Also it is the poorest who occupy areas most prone to flooding and landslide both in cities and mountain slopes [especially in mining areas]. The changes suggested in the EIA will directly and negatively impact their life. The fact that the new draft proposes exemption of all building constructions and area development projects, expansion or widening of national highways, all projects from public participation will not just impact their lives but threaten their survival.
8. **Problematic General Terms of Reference:** The Terms of Reference for the Environmental Impact Assessment are essentially going to be based on standard ToRs from the concerned Department without contextualizing the same in terms of location and other specificities.

9. **Problems with the time frame for carrying out the EIA:** A three year old assessment can well be used to prepare the Environment Impact Assessment Report as per the draft EIA 2020. This is deeply problematic. Moreover, a one season study is considered to be adequate which is unacceptable.
10. **Validity of Environment Clearances:** At a time when the environment is rapidly changing and climate shifts have left communities vulnerable to the impact of climate change, the Draft EIA 2020 has considerably increased the period of validity of environmental clearances. For mining projects, the validity has been increased from 30 to 50 years, river valley projects it is increased from 10 to 15 years and for all other projects it is increased from 5 to 10 years from the original EIA Notification 2006.

In conclusion we would like to say that the EIA 2020 in its current form is regressive and unacceptable. It will serve as a license for serious environmental violations. It must be withdrawn on immediate basis. Any future notification must meet the requirements of the principles of avoiding harm and intergenerational equity. India's environmental crisis is at a choking point! Sustainable development must be achieved through involvement of all stakeholders, government accountability and environmental protection. We demand that the Ministry of Environment Forest and Climate Change work towards creating a new and robust policy through a full and informed consultative process with all stakeholders.

This is the link to sign:

<https://forms.gle/F5WPUfCH5dbJzpRq9>

Sincerely

1. Adv. (Dr.)Albertina Almeida, Human Rights Lawyer and Activist
2. Anita Cheria, Justice Coalition of Religious (JCoR), South India
3. Brinelle D'souza, TISS, Justice Coalition of Religious (JCoR), West India and JSA-Mumbai
4. Lancia Pereira, PBVM: Presentation Province Justice Network, JCoR West India
5. Lara Jesani, Advocate, Mumbai ; People's Union for Civil Liberties
6. Lisa Pires, PBVM: Presentation Province Justice Network, JCoR West India
7. Mudita Sodder RSCJ, Coordinator – Justice, Peace and Integrity of Creation (JPIC) ; JCoR West India
8. Santana Pereira, FMA; JCoR West India

