

Chapter 3:

Facilitating Businesses through Environment Policy

Dilutions: The Contemporary Indian Reality

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Businesses, by their very nature, depend on natural resources and the environment. It is consequently not surprising that businesses are deeply interested in environmental policy and play an important role in influencing it. Good environmental governance contemplates strong and robust laws and regulations, stringent implementation and monitoring, independent institutions, transparent decision-making process with public consultation and an effective civil

society. It puts businesses under legal obligation to be accountable and act ethically. The last few years have seen an unprecedented and casual dilution, by the government of environmental safeguards and social legislations, brought in over time with the purpose of protecting the poor, indigenous and project-affected communities, against exploitation of their land, habitat, livelihood and environment at the hands of unscrupulous businesses.

Advent of environmental policy in India

The development of environmental governance came from the need to address any potential conflict between economic development and environmental protection. Originally, the Indian Constitution did not explicitly contain provisions for protection of the environment. It is pursuant to the United Nations Conference on Human Environment and Development, held in Stockholm (known as 'Stockholm Conference') in 1972, which resulted in the Stockholm Declaration on the Human Environment³¹ that the environmental law regime officially kick-started in India with a view to fulfill its international commitments. The Indian government enacted the principal laws for the protection of environment such as the Water (Prevention and Control of Pollution) Act, 1974; Air (Prevention and Control of Pollution) Act, 1981; Environment (Protection) Act, 1986 enforced by the then Ministry of Environment and Forest (now, Ministry of Environment, Forest and Climate Change, in short referred to as MoEF), Government of India, and several other laws followed. In 1976, by way of the 42nd Amendment³², the Indian Constitution was amended by inserting Article 48A, which provides as a directive principle of State policy, an obligation on the part of the State to protect and improve the environment and safeguard the forests and wildlife of the country. In addition,

under the fundamental duties chapter, Article 51A(g) was introduced which makes citizens duty bound to protect and improve the natural environment. Right to a healthy environment was time and again recognised as an integral part of right to life under Article 21 of the Constitution by the Supreme Court in environmental litigations.

The United Nations Conference on Environment and Development (known as 'Earth Summit') was held in 1992, closely following the introduction of the New Economic Policy in India, which embraced principles of neo-liberalism over welfare state. The Earth Summit raised several concerns over sustainable development and resulted in the Rio Declaration of Environment and Development³³. The principles of Environment Impact Assessment and the constitution of National Green Tribunal (NGT), which are key features of environmental jurisprudence in India, have been derived from the Rio Declaration. The United Nations Framework on Climate Change was also strengthened by adoption of the Kyoto Principle³⁴ in 1997 to prevent dangerous interference in the climate system by limiting the emission of green house gases into the atmosphere.

India has, since, developed an extensive framework of environmental laws and has

historically shown legislative intent and commitment to fulfill its international obligations, coupled with wide recognition of environmental laws by Indian courts. However, with the advent of globalization and neoliberal policies and opening up of the economy for trade, exploitation of resources and unparalleled development, came the pressure to de-regulate environmental laws and regularize wrongs. Under the current

regime, it has become the norm to take a pre-emptive approach, with environmental dilutions being introduced to pave way for development. The recent years have seen a spate of dilutions in environmental laws and dismantling of age-old institutions and safeguards in order to allow for urbanization, industrialization and unfettered development to the detriment of the people and the environment.

Systematic weakening of environment protection policies

Signaling this change in approach, even during an election campaigning pitched on the promise of development – seen in terms of economic and industrial, rather than human or sustainable development – a business-friendly governance structure was assured to industries to ease businesses and increase profitability. Soon after coming into power, the current government fulfilled its commitment to industrialists, who had supported its campaign, by approving at least 230 projects³⁵ – environmental clearances of which were held up by the previous government – and lifting the moratorium on new industries in critically polluted clusters of the country³⁶. Some of the early corporate beneficiaries of these prompt clearances include big entities like Adani Ports and Reliance Power³⁷. Moratoria in critically polluted areas like Ankleshwar, Vapi and Vatva in Gujarat were lifted with fanfare in the presence of industrialists, a day before municipality elections in Vapi³⁸.

Confederation of Indian Industry (CII), an Indian business lobby group, submitted 60 action points to the government after it came into power, seeking specific changes in policies to remove hurdles in securing environment, forest and other green clearances and ease the process³⁹. This was only the starting point of industry-led environmental policy dilutions. With a view to overhaul the environmental policy of the country, by an Office Order dated August 29, 2014, the MoEF constituted a high-level committee, under the chairmanship of former cabinet secretary T.S.R Subramanian, to review various acts administered by the MoEF, including the Environment (Protection) Act, 1986; Forest (Conservation) Act, 1980; Wildlife (Protection) Act, 1972; The Water (Prevention and Control of Pollution) Act, 1974; The Air (Prevention and

Control of Pollution) Act, 1981; and The Indian Forests Act, 1927 (added to this list on September 18, 2014). The stated objective of constituting this high-level committee was for it to recommend specific amendments needed in each of these Acts so as to bring them in line with (the government's) requirements and objectives and to draft proposed amendments in each of the aforesaid Acts to give effect to the proposed recommendations. The committee submitted its report⁴⁰ in November 2014. However, following objections and depositions by several civil society organisations and non-profits, a Parliamentary Standing Committee rejected the report citing that some of the essential recommendations it contained “would result in an unacceptable dilution of the existing legal and policy architecture established to protect our environment”. However, the government quietly retained a legal consultant in October 2015 to examine the report and draft the Environmental Laws (Amendment) Bill, 2015⁴¹ broadly based on the high-level committee recommendations, which sought to disrupt the prevailing environmental jurisprudence. It evoked heavy criticisms.

While the T.S.R. Subramanian Committee report was kept in abeyance, the environment ministry stealthily implemented its controversial recommendations by amending the environmental laws surreptitiously in a piece meal manner to dilute the protections originally guaranteed under them. Several of the amendments have been carried out without notice to the public and in anticipation of proposed “pet” urbanisation projects of the government in public private partnership with industries or to facilitate private businesses of crony partners, with a view to avoid the essential scrutiny on environmental impact of such projects.

The principal environmental law that has suffered systematic blows is the Environment Impact Assessment (EIA) Notification, 2006⁴², which imposes restrictions and prohibitions on new projects or activities, or on the expansion or modernization of existing projects or activities based on their potential environmental impacts. EIA Notification mandates prior environmental clearance for projects and activities covered by it, before commencement of construction work or preparation of land, and provides procedure for screening, scoping, public consultation, and appraisal for that purpose. It also provides for post-clearance monitoring by submission of

compliance reports by the project proponent. The protections and procedures under the EIA Notification have been greatly watered down by a spate of amendments, involving delegation of regulatory powers, removal of requirement of environmental clearances for certain projects / activities, increasing permissible levels, creating exceptions and allowing for procedural relaxations. Most of these amendments have been introduced in a manner undermining democratic process and public participation, by dispensing with notice in the name of “public interest”, thereby avoiding public scrutiny altogether.

Dilutions and exemptions to scope of application of EIA Notification for certain industries

By an amendment notification dated June 25, 2014⁴³, several exemptions/dilutions to activities and projects in the Schedule to the EIA Notification were introduced to benefit industries and public-private partnership projects. These included hotly contested government, energy, industrial and construction activities like river valley and irrigation projects, thermal power plants, mineral beneficiation projects, chemical fertilizer industries, pulp and paper industries,

highway projects and building construction projects. The threshold limits were also modified.

In October 2014, in an amendment⁴⁴ brought with intention to benefit the mining sector, mineral prospecting was completely exempted from requirement of environmental clearance under the EIA Notification. Further, no fresh clearance was required for mining projects at the time of renewal of mining lease.

Relaxing / removing restrictions for projects in green areas

A major dilution was made to the general condition in the Schedule to the EIA Notification in June 2014 by reducing the distance of projects and activities from boundary of protected areas under Wild Life (Protection) Act, 1972, such as wildlife sanctuaries, national parks etc., critically polluted areas, eco-sensitive areas and inter-state / international boundaries, from 10 km to 5km. This applied to all projects except the projects specified in the amendment, within which environmental clearance was required to be obtained from the MoEF. The condition was entirely exempted in

case of inter-state governments, by agreement between the respective states and Union Territories. Following this, industries involved in mining and minerals, riverbed mining, sand mining (upto 25 ha), building and construction projects and activities in proximity of such green areas were also granted exemption from obtaining environmental clearance. Meanwhile, the requirement for wildlife board clearance was also taken away⁴⁵, facilitating projects abutting wildlife parks and sanctuaries, such as the Vadodara-Mumbai Expressway project.

Exempting linear projects from public consultation process

By an amendment⁴⁶ introduced in February 2015 to the EIA Notification, the requirement of Scoping was exempted for all new national

and state highway projects in border-states and expansion of existing national and state highway projects. All linear projects such as

highways and pipelines in border states were exempted from the possibility of public objection altogether, thereby obliterating public objection and participation. This was done around the time that so-called linear projects such as the proposed Bullet Train between Mumbai and

Ahmedabad were in the pipeline. Owing to these dilutions, some transmission lines in Maharashtra and road projects requiring forest diversion were recommended or allowed exemptions from processes such as scoping and public consultation⁴⁷.

Attempted dilution to exempt certain industries from public consultation process

The previous government had issued an Office Memorandum dated May 16, 2014 before its exit, which clarified that the exemption from public consultation would be granted only to projects located in industrial parks or estates that had obtained environmental clearance under item 7 (c) of the Schedule to the EIA Notification. However, vide an Office Memorandum dated December 10, 2014, the current government diluted this provision by issuing a clarification that the exemption from public hearing would extend to projects or activities located in industrial estates and parks notified by the government prior to September 14, 2006 (the date of EIA Notification coming into force). In effect, it grants exemption to projects or activities located in industrial estates and parks, which had not undergone environmental scrutiny at any point or obtained environmental clearances under the EIA Notification. This dilution was to the benefit of

companies such as Vedanta, who could continue its environmental clearance for expansion of its polluting Sterlite Copper Smelter in Thoothukudi (by setting up a Unit II) without conducting a hearing, on the basis that it was allegedly located within a notified industrial estate (SIPCOT).

The government has been making such attempts to clear some industries/projects by issuing office memoranda in the name of clarifications or qualifications, despite the provisions of the EIA Notification being quite clear on this aspect and the NGT having set aside such cryptic office memorandums in the past.

An Office Memorandum dated February 13, 2018 classified small units manufacturing Linear Alkyl Benzene Sulphonic Acid (LABSA) as Category “B2” projects, thereby exempting such projects from public consultation process altogether.

Dilutions brought in for the Coal Industry

On May 30, 2014, the government exempted the requirement for public hearing for coal mining projects with specific capacity expansion, increased to up to 40 per cent capacity expansion for coal mining projects in July 2017⁴⁸. Meanwhile, in March 2015⁴⁹, the provision relating to transferability of environmental clearance granted in respect of coal block was amended to create an

exemption from the requirement of no objection from either holder of environmental clearance or regulatory authority, thereby easing transfer of clearances to new coal mine allottees.

By way of an Office Memorandum dated February 27, 2018, the process of melting of coal tar pitch, since it involves change of state, was clarified to not attract provisions of EIA Notification.

Relaxing scrutiny and procedures concerning environmental clearances

In April 2015, a retrograde dilution⁵⁰ was brought into force, increasing the validity of environmental clearance from 5 years to 7 years in the case

of all projects and activities other than river valley projects for which validity is 10 years, with a further provision to allow extension for

a maximum period up to 7 years on application to the regulatory authority. As a result of this amendment, the validity of environmental clearances has been increased when they ought to have been reduced from the original five-year period in light of the technological advances which have provided faster means of construction; and this, when the challenges on account of a rapidly deteriorating and changing environment and landscape are requiring constant monitoring and fresh assessment. This amendment has benefited companies such as Vedanta for expansion of its controversial and polluting Sterlite Copper Smelter in Thoothukudi (for setting up Unit II). However, this provision enabled them to get the same extended by an additional five years, without conducting fresh environment impact assessment and public consultation. While the

initial five-year period was from January 1, 2009 to December 31, 2013, Vendanta took advantage of this validity extension provision to procure additional 2 years and also obtained a renewal for 3 years, thereby totally increasing the period of validity until December 31, 2018 on account of this relaxation.

By an Office Memorandum dated October 7, 2014, the powers of appraisal at the scoping stage of environmental proposals by the regulatory authority were restricted.

Such relaxations in timelines for assessment of projects and compliance undermine the entire environmental clearance process, which is then based on antecedent data and is hence rendered faulty and futile.

Delegation of Powers

A major amendment to the EIA Notification, 2006 was made in January 2016 by introducing District Environment Impact Assessment Authority (DEIAA) as regulatory authority by creating a sub category for mining of minor minerals, which covers sand mining, and also constituting District Expert Appraisal Committee to assess these projects, thereby delegating powers. However, due to lack of implementation of provisions and departmental lapses, illegal sand mining continued unabated and the Bombay High Court passed an order dated April 11, 2018 in a case of illegal sand mining in Maharashtra, setting up a vigilance committee⁵¹. Pursuant to

this, a notification dated July 25, 2018⁵² has been issued providing procedure for preparation of District Survey Report for Sand mining or seabed mining. However, state impunity and inaction have resulted in rampant illegal sand mining. In yet another case of illegal sand mining in Akola district in Maharashtra, the NGT, Principal Bench, Delhi, has ordered strict compliance of guidelines framed by the regulatory authority to fight the menace⁵³.

Meanwhile on August 14, 2018⁵⁴, restrictions on mining of minerals, river valley and irrigation projects, townships and area development projects in the EIA Notification have been further diluted.

Introducing private intermediaries

In March 2016⁵⁵, environmental consultant organisations accredited by the government were given authority to prepare and present the EIA Report and Environment Management Plan (EMP) of a project / activity. This amendment also provided for empanelment of national level 'reputed' educational and research institutions as environmental consultant organisations. An attempt has been hereby made to close the

distance between project proponents and the regulatory authority and increase possibility of exercising influence and corruption through accredited environmental consultant organisations.

Attempted dilutions for availing of green clearances in building and construction industry

By a dilution introduced on December 22, 2014, the definition of “built up area” for the purpose of building construction projects was limited to built up or covered area, excluding all open to sky activity areas from its definition. This considerably reduced the area under scrutiny in several urbanization and beautification projects, such as the Statue of Unity project of the Gujarat state government, removing it from the purview of the notification. Further, projects and activities such as industrial sheds, schools, colleges, hostels for educational institutions were completely excluded from scrutiny, irrespective of its impact or expanse, at a strategic time of increasing privatization and corporate investment in education. By an Office Memorandum dated March 5, 2015, the word “industrial shed” was clarified to imply building (whether RCC or otherwise) used for housing plant and machinery of industrial units, hence removing all godowns and buildings connected with production related and other associated activities of the unit in the same premise, from calculation in built up area.

In a further move to ease development in the real estate sector and for building construction projects, the requirement of scoping was exempted for all such projects in April 2015⁵⁶.

On December 9, 2016⁵⁷, arguably in a move to remove building and constructions projects from EIA process altogether, under the claim of ensuring Ease of Doing Business and streamlining

permissions for buildings and construction sector, a completely new set of objectives and monitorable environmental conditions were introduced to integrate environmental conditions in building bye-laws, thereby taking away the role of State Environment Impact Assessment Authority (SEIAA) and MoEF in granting environmental clearances for building construction projects and authorizing the local authorities like development corporations and municipal corporations to certify compliance of environmental conditions prior to issuance of completion certificate. Following this vide order dated June 12, 2017 issued by the MoEF concerning Delhi area, the Authority Competent was authorized to grant building permission with integrated environmental clearance conditions for building and construction projects up to 1,50,000 sq.m. This was bound to increase corruption in an already corrupt process of grant of building permissions and heavily compromises environmental safeguards, in increasing urbanized and highly polluted cities such as Delhi. Holding that this amendment constituted modification of environment law to the detriment of environment protection and would result in adverse impacts, the violating provisions were overturned by the NGT, Principal Bench, New Delhi, in December 2017⁵⁸ in the matter of Society for Protection of Environment vs. Union of India and others. The NGT observed in its order that the impugned notification “attempts to hide behind the poor for the benefit of the builders.”

Blanket regularisation of environmental violations by industries and businesses

On March 14, 2017⁵⁹ (further amended by notification dated March 8, 2018) a procedure was put in place for post-facto environmental clearance to regularize violating projects and activities, which had started work on site, expanded the production beyond the limit of environmental clearance or changed the product mix without obtaining prior environmental clearance. This notification is completely contrary to the objects, intent and provisions of the

EIA Notification, 2006, which mandates prior environmental clearance, with violating projects and activities liable to prosecution, compensation and restoration. Businesses and corporations have been given a clean chit for their violations. This is also a back door entry to defeat the orders passed by the NGT in 2010 in some cases quashing and setting aside earlier attempts of the government to regularize violating projects who had not obtained prior environmental clearance. The

projects / activities were given six months time to avail of the procedure for regularization under this notification i.e. until 13th September 2017. Following this notification, in a study conducted by Centre for Policy Research⁶⁰, it was found that 207 applications for regularization of projects, of which 175 were the bigger “A” category projects, were received to be scrutinized by MoEF. The remaining were “B” category projects, under the

SEIAA. Eighty-five per cent of the applications for Gujarat were in the mining sector and almost 64 per cent of the applications for Maharashtra were in the Building and Construction sectors (See Figure 3.1 for State-wise break up). Meanwhile, Tamil Nadu had the highest number of violators at 66.18 per cent of the total (See Figure 3.2 for state-wise break up).

Sector-wise number application of projects

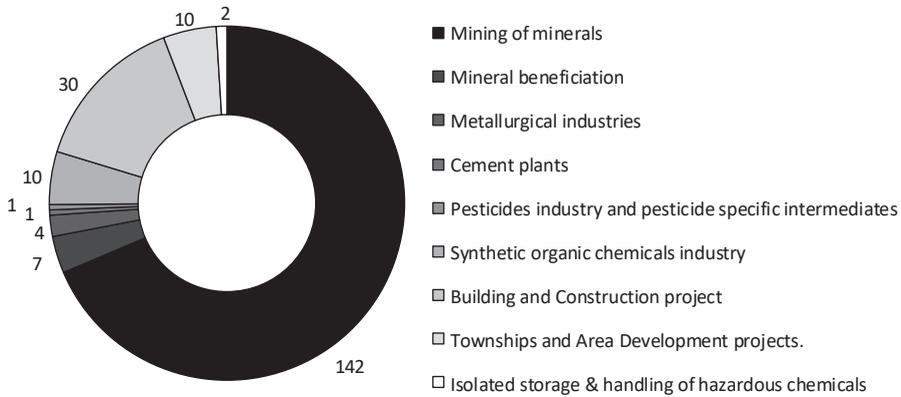


Figure 3.1: Sector-wise list of applications. Courtesy: Centre for Policy Research

State-wise number of applications for regularisation of projects

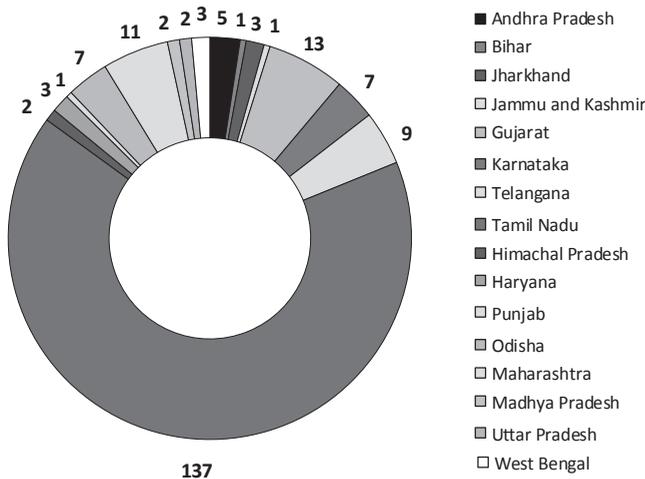


Figure 3.2: State-wise break up of the applications. Courtesy: Centre for Policy Research

Dilutions to law governing the protected coastal zones

Coastal Regulation Zone (CRZ) Notification, 2011 was issued with a view to ensure livelihood security to the fisher communities and other local communities living in the coastal areas to conserve and protect coastal stretches, its unique environment and its marine area and to promote sustainable development based on scientific principles, taking into account the dangers of natural hazards in the coastal areas and sea level rise due to global warming. The CRZ Notification classifies and declares the coastal stretches and water area up to its territorial limits and restricts the setting up and expansion of any industry, operations or processes and manufacture or handling or storage or disposal of hazardous substances in the CRZ area. The CRZ Notification includes water area up to 12 nautical miles in the sea and water area of a tidal body such as creek, river, estuaries etc. It notifies no-development zones and prohibits construction activities detrimental to the marine environment. Activities permissible under the CRZ Notification in the CRZ area are subject to environmental / CRZ clearance.

On February 4, 2015⁶¹, the guidelines under Annexure III of the CRZ Notification were relaxed for development of beach resorts or hotels in the CRZ-II area by doing away with the application of several restrictions such as the prohibition from construction within 200 metres in the landward side of High Tide Line and within the area between Low Tide Line and High Tide Line and allowing proposed constructions only beyond the hazard line or 200 metres from the High Tide Line, whichever is more. Apart from this, the inclusion of no development zone in calculation of FSI, limit of 0.33 FSI and several other building and construction parameters were relaxed and environmental safeguards done away with. Hoteliers and real estate developers across the country welcomed this move⁶².

By a separate notification dated February 17, 2015⁶³, the CRZ Notification 2011 came to be amended to allow for construction of memorials/monuments and allied facilities in CRZ-IV (A) areas by the state government concerned. This amendment was issued during the pendency of a

proposal for construction of the Shivaji Memorial/ statue in the Arabian Sea Mumbai, Maharashtra, where the Expert Appraisal Committee (EAC), noting that construction of the statue was prohibited under the CRZ Notification (prior to this amendment), recommended the amendment of the CRZ Notification itself to facilitate the superfluous project. The objections made by the fisherfolk and local communities to the project were completely ignored. The environmental clearance for the project was granted on February 23, 2015, less than a week after the issuance of this amendment notification. In March 2018, the contract for the Rs 2500 crore project was awarded to Larsen & Tubro⁶⁴.

Following this, on December 30, 2015⁶⁵, roads on reclaimed surface were allowed to be constructed in CRZ I area, even in case such roads passed through mangroves or was likely to damage mangroves, subject to three times the number of mangroves destroyed or cut during construction process being replanted. This relaxation also coincided with another project for construction of a strongly opposed Coastal Road in Mumbai, in a possible attempt to remove legislative restrictions if any to this project at the cost of the coastal ecosystem.

On March 6, 2018⁶⁶, CRZ Notification was amended to extend validity of clearance under CRZ to 7 years, just like in the EIA Notification. Further, by the notification, post facto clearance and regularization of violating projects was permitted under requests received up to 30th June 2018, completely contrary to the requirement of prior environmental clearance under the EIA Notification read with the CRZ Notification. This was achieved by dispensing with notice in the name of “public interest”, thereby avoiding public scrutiny altogether.

In a drastic amendment to the CRZ Notification, on July 2, 2018⁶⁷, a substantial area was removed from the protected CRZ area under the notification and the scientific method of accurate hazard mapping was discarded. This is a big move towards de-regulation of construction in the coastal areas in a move to aid the real estate and industrial businesses, especially in commercial

hubs like Mumbai, exposing the coastal areas to considerable hazards from flooding and natural disasters. The lack of preparation for disaster management is striking in the context of recent Kerala floods, which hit the southern state, leaving it without funds to take on the task of disaster management, despite existence of a

National Disaster Management Authority⁶⁸. The centralization of funds and lack of involvement of the Centre in disaster management, and denial to allot required funds, is telling of the government's commitment towards climate change and disaster management.

Dilutions of other laws

Wetlands (Conservation and Management) Rules 2010 has been diluted by the government considerably by notifying the 2017 Rules, ironically of the same name⁶⁹. In the garb of balancing development with environmental protection, the 2017 Rules is said to have lost its objective of wetland conservation. The Central Wetlands Regulatory Authority under the 2010 Rules has been dissolved and powers have substantially devolved to the States⁷⁰, who were guilty of not adhering to even the earlier rules. There is no interest being shown in the implementation of the 2017 Rules either.

The **Compensatory Afforestation Fund Act 2016**⁷¹ has been introduced in violation of the rights of adivasis by way of compensatory plantations. The funds collected as compensation is allocated to forest departments to set up plantations to replace the lost forests due to felling of trees by industries, miners, corporations who require forest land for their projects. No provision is made for obtaining consent from the village councils of adivasis and other forest dwellers before carrying out plantations on their traditional forest lands, thereby diluting the protection granted under the Forest Rights Act, 2006. This allocation of the funds will empower the forest department to exert control and power over the traditional forests and adivasis, who have been in any case voicing their grievances and protests in respect of the Forest Rights Act, 2006. The recently notified draft Compensatory Afforestation Fund Rules, 2018⁷² go further in violation of the Forest

Rights Act, 2006 and in potentially permitting atrocities against adivasis and forest dwellers.

In March 2016, the **National Waterways Act, 2016**⁷³ was passed, purportedly to facilitate river water transport and navigation. Although, it is ordinarily the state's power to develop and inland waterways, the present law declares 111 stretches of river as "national waterways" giving central government the power to develop and regulate them. Not only are the financial costs for building and operating waterways huge, but the diversion of water and dredging will have a major impact on irrigation, fishing and other activities and also lead to disturbance of drinking water schemes. The few places where waterways exist, major pollution complaints have been recorded due to use of waterways for transport of coal. It is clearly an unsustainable scheme, aimed at urbanization, commercialisation and change of user of the waterway areas.

Meanwhile, there has been an active subversion of the land acquisition process by introducing dilutions in what was considered a progressive **Land Acquisition Act 2013** by introducing state amendments. In Gujarat, legislative changes were brought in to do away with social impact assessment for the high cost Bullet Train project, which is being vehemently opposed by the farmers⁷⁴. Meanwhile, the government has been attempting to make large-scale amendments to the Land Acquisition Act 2013 to dilute the protections granted to land owners under it⁷⁵.

Introduction of heavily diluted 'umbrella' laws in the pipeline

The government is aggressively diluting environment protection laws essentially to help big corporates to flourish. Even while dilutions are being brought about in a staggered manner to

meet its immediate requirements, the government has not entirely shelved the plans for holistic implementation of the T.S.R. Subramanian Committee's recommendations to bring about

a complete transformation in environmental policy. For instance, the **draft National Forest Policy 2018**, which restricts participation of forest communities, opens up forests for privatization and commercialisation and fails to address the issue of forest diversion⁷⁶, is one such case in point. Between 2014 and 2017, 36,500 hectares of

land was diverted for non-forestry purposes like mining, highways, industry and so on⁷⁷. Another problematic legislation also in the pipeline is the **draft CRZ Notification 2018**, which reads as a guideline to facilitate construction projects and destructive development rather than protect the coastal environment.

Crippling of Environmental Institutions

Another recommendation of the T.S.R. Subramanian Committee and the Draft Bill is quietly underway with serious attempts being made by the government to curtail the independence and autonomy of the NGT set up under the National Green Tribunal Act, 2010. This is being done ingeniously through change in rules governing qualifications, experience and other conditions of service of members of the Tribunal and by making innocuous but highly compromising changes by way of the Finance Act 2017⁷⁸. The changes include imposition of executive control on qualification, appointment and terms of office of the expert and judicial members of the Tribunal, in effect taking away the administrative and financial autonomy of the

Tribunal. Provisions have been inserted diluting qualifications of members, providing for selection of expert members by bureaucrats, completely compromising the quality and independence of the Tribunal⁷⁹. Meanwhile, the zonal benches of the NGT, which had previously proved to be effective body for protecting the environment and addressing violations, have been rendered in-operational for stretches of time due to lack of appointment of members, resulting in many policy changes and violations remaining unchallenged. With the zonal benches practically shut due to no new appointments being made, petitioners are being forced to travel to Delhi to have their grievances heard in the only functioning Principal Bench⁸⁰.

Gains to businesses and commensurate losses to the environment: a clear nexus

India has jumped up 30 spots in the World Bank formulated ranking released on October 31, 2017 in the list of countries assessed according to their ease of doing business, based mainly on the country's regulatory laws, approval process, difficulty in starting business⁸¹. However, the dilutions are at a heavy cost to the environment and risk to the citizens. India ranked 177 out of 180, at the very bottom, on the Environmental Performance Index 2018, plummeting 36 points from 2016 according to a biennial report by Yale and Columbia Universities along with the World Economic Forum released in Switzerland⁸². As far as air quality is concerned, it ranked 178 out of 180, with the low ranking linked to poor performance in health policy and deaths due to air quality. Meanwhile, out of the 280 cities, air quality of which were monitored, none met the World Health Organization (WHO)'s safe levels of Particulate Matter, as per Greenpeace India's

report⁸³, meanwhile as per data released by WHO, 13 out of the 20 most polluted cities in the world are situated in India⁸⁴. As per a study released by Global Environmental Justice Atlas, there are more environmental conflicts in India than any other country, and more clashes are over water (27%) than any other cause⁸⁵. People's movements, which have an active participation from people from marginalized groups, indigenous populations and adivasis, are facing increasing state repression coupled with attacks by non-state and corporate actors, who are emboldened by the impunity provided by the government. A case in point, is the police firing on protestors who were opposing Vedanta's expansion plans and operation of the polluting Sterlite copper plant in Thoothukudi in May 2018, which eventually resulted in death of at least 13 civilians.

Even while the Prime Minister has been recently

bestowed with the highest environment honour of the United Nations, the Champions of the Earth Award for the year 2018, for championing international Solar Alliance and promoting new areas of cooperation on environmental action⁸⁶, the irony of it is striking, considering his government's "dilution spree" and lack of implementation of existing laws by weakening all the institutions part of environmental governance. Instead it is bad and unsustainable development that is being permitted through these legislative

relaxations. The rising pollution levels, agrarian crisis, increase in sea level and flooding, loss of forest cover, the crisis over waste management and effluent treatment, water and land, human-animal and human-human conflict, violence against and increasing alienation of project affected persons, all narrate the story, that it is not ease of business but an era of environment and habitat destruction that is being propagated, and which needs to stop urgently before it's too late.

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 31. <http://www.un-documents.net/unchedec.htm>
 32. <https://www.constitution.org/cons/india/tamnd42.htm>
 33. <http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm>
 34. <https://unfccc.int/resource/docs/convkp/kpeng.pdf>
 35. <https://www.livemint.com/Politics/Rx9KOjM62MvyuSzmVRoG4K/Environmental-clearances-coming-faster-but-not-everyone-is.html>
 36. <https://www.downtoearth.org.in/blog/at-industrys-behest-45490>
 37. https://www.business-standard.com/article/economy-policy/in-50-days-modi-govt-gives-environment-clearance-to-5-projects-114071800109_1.html
 38. <https://indianexpress.com/article/india/india-news-india/centre-lifts-moratorium-on-gujarats-3-industrial-clusters-4397391/>
 39. <https://www.livemint.com/Home-Page/dNoiuh8lC0RfKHrVQC57qN/PMGreenClearance.html>
 40. http://envfor.nic.in/sites/default/files/press-releases/Final_Report_of_HLC.pdf
 41. <http://www.moef.nic.in/sites/default/files/ScanJobInvitation%20of%20comments%20Draft%20Environment%20Law.pdf>
 42. <http://envfor.nic.in/legis/eia/so1533.pdf>
 43. <http://www.moef.nic.in/sites/default/files/SO-1598-99.pdf>
 44. [https://desthp.nic.in/EIA_Notifications/2014_10_09_SO_2601\(E\).pdf](https://desthp.nic.in/EIA_Notifications/2014_10_09_SO_2601(E).pdf)
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