



General Assembly

Distr.: General
7 September 2020

English only

Human Rights Council

Forty-fifth session

14 September–2 October 2020

Agenda items 2 and 3

**Annual report of the United Nations High Commissioner
for Human Rights and Reports of the Office of the
High Commissioner and the Secretary-General**

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by Asian Forum for Human Rights and Development, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[20 August 2020]

* Issued as received, in the language(s) of submission only.

GE.20-11588(E)



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Stop the attacks on the environment and policy in India during the Covid-19 crisis¹

The Asian Forum for Human Rights and Development (FORUM-ASIA) brings to the attention of the United Nations Human Rights Council (UNHRC), the need for urgent action on the recent problematic policy changes, destructive developmental decisions and undemocratic actions of India concerning the environment during the Covid-19 crisis.

India's environment has been an area of major concern. The country ranks 168 out of 180 countries in the biennial Environmental Performance Index 2020 and is second last at 179 as far as air quality is concerned.² Not only are environment indicators appallingly low in the country, but the people in the country, especially marginalised and indigenous communities are already suffering from adverse impacts of pollution and climate change. The impact of loose polices, increasingly arbitrary and non-participatory decision-making processes providing free-hand to violators is being felt on the environment and the people.

While the environmental crises continue to exacerbate, India has taken a series of decisions concerning the environment in the past 5 months that have sparked widespread criticism. Despite the imposition of one of the most draconian lockdowns with only 4 hours' notice on 24 March 2020, several major decisions allowing commercial exploitation of natural resources and promulgation of destructive environment policies were made, knowing fully well that the general public is not in a position to oppose, engage with processes or effectively participate in any manner. Meanwhile, several industrial disasters have occurred in this period resulting in deaths. Communities are facing multi-fold disasters such as floods and cyclones, adding to the burden of the Covid-19 crisis, lack of health infrastructure and economic slowdown on account of the lockdown. Defenders raising their voices against environmental destruction have been subject to attacks, criminalisation and reprisals through police action. Some major issues are set out below.

Environment Policy dilutions

On 11 April 2020, amid the Covid-19 lockdown, the environment ministry published the controversial Draft Environment Impact Assessment (EIA) Notification 2020,³ providing statutory time of 60 days for the public to send objections. The proposed law seeks to overhaul the EIA process in India and is a complete dilution of the existing law, EIA Notification 2006, even as the latter has been eroded⁴ tremendously over the last 5 years.

The draft notification effectively removes mandatory public participation in the EIA processes for most projects. Similarly, prior environmental clearance (EC) has been removed for several high impact activities. The period of validity of EC is increased despite rapid environmental and technological changes. New changes also seek to legitimise violations through post facto clearance, undermine the independence of committees appraising projects, and relax compliance monitoring. Some provisions allow concealment of project information, and exempt projects of strategic importance, national defence or security from mandatory public hearings during the EIA process. All these changes effectively turn the EIA process and requirement for prior EC into a mere formality. These proposed changes are business motivated, investor friendly and driven by industry either in the name of ease of doing business or under the guise of recovery of Indian economy post Covid.

What is most alarming is the process with which this is sought to be done amid the pandemic. Initial time limit to send objections was extended to 30 June 2020, which, pursuant to a Delhi High Court order, was extended to 11 August 2020. This draft law is not released in local

¹ This written statement is submitted in solidarity with indigenous communities, affected populations and civil society struggling for environmental issues in India.

² <https://www.outlookindia.com/newscroll/india-ranks-168th-on-environmental-performance-index/1860519>.

³ http://environmentclearance.nic.in/writereaddata/Draft_EIA_2020.pdf.

⁴ <https://www.downtoearth.org.in/blog/urbanisation/how-the-centre-is-diluting-green-clearance-norms-62828>.

languages, effectively preventing the participation of local communities and indigenous populations in the consultation process, even as provisions for their protection and consultation are being removed from environmental governance. In spite of multiple courts raising questions on the non-publication of the proposed law in local languages, the Government is unwilling to relent and is showing no intent to provide translations.⁵ So far 2 million comments/objections have been received by the ministry from all over India⁶ and civil society has been demanding summary withdrawal of the proposed law.

Clearing destructive projects

The government-appointed committees sprang into action in the initial weeks of lockdown, considering proposals and granting clearances to infrastructure, mining and other high impact developmental projects affecting huge tracts of forest land, as well as protected and ecologically sensitive areas. On 7 April 2020 alone, the National Board of Wildlife recommended 31 projects adversely impacting tiger reserves, wildlife sanctuaries, wildlife corridors, and eco-sensitive zones, of which 16 linear infrastructure projects which pass through protected areas were approved.⁷ During the critical months of April to June, 10 Expert Appraisal Committees (EAC) that assess the environmental impact of projects held 15 meetings by video conferencing, reportedly spending 10 minutes per project.⁸ From 22 to 24 April, the EACs passed several high impact infrastructure projects out of 145 projects considered in that period. The projects recommended or approved include the controversial Etalin Dam in Dibang Valley, Arunachal Pradesh, which will require felling of 270,000 trees; coal mining by violator Coal India Limited in Dehing Patkai Elephant Reserve in Assam, while also considering application to regularise 16 years of illegal mining; a highway through Bhagwan Mahavir Wildlife Sanctuary in Goa; a limestone mine in the eco-sensitive zone of Gir National Park; a geotechnical investigation in the Sharavathi Lion-Tailed Macaque Sanctuary in Karnataka and more. The authorities have ignored widespread calls from environmentalists and citizens to withdraw and stop granting environmental clearances during the pandemic.⁹

Privatising coal mining

Amidst the Covid-19 crisis, the Indian Government launched auctions of 41 coal blocks for commercial mining¹⁰ on the pretext of economic revival from the Covid-19 crisis in contradiction to the Paris agreement,¹¹ and the global trend of reducing reliance on coal as an energy source. This decision has been criticised by civil society groups as another attempt to use the pandemic as an opportunity to introduce destructive development policies and exploit natural resources, dispossess forest dwellers, indigenous communities and divert forests. This and other anti-people policies of the Government during the pandemic led to protests and 10 unions calling for nationwide strikes.¹²

⁵ <https://www.downtoearth.org.in/blog/environment/eia-2020-public-consultation-without-informing-the-public--72919>.

⁶ https://www.business-standard.com/article/current-affairs/eia-receives-200-000-comments-centre-directs-its-own-agency-to-vet-120081101351_1.html.

⁷ <https://science.thewire.in/environment/national-board-for-wildlife-prakash-javadekar-environment-ministry-destruction-protected-areas/>.

⁸ <https://scroll.in/article/961214/indias-environment-ministry-is-in-a-hurry-to-clear-191-projects-amid-coronavirus-crisis>.

⁹ <https://www.hindustantimes.com/mumbai-news/withdraw-green-nods-given-during-lockdown-conservationists-to-minister/story-mzOKMoglaHT6uSuhvMAWL.html>.

¹⁰ <https://www.thehindu.com/news/national/narendra-modi-launches-auction-process-for-41-coal-blocks-for-commercial-mining/article31858048.ece>.

¹¹ <https://www.downtoearth.org.in/interviews/energy/-no-foreign-players-will-bid-in-india-s-auction-of-coal-blocks--72014>.

¹² <https://www.newsclick.in/nationwide-call-save-india-observed-over-1-crore-working-people-CTUS>.

Industrial disasters

On 7 May 2020, toxic styrene gas leakage at the LG Polymers India in Vizag led to the death of 15 people¹³ and left 100s injured. The unit was running without valid environmental clearance from 1997 to 2019 and had submitted an application for post facto clearance to regularise its operations.¹⁴ A provision to allow such regularisation of units that commence operations without valid prior environmental clearance is now being introduced as law under the draft EIA Notification 2020. The Vizag plant was allowed to continue in spite of numerous violations. There have been four industrial accidents in Vizag during the lockdown.¹⁵ At least 10 workers died and over 70 were injured in a blast in the boiler of agrochemical company, Yashashvi Rasayan Private Limited, at Dahej in Gujarat's Bharuch district on 3 June 2020.¹⁶ On 9 June 2020, a leak in an oil and gas well owned by Oil India Limited in Upper Assam's Baghjan which was neglected for a fortnight, caused a massive fire.¹⁷

Targeting of opposing voices

In the current situation of lockdown, opposition to these highly damaging actions has become impossible with the restrictions on right to dissent and protest, and online surveillance. Websites of three environmental groups - Let India Breathe, Fridays For Future and There is no Earth B - were blocked in July 2020¹⁸ and they were sent notices under a draconian anti-terror law, the Unlawful Activities Prevention Act (UAPA) for their advocacy against the draft EIA Notification 2020. The notices were later withdrawn.¹⁹

Recommendations

The above environmental violations and destructive policies require urgent intervention from the UNHRC. We call on the UNHRC to:

- Critically assess India's compliance with its human rights obligations, the Paris Agreement, Biodiversity Convention, Sustainable Development Goals, and its compliance with international environmental law principles including the Rio Declaration and the UN Guiding Principles on Business and Human Rights, in its domestic jurisprudence and actions, including national action plans;
- Urge India to withdraw the draft EIA Notification 2020 and review clearances granted during the pandemic; to stop introducing policies and making decisions that impact the environment until the ongoing crisis is averted and people are in a position to effectively participate in consultation processes in an informed manner;
- Appeal to India to immediately take stock of the environmental crisis, enforce disaster management policies, take urgent steps to control environmental pollution and prepare for a robust environmental regime keeping environmental sustainability and climate justice at the centre;
- Urge India to stop diverting its natural resources for mining, infrastructure and other developmental projects and to fiercely protect its ecologically sensitive areas.

¹³ <https://www.newindianexpress.com/states/andhra-pradesh/2020/jun/09/58-year-old-lg-polymers-gas-leak-victim-dies-in-visakhapatnam-2154128.html>.

¹⁴ <https://indianexpress.com/article/india/vizag-gas-leak-lg-polymers-india-green-nod-6399440/>.

¹⁵ <https://www.thehindu.com/news/national/andhra-pradesh/fourth-industrial-accident-in-vizag-in-3-months/article32249904.ece>.

¹⁶ <https://thewire.in/rights/death-toll-rises-to-10-in-bharuch-chemical-factory-blast>.

¹⁷ <https://www.downtoearth.org.in/news/environment/leaking-oil-india-gas-well-near-assam-s-dibru-saikhowa-national-park-catches-fire-71662>.

¹⁸ <https://theprint.in/india/our-websites-blocked-say-3-environmental-groups-campaigning-against-contentious-draft-policy/460530/>.

¹⁹ https://www.huffingtonpost.in/entry/eia-2020-news-narendra-modi-government-environment_in_5f19a50dc5b6296fbf3eedc.