BLOGS

The Environmental Impact Assessment (EIA) Framework and Recent Controversies

Adtiya Aryan · 07 Oct 2025

A new highway is planned, promising economic growth but requiring a swath of forest to be cleared. A factory is proposed, offering jobs to hundreds but posing a potential threat to a nearby river. How does a nation strike a balance between the urgent need for development and the non-negotiable duty to protect its environment? In India, one of the primary legal tools designed to navigate this very conflict is the **Environmental Impact Assessment (EIA)**.

For any aspiring lawyer, the EIA framework is a critical area of study, sitting at the crossroads of administrative law, environmental science, and public policy. This post will serve as a primer on India's EIA process, explaining what it is, how it's supposed to work, and why the proposed **Draft EIA Notification of 2020** ignited one of the most significant environmental controversies in recent memory.

What is an Environmental Impact Assessment (EIA)?

At its core, an Environmental Impact Assessment is a formal, systematic process used to predict the environmental consequences of a proposed development project *before* a decision is made to approve it. Think of it as a mandatory "look before you leap" exercise. It is a cornerstone of **preventive environmental governance**, aiming to address environmental concerns at the initial planning stage of a project rather than trying to fix the damage later.

The legal authority for the EIA process in India flows from the landmark **Environment (Protection) Act, 1986**. Under this Act, the central government issues notifications that lay down the specific rules and procedures. For many years, the **EIA Notification of 2006** has been the governing framework, which the controversial 2020 draft sought to replace.

The Stages of the EIA Process (Under the 2006 Notification)

The journey of a project from proposal to environmental clearance is a multi-stage process designed to be thorough and participatory.

Stage 1: Screening

First, the proposed project is screened to see if it requires an EIA at all. Projects are categorized based on their size and potential impact.

- Category A projects (like large industrial estates, thermal power plants, and airports) are considered to have significant impacts and require a mandatory EIA and clearance from the central Ministry of Environment, Forest and Climate Change (MoEFCC).
- Category B projects (like smaller mining or construction projects) are assessed by State Level Expert Appraisal Committees.

Stage 2: Scoping

Here, the key environmental issues that the EIA study must focus on are identified. This process determines the “Terms of Reference” for the study, ensuring that the most critical potential impacts are analyzed in detail.

Stage 3: Data Collection and Impact Prediction

This is the scientific heart of the process. The project proponent (the company or person proposing the project) hires environmental consultants to collect baseline data on the existing environment—air quality, water quality, biodiversity, soil, and the local socio-economic conditions. They then use this data to predict the likely impacts of the project on these parameters. The report must also include an “Environment Management Plan” (EMP) outlining measures to mitigate the negative impacts.

Stage 4: Public Consultation

This is the democratic soul of the EIA. The process involves a **public hearing**, typically held near the project site, where local affected persons, environmental groups, and any other stakeholders can voice their opinions, concerns, and objections regarding the project. These concerns are recorded and must be addressed in the final EIA report.

Stage 5: Appraisal and Decision-Making

Finally, an Expert Appraisal Committee (EAC) at the central level or a State Level Expert Appraisal Committee (SEAC) reviews the final EIA report and the public consultation records. This expert body then makes a recommendation to the regulatory authority (the MoEFCC or the State Authority) to either grant or reject the environmental clearance.

The Storm – Controversies of the Draft EIA Notification 2020

In 2020, the MoEFCC released a draft notification to replace the 2006 rules. It was met with a firestorm of protest from environmentalists, scientists, students, and citizens. Critics argued that the draft, under the guise of streamlining the process, was severely diluting environmental safeguards. Here are the key points of contention:

The Problem of "Post-Facto Clearance"

The most controversial provision was the introduction of a mechanism for "post-facto clearance." This would allow projects that had already started construction or were running illegally *without* a prior environmental clearance to apply for and obtain one later. Critics argued this was a direct violation of the "precautionary principle" and would encourage a dangerous "violate first, validate later" approach, making the entire purpose of a prior assessment meaningless.

Dilution of Public Consultation

The draft proposed to weaken the public consultation process significantly. It reduced the time period for the public to submit their responses from 30 days to 20 days. More alarmingly, it sought to exempt a long list of projects from public hearings altogether, including all projects related to "national defence and security" (a term left undefined and broad), building and construction projects, and inland waterways. This was seen as a direct assault on the democratic and participatory nature of the EIA process.

Weakening Monitoring and Compliance

Under the 2006 rules, project proponents are required to submit a compliance report every six months, allowing for regular monitoring. The 2020 draft proposed to change this to a single report

per year. This would make it much harder for authorities to track violations and ensure that the conditions of the environmental clearance are being met.

Removing the Citizen's Right to Report

A particularly troubling clause stated that violations could only be reported by the government's representatives or the project proponent themselves. This effectively removed the ability of ordinary citizens or activists to directly report a violation they witness, relying instead on the violator to self-report their own illegalities.

Current Status and Legal Challenges

The Draft EIA Notification 2020 was challenged in multiple High Courts. Courts intervened to extend deadlines for public comments and ordered the government to translate the draft into all official languages to ensure wider participation. As of late 2025, the controversial draft has not been finalized, and the 2006 Notification largely remains in force. However, the episode has left a lasting impact on the environmental governance discourse in India.

Conclusion

The Environmental Impact Assessment framework is a critical legal tool intended to be a shield for our environment and a guide for sustainable development. The fierce nationwide debate over the 2020 draft is a powerful case study for law students. It highlights the constant tension between development and conservation, and underscores the vital importance of public participation, judicial oversight, and citizen vigilance in protecting our shared ecological future.