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# ENVIRONMENTAL IMPACT ASSESSMENT AS A TOOL OF ENVIRONMENTAL GOVERNANCE: AN ANALYSIS OF POLICY REFORMS IN INDIA

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## ABSTRACT

Environmental governance is significant in bringing a balance to developmental objectives with ecological protection in the rapid path of industrialization and environmental degradation. EIA is a major regulatory tool that helps anticipate, estimate, and reduce adverse environmental impacts of development projects before actual decisions are made. This paper examines the place of EIA within contemporary environmental governance frameworks, especially regarding recent policy changes and implications for sustainable development. The research work carries out a legal and policy analysis of the evolution of EIA mechanisms, underlining its preventive, participatory, and decision support function. It also critically analyses the recent policy developments in EIA measures with reference to recent policy reforms in dealing with economic development scenarios and the increasing trend of physical infrastructure development, increasing reliance on speedy clearance systems in EIA practices by lowering public participation levels in decision making processes by EIA institutions and embracing post facto clearance of environmental policies with serious implications on environmental concerns. Another important issue to be assessed in this paper is how effectively the recent environmental concerns in EIA practices address recent environmental concerns pertaining to global climate change phenomena, cumulative environmental impacts on development activities, biodiversity concerns in environmental development practices with emphasis on incorporating sustainable development principles in EIA practices with reference to the precautionary approach to development activities.

**Keywords:** Environmental Governance, Environmental Impact Assessment, Policy Reforms, Sustainable Development, Ecological Protection.

## Introduction

In an era marked by rapid industrialization, urbanization, and infrastructure expansion, environmental governance has emerged as a critical framework for reconciling economic growth with ecological sustainability. Environmental governance encompasses the policies, institutions, and processes that guide human interactions with the natural world, aiming to mitigate degradation while promoting sustainable development<sup>1</sup>. At the heart of this governance lies the Environmental Impact Assessment (EIA), a regulatory instrument designed to predict, evaluate, and minimize the adverse effects of development projects on the environment prior to their implementation<sup>2</sup>. EIA serves as a proactive tool, enabling decision-makers to integrate environmental considerations into planning, thereby fostering a balance between developmental imperatives and ecological protection. Globally, the concept of EIA originated with the United States' National Environmental Policy Act (NEPA) of 1969, which mandated assessments for federal actions significantly affecting the environment<sup>3</sup>. This model influenced international adoption, with organizations like the United Nations Environment Programme (UNEP) and the World Bank recognizing EIA as a best practice for responsible development<sup>4</sup>. In India, EIA's evolution reflects a similar trajectory, transitioning from informal evaluations in the 1970s to a mandatory legal requirement under the Environment (Protection) Act, 1986<sup>5</sup>. The Indian EIA framework, formalized through notifications in 1994 and amended in 2006, emphasizes preventive measures, public participation, and informed decision-making to safeguard ecosystems amid accelerating economic activities.

However, recent policy reforms in India, particularly the EIA Notification 2020 and subsequent amendments up to 2025, have introduced changes aimed at expediting clearances to boost economic development. These include reduced timelines for public consultations, provisions for post-facto approvals, and exemptions for certain projects, sparking debates on their implications for sustainable development. Critics argue that such reforms prioritize speed over scrutiny, potentially exacerbating environmental degradation, climate vulnerabilities, and biodiversity loss. This paper conducts a legal and policy analysis to explore EIA's role in

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<sup>1</sup> Philippe Sands, *Principles of International Environmental Law* (3rd edn., Cambridge University Press 2012) 16–18.

<sup>2</sup> R. Cooney, 'Environmental Impact Assessment' in Daniel Bodansky et al. (eds.), *The Oxford Handbook of International Environmental Law* (Oxford University Press 2007) 495.

<sup>3</sup> National Environmental Policy Act, 1969, 42 U.S.C. §§ 4321–4370h (United States).

<sup>4</sup> United Nations Environment Programme, *Environmental Impact Assessment Training Resource Manual* (UNEP 2002).

<sup>5</sup> The Environment (Protection) Act, 1986 (India), s. 3.

contemporary governance, tracing its evolution, critiquing recent reforms, and assessing their alignment with sustainable development principles, including the precautionary approach. By examining how EIA addresses global challenges like climate change and cumulative impacts, the study highlights the need for robust mechanisms to ensure ecological integrity in development processes. The analysis draws on secondary sources, including legislative texts, judicial rulings, and scholarly literature, to provide a comprehensive evaluation.

### **Evolution of EIA Mechanisms**

The Environmental Impact Assessment (EIA) has undergone significant evolution both globally and in India, transforming from a conceptual tool to a cornerstone of environmental law. Globally, EIA's roots trace back to the late 1960s, with the U.S. NEPA establishing a precedent for systematic environmental evaluations. This act required federal agencies to assess the environmental consequences of major actions, incorporating public input and alternatives analysis. The 1970s and 1980s saw widespread adoption, influenced by international agreements like the 1992 Rio Declaration, which under Principle 17 mandated EIA for activities likely to have significant adverse impacts<sup>6</sup>. Over time, EIA has evolved to include dimensions of effectiveness, shifting from procedural compliance to transformative outcomes that integrate social, economic, and environmental considerations. Modern EIA frameworks emphasize cumulative effects, biodiversity, and climate resilience, reflecting responses to emerging global challenges. In India, EIA's journey began informally in 1976-77, when the Planning Commission initiated assessments for river valley projects to analyse environmental risks<sup>7</sup>. This was expanded in 1992 to include industries, marking a shift toward broader application. The pivotal moment came with the EIA Notification of 1994 under the Environment (Protection) Act, 1986, making assessments mandatory for specified projects. The 2006 amendment refined the process, categorizing projects into A (requiring central clearance) and B (state-level), and strengthening public hearings to enhance participatory governance<sup>8</sup>. These developments underscored EIA's preventive function, aiming to anticipate impacts and mitigate them before project commencement; its participatory role, involving stakeholders in decision-making; and its decision-support utility, providing data for balanced policy choices. Key milestones in India's EIA evolution include the integration of judicial oversight, as seen in cases like *Vellore Citizens' Welfare Forum v. Union of India* (1996),

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<sup>6</sup> Rio Declaration on Environment and Development, 1992, Principle 17.

<sup>7</sup> Planning Commission of India, *Report of the Committee on River Valley Projects* (1978).

<sup>8</sup> Ministry of Environment and Forests, Environmental Impact Assessment Notification, 2006, paras 4-7.

which affirmed the precautionary and polluter-pays principles as part of environmental jurisprudence<sup>9</sup>. By the 2010s, EIA had expanded to address mining, infrastructure, and energy sectors, aligning with sustainable development goals. However, challenges persist, such as inadequate baseline data, limited expert capacity, and enforcement gaps, which have prompted ongoing reforms. This evolution reflects India's attempt to adapt EIA to its developmental context, balancing rapid growth with ecological imperatives, though recent changes raise questions about dilution of its core functions.

### **EIA in Contemporary Environmental Governance**

In contemporary environmental governance, EIA serves as a vital instrument for embedding sustainability into development paradigms. It facilitates the integration of environmental concerns into policy frameworks, ensuring that projects align with global commitments like the Sustainable Development Goals (SDGs) and the Paris Agreement on climate change<sup>10</sup>. EIA's preventive approach anticipates risks, while its participatory elements democratize decision-making, incorporating diverse stakeholder views to enhance legitimacy and equity. Moreover, as a decision-support tool, it provides evidence-based insights, enabling trade-offs between economic benefits and ecological costs. A key aspect of modern EIA is its incorporation of the precautionary principle, which advocates caution in the face of scientific uncertainty to prevent irreversible harm. This principle is particularly relevant for addressing emerging threats like climate change, where EIA can mandate assessments of greenhouse gas emissions, vulnerability to extreme weather, and adaptation measures. For instance, guidelines from bodies like the Convention on Biological Diversity (CBD) emphasize biodiversity-inclusive EIAs, requiring screening for impacts on ecosystems and species<sup>11</sup>. Cumulative impact assessments (CIAs) further extend EIA's scope, evaluating the aggregated effects of multiple projects over time and space, which is crucial for regions facing overlapping developments. In India, EIA frameworks have increasingly addressed these concerns, with the 2006 notification incorporating mitigation strategies for biodiversity and climate risks. However, effectiveness varies; while some assessments integrate cumulative effects in sectors like offshore wind farms, others fall short due to methodological limitations. The precautionary approach is enshrined in Indian law, yet its application in practice often prioritizes

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<sup>9</sup> *Vellore Citizens' Welfare Forum v. Union of India*, (1996) 5 SCC 647.

<sup>10</sup> Paris Agreement, 2015; United Nations, *Transforming our World: The 2030 Agenda for Sustainable Development* (2015).

<sup>11</sup> Convention on Biological Diversity, *Guidelines on Biodiversity-Inclusive Impact Assessment* (CBD 2004).

development, as seen in expedited clearances for infrastructure. To strengthen EIA's role, governance must emphasize robust baselines, stakeholder engagement, and adaptive management, ensuring it contributes to resilient, equitable development amid global environmental pressures.

### Recent Policy Reforms in EIA: A Critical Analysis

Recent policy reforms in India's EIA framework, particularly from 2020 to 2026, have aimed to streamline processes for economic acceleration but have drawn sharp criticism for undermining environmental safeguards. The Draft EIA Notification 2020, finalized amid public outcry, introduced key changes: reducing public hearing timelines from 30 to 20 days, expanding exemptions for projects like linear infrastructure (e.g., highways), and allowing post-facto clearances for violations. Proponents argued these measures enhance 'ease of doing business' by cutting delays, aligning with India's growth targets. However, critics contend they dilute public participation, a core EIA pillar, limiting community input on local impacts. Post-facto approvals, permitting projects to operate without prior assessment and seek clearance retroactively, have been particularly contentious<sup>12</sup>. The Supreme Court's 2021 ruling in *Alembic Pharmaceuticals v. Rohit Prajapati* invalidated blanket ex-post facto clearances, but subsequent judgments in 2025, such as *Vanashakti v. Union of India*, allowed them in 'exceptional circumstances,' setting environmental law back by legalizing violations<sup>13</sup>. This contradicts EIA's preventive ethos, as projects may cause irreversible damage before evaluation. Amendments in 2023-2025 further relaxed compliance reporting frequency and exempted certain mining activities, exacerbating concerns over accountability. For instance, the 2025 revocation of exemptions for linear projects was a partial rollback, but overall trends favour speed over scrutiny. These reforms reflect a broader shift toward deregulation amid infrastructure booms, but they inadequately address climate change and biodiversity. The 2020 notification lacks explicit mandates for cumulative assessments or climate integration, potentially overlooking synergistic impacts in vulnerable areas like the Himalayas. Reduced participation marginalizes indigenous and local communities, violating principles of environmental democracy. Judicial scrutiny, including ongoing reviews of the 2025 verdict, highlights tensions between development and protection, urging reforms that restore EIA's

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<sup>12</sup> *Alembic Pharmaceuticals Ltd. v. Rohit Prajapati*, (2020) 17 SCC 403.

<sup>13</sup> *Vanashakti v. Union of India*, (2022) SCC OnLine SC 1408.

integrity.

### **Implications for Sustainable Development**

The recent EIA reforms in India carry profound implications for sustainable development, tilting the balance toward short-term economic gains at the expense of long-term ecological health. On the positive side, expedited clearances have facilitated infrastructure growth, contributing to GDP and job creation, as seen in faster approvals for renewable energy projects. However, the negatives dominate: reduced public participation erodes trust and overlooks local knowledge, leading to conflicts and suboptimal outcomes. Post-facto approvals incentivize non-compliance, with environmental damage estimated at 5.7% of GDP becoming irreversible. In terms of global concerns, these changes inadequately address climate change; without mandatory cumulative assessments, projects exacerbate emissions and vulnerabilities. Biodiversity hotspots suffer from fragmented evaluations, undermining SDGs like Goal 15 (Life on Land). The precautionary approach is weakened, as speedy processes limit uncertainty analysis. Ultimately, these reforms risk unsustainable development, necessitating a recalibration to prioritize environmental resilience.

### **Conclusion**

This paper has analyzed EIA's evolution, its role in governance, and the pitfalls of recent reforms in India. While EIA remains essential for sustainable development, dilutions like speedy clearances and post-facto approvals threaten its efficacy. To realign with precautionary principles and address climate, cumulative, and biodiversity concerns, policymakers must enhance participation, enforce preventive measures, and integrate global best practices. Strengthening EIA will ensure balanced growth, safeguarding India's environment for future generations.