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Balancing Economic Advancement and Environmental Conservation: A Sustainable Development Pathway

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Abstract:

Economic advancement is a measuring scale of calculating a country's developmental index. But economic advancement at the cost of degrading environment is a major challenge of sustainable development. The Indian judiciary, as a protector of environmental jurisprudence, developed various principles including the "precautionary principle" which mandates Environment Impact Assessment under the environment Protection Act 1986. Environment Impact Assessment evaluates the future probable ecological impacts of a proposed development project, considering inter-related socio-economic, cultural and human-health impacts, both beneficial and adverse. In other words, it is the formal phasewise process used to predict the environmental consequences (positive or negative) of a plan, policy, program, or project before deciding whether to proceed with the proposed action. Though the United States of America was the first country to assign mandatory status to Environmental Impact Assessments through itsNational Environmental Protection Act (NEPA) of 1969, a host of industrialized countries have since then implemented EIA procedures.

In 1986, the Government of India enacted the Environment (Protection) Act, after which a decision was made to make EIA statutory obligation under the Act. Accordingly various notifications were issued since 1994 by the Ministry of of Environment, Forest and Climate change (MoEF&CC) to regulate development projects by screening, scoping and public hearings and post monitoring. The exiting working notification is of 2006. The Ministry has published a draft Environmental Impact Assessment Notification, 2020 to replace the existing notification of 2006. However the recent fresh hearings in case of Vanashkti vs Union of India to reconcile the conflicting legal precedents on the permissibility of post-facto approvals of development projects is still under consideration by the hon'ble Supreme Court.

This paper will analyse the role of judiciary in application of Precautionary Principle in the light of Environmental Impact Assessment in cases of development projects for economic advancement to maintain a balance between the economic advancement and sustainable development.

The researcher will apply a purely doctrinal method and will make a descriptive analysis of various policies, case studies to understand the jurisprudence behind the precautionary principle.

Keywords: Economic Development Precautionary Environment Impact Post-facto

1. Introduction

The pursuit of economic development has been central to the policy objectives of modern nation-states. In developing countries such as India, economic efficiency is often prioritized to address poverty, unemployment, and infrastructural deficits. However, such efficiency has frequently been accompanied by environmental degradation, resulting in deforestation, pollution, and ecological imbalance. This apprehension between development and environmental protection lies at the heart of contemporary environmental jurisprudence.

It is certainly reasonable to claim that development is about improving the quality of life and, therefore, inappropriate development is development inconsistent with basic human rights. It is further reasonable to claim that development at the cost of environmental quality is detrimental to human rights. It assists decision-makers in considering the proposed project's environmental costs and benefits. Where the benefits sufficiently exceed the costs, the project can be viewed as environmentally justified.[1] The concept of sustainable development seeks to reconcile this conflict by advocating development that meets present needs without compromising the ability of future generations to meet their own needs. Within this framework, Environmental Impact Assessment (EIA) has evolved as a preventive tool aimed at assessing the environmental consequences of proposed developmental activities prior to their execution. Development projects or policies are either modified or abandoned when in an assessment they are found likely to result in significant adverse effects upon the quality of environment. EIA is a tool not only identifying potential damage but also for probing methods of preventing such damage.[2] Needless to say that prevention ensures not only ecological success but also economic success since prevention is not only better than cure but also in many cases cheaper.[3]

2. Conceptual Framework of Environmental Impact Assessment Global Evolution of Environmental Impact Assessment

Environmental Impact Assessment is a systematic and anticipatory process designed to evaluate the environmental implications of proposed projects, policies, or programs. It has emerged as a vital instrument for promoting sustainable development across the globe. In the field of environmental governance, EIA has been adopted in more than 100 countries since 1960s initially developed in the United States. National Environmental Policy Act of 1969, called NEPA, is a remarkable legislation in the United States representing the statutory mandatory model of environmental impact assessment. Among the notable provisions of the legislation, the one declaring environmental policy[4]and the other

[1] Shyam Divan and Amin Rosencranz, Environmental Law and Policy in India 417(2001)

[2]The European Economic Community directive to the member countries on environmental assessment notes," "The best environmental policy consists in preventing the creation of pollution or nuisance at source, rather than subsequently trying to counteract their effects..." 85/337/EEC of 27 June,1985.

[3] M.G. Royston, "Environmental Impact Assessment as a Tool for Environmental Quality Management" in Desh Bandhu(ed.) Environmental Management 15(1981)

[4] Sec. 101(a) of NEPA: Itis declared in the provision that all practicable means and measures shall be taken to create and maintain conditions under which man and nature can exist in productive harmony and to fulfill the social and economic, and other requirements of present and future generations of Americans.

emphasizing the need to prepare environmental impact statement (EIS) [5] are significant. Its implementation varies significantly, influenced by each nation's legal, economic, and social frameworks. To implement EIA processes more effectively, countries need to have more robust environmental policies and public awareness demonstrating a commitment to balancing development with environmental protection.

The Special Rapporteur on the human right to a clean, healthy and sustainable environment[6] clarifies that it is the State's obligation to include human rights and social impacts for comprehensive and integrated assessments regarding environmental impact assessment (EIA) processes. The report highlights challenges and best practices aligned with human rights and international obligations and thus is intended to improve these processes, presenting ways in which existing assessment frameworks must evolve to effectively and comprehensively evaluate potential environmental, climate, biodiversity, health, social, cultural, economic and human rights impacts. And this is possible through a comprehensive and integrated assessments on the basis of the best-available science, including Indigenous and traditional knowledge, and through transparent participatory processes.

The primary objective of EIA is to ensure that decision-makers are informed about the environmental consequences of their actions before granting approval. It encompasses the assessment of direct, indirect, and cumulative impacts on ecological systems, as well as socio-economic and health-related effects.EIA is essential for sustainable development as it improves decision-making by evaluating environmental impacts before project approval, enabling early identification and modification of adverse effects. A large part of the initial development took place in a few high-income countries, like Canada, Australia, and New Zealand (1973-74). However, there were some developing countries as well, which introduced EIA relatively early - Columbia (1974), Philippines (1978). [7]The EIA process really took off after the mid-1980s. In 1989, the World Bank adopted EIA for major development projects, in which a borrower country had to undertake an EIA under the Bank's supervision.

The World Bank, an influential international financial institution, has increasingly integrated environmental protection into its development programs. As industrial pollution becomes a significant global challenge, the Bank's role in addressing environmental concerns has evolved. While the primary objective of World Bank remains to support economic advancement, the World Bank has made strides in ensuring that this advancement does not come at the expense of the environment. Since 1989, when the

[5] Sec. 102 (1)(C) of NEPA: All agencies of federal government shall include in every recommendation or Report on proposals for legislation and other major federal actions 'significantly' affecting the quality of' human environment', a detailed statement by the responsible official on - (i) the environmental impact of the proposed action; (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented; (iii) alternatives to the proposed action; (iv) the relationship between local short term uses of man's environment and the maintenance and enhancement of long term productivity; and (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

[6] Integrating Climate Change into Environmental, Social and Human Rights Impact Assessments, Special Rapporteur on the Human Right to Clean, Healthy and Sustainable Environment, Special Procedures Unitrd Nations Human Rights Council available at https://www.ohchr.org/en

[7] https://www.cseindia.org/visited on 1-04-2026

first directive on environmental assessment (EA) was adopted by the World Bank, the Bank has made systematic use of EA as a standard procedure and as the principal means to ensure the environmental quality of its project portfolio.[8] According to World Bank OP 4.01, it is the "borrowing" country's responsibility to conduct and implement an EIA for any World Bank-financed project. The Bank's role is: (i) to advise the borrower through the EIA process and ensure that the quality of the EIA reports and related outputs is consistent with the requirements of its operational policy and (ii) to ensure that the EIA effectively feeds into project preparation and implementation. The region coordinates the Bank's review of EAs through consultation with its Regional Environmental Sector Unit (RESU), and, as necessary, with the support of the Environment Department. The World Bank recognizes that unchecked industrial growth can lead to severe environmental degradation, undermining long-term economic progress. Thus, environmental sustainability has become a cornerstone of its development philosophy. The World Bank promotes growth-oriented policies that prioritize environmental sustainability.

EIA is grounded in key environmental principles, including the precautionary principle, the principle of intergenerational equity, and the principle of sustainable development. The precautionary principle, in particular, mandates that lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

Legal and Institutional Framework of Environmental Impact Assessment in India :
The Environmental Impact Assessment (EIA) framework in India is deeply rooted in constitutional values, particularly those reflected in Articles 21, 48-A, and 51-A(g), which together create a strong foundation for balancing development with environmental protection. Article 21, guaranteeing the right to life, has been interpreted by the judiciary to include the right to a clean and healthy environment, thereby placing an obligation on the State to consider environmental consequences in all developmental decisions. This constitutional vision, reinforced by Article 48-A's directive to protect and improve the environment and Article 51-A(g)'s imposition of a duty on citizens to safeguard nature, led to the enactment of the Environment (Protection) Act, 1986, which provides the statutory basis for the EIA process. Over time, the judiciary has played a crucial role in strengthening this framework, as seen in Vellore Citizens' Welfare Forum v. Union of India,[9] where the Supreme Court recognised sustainable development and the precautionary principle as integral to Indian environmental law, emphasising that environmental protection must be proactive rather than reactive. At the same time, the Constitution encourages a participatory approach to environmental governance through Article 51-A(g), which is reflected in the EIA process through public hearings and consultations that allow communities to voice their concerns and influence decisions affecting their environment. In this way, the EIA framework in India is not merely a technical or administrative procedure but a living expression of constitutional ideals, combining legal mandate, judicial oversight, and public participation to ensure that development remains both inclusive and environmentally sustainable.

In India, the legal basis for EIA is derived from the Environment (Protection) Act, 1986, which empowers the central government to take measures for protecting and improving environmental quality.

[8] Environmental Impact Assessment Systems in Europe and Central Asia Countries, pg-i
[9] (1996) 5 SCC 647]

The Act was enacted in response to the Bhopal Gas Tragedy and represents a comprehensive framework for environmental regulation.

The operational framework of EIA in India has been developed through subordinate legislation in the form of notifications issued by the Ministry of Environment, Forest and Climate Change. The EIA Notification of 1994 marked the formal introduction of environmental clearance requirements for certain categories of projects. This was subsequently replaced by the EIA Notification, 2006, which introduced a more structured and decentralized process. Projects were categorized based on their potential environmental impact, and responsibilities were divided between central and state authorities.

The Draft EIA Notification, 2020[10] seeks to replace the 2006 framework but has generated significant controversy due to provisions perceived as diluting environmental safeguards.

The Draft EIA Notification 2020, introduced by the Ministry of Environment, Forest and Climate Change under the Environment (Protection) Act, 1986, was presented as an attempt to update and streamline India's environmental clearance process. Yet, instead of being seen purely as a reform, it quickly became the subject of intense debate because of what many perceived as a weakening of environmental safeguards. For instance, the proposal to reduce the notice period for public hearings from 30 days to 20 days was justified by the government as reflecting a more digitally connected society, but critics pointed out that in reality, many affected communities—especially in rural or remote areas—may not have adequate access to information or resources to respond within a shorter timeframe.

The draft also restructured project classifications into Categories A, B1, and B2,placing a wide range of activities under Category B2, which are exempt from detailed environmental scrutiny and, in many cases, public consultation. This raised concerns because several of these projects—such as oil and gas exploration, small hydroelectric projects, irrigation works, and infrastructure developments like highways and waterways—can have serious environmental and social consequences. Further, the changes to post-clearance compliance added to the unease. By extending the timeline for compliance reporting from six months to one year and allowing project proponents themselves to prepare these reports without strong independent verification, the draft appeared to reduce oversight at a stage where monitoring is crucial.

Overall, while the Draft EIA Notification 2020 was framed as a move towards efficiency and ease of doing business, it also highlighted a deeper tension in India's development model—between speeding up economic growth and ensuring that environmental protection, transparency, and public participation are not compromised in the process.

The EIA process in India comprises multiple stages designed to ensure a comprehensive evaluation of environmental impacts. Screening determines whether a project requires environmental clearance and the level of assessment needed. Scoping involves identifying key environmental concerns and setting the terms of reference for the EIA study. Public Consultation provides an opportunity for affected

[10]https://r.search.yahoo.com/_ylt=AwrKCwYhoNJpwAIAV3G7HAx.;_ylu=Y29sbwNzZzMEcG9zAzEEdnRpZAMEc2VjA3Ny/RV=2/RE=1776620834/RO=10/RU=https%3a%2f%2fenvironmentclearance.nic.in%2fwritereaddata%2fDraft_EIA_2020.pdf/RK=2/RS=SJDmJSxG11pCpBdC0faUnpA5MmA-

communities to express their views and concerns. Organization of public hearing has arbitrary exercise of powers, especially since it seeks to affected by an industrial activity and thereby, embodies the procedure of audi alterem partem[11] Appraisal is conducted by expert committees that evaluate the EIA report and make recommendations. Post-Clearance Monitoring ensures compliance with environmental conditions and mitigation measures. This structured process reflects an attempt to incorporate scientific analysis, administrative oversight, and public participation into environmental decision-making.

Judicial Intervention and the Development of Environmental Principles in India:
In India, the legal and institutional framework governing EIA has been significantly shaped by judicial intervention. The judiciary has not only enforced statutory provisions but has also developed principles that have expanded the scope of environmental protection. This article explores the evolution, functioning, and challenges of the EIA regime in India, with particular emphasis on judicial contributions and contemporary policy debates.

In Re: Construction of Park at NOIDA near Okhla Bird Sanctuary [(2011) 1 SCC 744] a three-Judge Bench (Forest Bench) of the Hon'ble Supreme Court has observed:

"...... Environment is one of the facets of the right to life guaranteed under Article 21 of the Constitution. Environment is, therefore, a matter directly under the Constitution and if the Court perceives any project or activity as harmful or injurious to the environment it would feel obliged to step in. ...."
In Vellore Citizens Welfare Forum vs Union of India[12], the Supreme Court recognized the precautionary principle and sustainable development as integral parts of Indian environmental law. The Court emphasized that environmental measures must anticipate and prevent harm.
Similarly, in Narmada Bachao Andolan vs Union of India[13], the Court examined the balance between development and environmental protection, highlighting the importance of EIA in large infrastructure projects.

The public trust doctrine was articulated in M.C. Mehta vs Kamal Nath[14], wherein the Court held that natural resources are held by the state in trust for t

In **Goa Foundation v. Union of India**, 2014 the Supreme Court of India dealt with illegal iron ore mining in Goa. The Court held that improper classification and failure to conduct proper environmental scrutiny at the screening stage led to ecological damage. The Court had the view that a Committee of Experts must conduct a macro EIA study and propose ceiling of the annual excavation of iron ore from the State of Goa, considering its iron ore resources and its carrying capacity and keeping in mind the principles of sustainable development and inter-generational equity and all other relevant factors. It emphasized that even if a project appears minor, authorities must carefully conduct a detailed EIA.
In Narmada Bachao Andolan v. UOI [15]the Supreme Court addressed the EIA, primarily regarding the Sardar Sarovar Dam. The NBA in this case argued that environmental permits were issued without

[11] Jutice A. R. Lakshmanan,"Thoughts on Environmental Public Hearings" 17 Student Bar Review 1, 3 (2005).
[12] AIR 1996 SUPREME COURT 2715, 1996 (5) SCC 647,
[13] AIR 2000 SUPREME COURT 3751
[14] AIRONLINE 1996 SC 711
[15] AIR 2000 SC 3751

adequate assessment, while the court held that mitigation measures were adequate and permitted the Dam height to increase to 90m and eventually further, subject to rehabilitation. This judgment emphasized that large development projects, crucial for national development , should not be halted by environmental concerns if necessary mitigation measures are undertaken.

In S.P. Muthuraman v UOI & Ors[16], the National Green Tribunal(NGT) mandated strict adherence to prior Environmental clearances based on MoEFCC Office Memorenda illegal. The NGT quashed various office memoranda issued by the Ministry of Environment and Forests that allowed projects to begin construction without obtaining prior Environmental Clearance, finding them in conflict with the EIA Notification of 2006.Projects constructed without prior EC were ordered to pay compensation (5% of project value) to the Tamil Nadu Pollution control Board, emphasizing that the post- facto clearance did not absolve them of environmental damage. If the developmental projects already started, environmental clearance is irrelevant. Even after the NGT judgment, till 2025, various State authorities allowed the developmental projects to start and continue without any Environmental Clearance.

In Vanshakti v. Union of India[17], the bench of justice Abhay S Oka and justice Ujjal Bhuyan, by a judgement deliverd on May 15, 2026 restrained the central government from granting ex-post facto environmental Clearances (EC) in future and set aside the previous Office Memorenda and notifications which allowed for the grant of ‘ex post facto’ Environmental clearance for mining projects.

Recently, in Vanashakti the petitioner also sought for a direction to the MoEF & CC as well as to the State Environment Impact assessment authorities and Sector Expert Appraisal Committees not to process and entertain any application for grant of ex post facto environmental Clearance after 13.05.2018.

In D Swamy vs Karnataka State Pollution Control Board[18], 2014 the bench of justices Indira Banerjee and JK Maheshwari observed that ex post facto clearances and/or approvals cannot be declined with pedantic rigidity, regardless of stopping the ongoing operations. Ex post facto environmental clearance refers to allowing functioning of an industry or project which has started operating without obtaining the green clearance and then applying for the clearance which is very much against the principles of environmental jurisprudence. Supreme Court added that the deviant industry could be penalized on the principle of ‘Polluter pays’.

In November 2025, in a major Supreme court decision , the Court in Vanashakti v. Union of India, the bench of justice Abhay Oka and justice Ujjal Bhuyan, by judgement delivered on May 15, restrained the Central government from granting “ex post facto” Environmental Clearances (EC) in future and set aside the previous Office Memorendum and Notifications which allowed for the grant of ex-post facto Environmental Clearance for mining project Way back in 2020, a two judge bench in Albemic Pharmaceuticals Ltd., had ruled that post facto environmental clearances were bad in law. He pointed out that the Vanashakti judgement merely followed the judgement in Albemic. In Vanashakti[19], the court

[16] Original Application No. 575/2018
[17] Writ Petition (C) No. 1394 of 2023
[18] 2022 Live Law(SC)791
[19] AIRONLINE 2020 SC 445

merely restrained the perpetuation of the mischief of granting post-facto Environmental Clearances through circulars, considering the fact that such post-facto approvals were previously held to be illegal. The Vanashakti judgment noticed that in the 1994 EIA Notification, the word 'prior' was not used. However, the said notification provided that on and from the date of publication of the said notification in the official gazette, expansion or modernization of any activity, if pollution load was to exceed the existing one, or a new project listed in Schedule I to the said notification should not be undertaken in any part of India unless it had been accorded Environmental Clearance by the Central Government. Therefore, notwithstanding the absence of the word 'prior' in the 1994 EIA Notification, the intention was very clear in that there should be no expansion or modernization of any activity or starting of any new project without obtaining Environmental Clearance from the Central Government. However, in the 2006 EIA Notification, which has been issued in supersession of the 1994 EIA Notification and continues to hold the field, it is categorically mandated that on and from the date of its publication in the official gazette, no new project or activities or expansion or modernization of existing projects or activities listed in the Schedule to the said notification shall be undertaken in any part of India without obtaining prior Environmental Clearance from the Central Government. Thus, what was implicit in the 1994 EIA Notification has been made explicit in the 2006 EIA Notification. Therefore, the 2006 EIA Notification can be said to be an improvement over the 1994 EIA Notification.

Contemporary Challenges and the Debate on the Draft EIA Notification, 2020:

Environmental Impact Assessment (EIA) has long been an integral part of India's environmental governance framework, serving as a bridge between developmental aspirations and ecological sustainability. Over time, it has also become central to political and public discourse, especially when questions of environmental justice and community rights arise. The Draft EIA Notification, 2020, introduced by the Ministry of Environment, Forest and Climate Change under the Environment (Protection) Act, 1986, marked a significant shift in this framework. While the government justified these changes under the broader vision of "ease of doing business," many critics argued that the revisions could weaken environmental safeguards and marginalise vulnerable communities.

At its core, the 2020 draft sought to replace the existing 2006 notification by streamlining the process of environmental clearances. However, this "streamlining" came with contentious provisions. For instance, the reduction in the time allotted for public hearings from 30 days to 20 days raises concerns about whether affected communities, especially those in remote or rural areas, would have adequate time and resources to meaningfully participate. Similarly, extending the timeline for project proponents to submit compliance reports may weaken regulatory oversight. Perhaps the most debated provision is the introduction of post-facto environmental clearance, which effectively allows projects that have already begun operations without approval to be legitimised retrospectively. This provision has been widely criticised as undermining the very preventive purpose of environmental assessment.

A critical issue that emerges from the draft notification is the erosion of public participation. In theory, environmental governance in India recognises the importance of involving citizens in decision-making processes. In practice, however, participation has often been limited. The 2020 draft appears to further narrow this space by reducing opportunities for public engagement and restricting who can report violations. Instead of empowering citizens, it centralises authority by allowing only government bodies, appraisal committees, regulatory authorities, or project proponents themselves to report non-compliance. This shift not only reduces transparency but also weakens democratic accountability.

Another controversial aspect of the draft notification is the exemption granted to certain categories of projects, particularly those deemed to be of “strategic” or “defence” importance.

For example, infrastructure initiatives like the Char Dham Road Project have drawn scrutiny due to their potential ecological impact in fragile Himalayan regions. Such exemptions risk bypassing rigorous environmental scrutiny in areas that are already vulnerable to landslides, deforestation, and biodiversity loss.

The implications of these changes are particularly severe for vulnerable communities, including tribal populations and those residing in ecologically sensitive regions. Legal protections under the Forest Rights Act, 2006, as well as constitutional safeguards under the Fifth and Sixth Schedules and provisions like the Panchayats (Extension to Scheduled Areas) Act, 1996, recognise the rights of indigenous communities over land and natural resources. However, the dilution of EIA norms risks undermining these protections by facilitating projects without meaningful consent or consultation. In regions like Northeast India, where environmental fragility is compounded by seismic and hydrological vulnerabilities, such policy shifts could lead to irreversible ecological and social consequences.

Moreover, the provision for post-facto clearances raises the risk of unchecked industrial activity. By allowing industries to seek approval after commencing operations, the draft potentially incentivizes non-compliance and weakens deterrence. This not only threatens environmental quality but also places additional burdens on communities that depend directly on natural resources for their livelihoods.

In a broader global context, the challenges posed by climate change, rising temperatures, and ecological degradation demand a stronger mandatory environmental governance mechanisms. Public participation, transparency, and accountability are essential pillars of effective environmental policy.
Conclusion:

Public opinion and participation shape the formualtion EIA by bringing local traditional knowledge , community vaues and critical oversight into project planning. Local residents can share the actual facts and traditional knowledge that may missed by the pannle experts of EIA. Early consultation helps in identifying the community concerns, reducing delays due to public protest and legal fights and thus deliver more social benefits, fewer environmental costs and greater economic and financial beefits. Item 23.2 of Agenda 21 as adopted by United Nations Conference on Environment and Development recognized the importance of public participation in environmental impact assessment (EIA) process in achieving sustainable development. The World Bank has also found that public participation in EIA tends to improve project design, environmental soundness and social acceptability. EIAs that successfully involved a broad range of stakeholders tended to lead to more influential environmental assessment processes and, consequently, to development that delivered more environmental and social benefits. In conclusion, the Draft EIA Notification, 2020, raises fundamental questions about the direction of environmental governance in India. While the goal of facilitating economic development is legitimate, it must be balanced with ecological sustainability and social equity. The dilution of public participation and accountability mechanisms not only weakens environmental protection but also undermines democratic principles. In a country as diverse and ecologically sensitive as India, a robust and inclusive EIA framework is not merely desirable—it is indispensable for achieving sustainable development and ensuring justice for vulnerable communities.