

Fourth Open Letter to the Ministry of Environment and Forests

Issued on 8th April 2005

Why are the Expert Committees of Ministry of Environment and Forests dominated by ex-bureaucrats, politicians and engineers?

The seven environmental assessment expert committees of the Ministry of Environment and Forests (MoEF), which advise MoEF on whether to clear industrial and development projects, are dominated by, current and former bureaucrats, politicians and engineers. There is little ecological/environmental expertise in these committees, even though the Environment Impact Assessment Notification 1994, under which they have been constituted, clearly states that they must be composed of such experts.

Most shockingly, of the 64 members of these committees (based on an analysis of November 2004 for six such committees):

- There are only two wildlife experts (though the Notification requires a flora/fauna expert in each committee)
- Nearly half the members are from government or government affiliated agencies (how independent would these members' decisions be if project proponents are mostly government agencies/departments?)
- There are no representatives of indigenous/advansi/local communities (even though the projects being considered mostly affect such communities)
- Nearly two-thirds of the members are based in Delhi/Noida and Tamil Nadu (mostly Chennai)...is all of India's environmental expertise located only in these two places?
- There are only three or four women members, one of them being a MoEF official.

How can one expect unbiased and independent advice being given by such committees to the MoEF? The recommendations of the committees have deep and long-lasting, if not permanent, impacts on our ecological heritage and the quality of life of local communities. **The current composition of the committees is a clear violation of the Notification in spirit and letter, and therefore a violation of the Environment Protection Act, 1986 under which this Notification has been issued.**

If the intent of the Notification is to be honoured, MoEF must:

- Dissolve these committees immediately, and reconstitute them through a proper and transparent process with mandatory inclusion of experts and experienced people from various stakeholder groups, who are reputed in social and environmental fields stipulated in Schedule III of the EIA notification, and are known for their independent thinking and work;
- Make the process of selection of these committees open and transparent, providing a full list of the expertise/experience of each nominated member and ensure that the committees are truly representative of the environmental expertise from different disciplines;
- Make the minutes of all committee meetings, decisions and advice provided by these committees (including environmental and forest clearance letters), open to public scrutiny, to show that they are taken on the basis of sound science, information, and criteria of ecological sustainability and to make committee members accountable for the recommendations they give to the MoEF.
- Ensure that information about site visits of the committee members is put up for public information as soon as the programme is final and at least two weeks in advance of such visits and should also be made public through notices in local newspapers so that all concerned can meet and inform the committees about their concerns. The reports of the site visits should also be available to public as soon as they are ready and in any case a week in advance of the meeting when the concerned projects are to be taken up for consideration.
- Provide an opportunity for civil society organizations and communities and individuals likely to be effected by the project to directly interact with the expert committee members.

The Environment Clearance process of the MoEF is the only process available in the country to understand environmental and social impacts of development projects/activities. This process is governed by the Environment Impact Assessment (EIA) notification under the EPA. As per the EIA notification the MoEF appoints a set of experts to help the Ministry decide on developmental projects that impact the environment. There are 32 kind of activities identified in Schedule I of the EIA notification that need to obtain environmental clearance from the MoEF. As a part of the clearance process, the detailed reports of these projects are assessed by one of the seven Expert Committees (ECs) depending on which category they fall under: Industrial projects, Thermal projects, River Valley and Hydroelectric projects, Mining projects, Nuclear Projects, Infrastructure and Miscellaneous projects and New Construction Projects and Industrial Estates.

The committees review these reports and assessments of the probable impacts that projects are likely to have on the environment and people and make recommendations to the MoEF regarding whether the project should be granted clearance and if yes under what conditions. They also recommend ways by which environmental and social impacts of the projects could be mitigated by project developers, to the maximum extent possible. Thus, these Committees play a critical role in the decisions taken regarding developmental projects and the environmental and social impacts that occur due to these projects. Their decisions have a great significance for the well-being of environmentally sensitive areas.

As of today, the ECs have recommended projects such as the Lower Subansiri Hydroelectric Project, Siang Middle Siang (Siyom) Hydroelectric project in Arunachal Pradesh; Chamera III in Himachal Pradesh, Lohari Nag Pala and Tapovan Vishnugad Hydroelectric projects in Uttaranchal; Athirappilly Hydroelectric Project, Kerala for environmental clearance. Environmental clearance for projects such as Expansion of the Jindal Sponge Iron Plant in Raigarh, Chhatisgarh is in the process of being decided. These projects will cause severe social and environmental impacts and have also faced loud opposition from local communities, as they understand that these projects will affect their livelihoods and natural resources around them.

However, considering the seriously flawed composition and constitution of these ECs as also their working methods, these decisions need to be reviewed.

Some of the key problems are as follows (for detailed analysis of each committee, pl. see Annex).

[**Note:** This analysis is based on the composition of the Expert Committees as in November 2004. Following this there has been a change in the composition of the committee for River Valley and Hydroelectric projects, and a new committee on New Construction Projects and Industrial Estates has been added. However, neither of these changes alters the overall arguments emerging from the current analysis. The information on the profile of expert committee members has been found from random web searches since they are not put up on the MoEF website which only carries the list of members who constitute the committees without any information about their qualifications or background. We found no information regarding the expertise of some members]

1. *Inadequate Environmental and Other Stipulated Expertise:* Schedule III of the notification clearly states that the Expert Committees are to assess environmental impacts. So it is clear that the committees need to consist of experts from the field of environment and closely related areas of concern. The schedule further lays down the kinds of expertise that must be present in every committee. These include Eco-system Management, (ii) Air/Water Pollution Control, (iii) Water Resource Management, (iv) Flora/Fauna conservation and management, (v) Land Use Planning, (vi) Social Sciences/Rehabilitation, (vii) Project Appraisal, (viii) Ecology, (ix) Environmental Health, (x) Subject Area Specialists.

However, it is utterly shocking that none of the committees have the above composition.
Note that:

- There are only two representatives of relevant fields, one from Wildlife Institute of India and the other from School of Environmental Sciences, Jawaharlal Nehru University, in all the committees put together.
- There are no sociologists, social scientists, anthropology experts or social work professionals when the composition requires the presence of experts in the field of social sciences/rehabilitation. This clearly affects the assessment of project impacts on people, especially on tribal and other local communities, women, children and other marginalised groups in society.
- Three out of six committees have individuals who are listed by their name and residential addresses only. Out of these three individuals are office bearers of the Dravida Munnetra Karagam (DMK), which happens to be the political party to which the present and previous Ministers of Environment and Forests belong.

2. *Technological bias:* The ECs have a maximum number of members who are engineers and have other technical qualifications in the field of engineering. In such a situation, it is likely that the outcomes or decisions on projects are loaded with technological perspectives to complex environmental problems without due consideration given to social and environmental perspectives of developmental projects. The Committee for Industrial Projects has 4 members from a chemical engineering background. However, there are no members with expertise in flora and fauna conservation and management, social sciences, ecology, environment and health.

3. *Field of expertise of Chairperson:* As per the Notification, the Chairman should “be an outstanding and experienced ecologist or environmentalist or technical professional with wide managerial experience in the relevant development sector”. None of the chairpersons are from or closely related to the field of environment. All present Chairmen are ex-Secretaries of government departments or ministries. In some cases they have been secretaries of departments or ministries that are proposing the projects coming to their committee. How unbiased can the Committee’s advice be in such a situation? E.g. Dr M. Chitale, who was the Chairman of Environmental Assessment committee for River Valley Projects, till recently served in the Central Water Commission and Ministry of Water Resources (MoWR). Many of the projects that came to his committee for clearance were envisaged by the CWC and supported by the MoWR.

4. *Affiliations of members to agencies and institutions:* According to the EIA notification the members serve on these committees in their individual capacity. This may have been decided so as to maintain independence in the functioning of the committees. However, in reality the affiliations of the members to their institutions or departments of service does impact the decision making process. 28 out of 59 members are from government affiliated institutions or agencies set up directly under government departments/ministries like Ministry of Water Resources and Ministry of Mines, who are the main project proponents in the area of irrigation and power projects and mining. It is difficult for committees with such a high percentage of members from such institutions/agencies to take critical/independent views on projects if and when necessary, as most of the projects are backed by these ministries/departments.

The point goes beyond the fact of member or chairperson being bureaucrat/affiliated to the government or not. There is also a question of conflict of interests, where it is important to know what decisions/ policies/programmes an EC member has been associated with or have predilections towards.

A number of the institutions where many of the EC members are employed also conduct studies and assessments for the projects that come up for clearances. So EC members could be assessing the projects for which studies may have been done by their own institutions. For example the Numaligarh Refinery near Kaziranga was cleared by the Expert Committee in 1989-1990 under the Chairmanship of Director, National Environmental Engineering Research Institute (NEERI) even though the NEERI had done the EIA for the project. In the present process there is no way to ensure that this does not happen.

5. *Lack of representation of diverse stakeholder constituencies:* All the committees comprise mostly of academics and ex- or serving bureaucrats.

- Even though Schedule III demands that NGOs / persons concerned with environmental issues be on the committee, there are only two NGOs out of 64 members (one has an expertise in children and education and the other is the Confederation of Indian Industry). This is absurd, considering the number of environmental groups and NGOs there are to choose from who have been an integral part of environmental movement in India through their research, advocacy and direct action at the grassroots level. Indeed, in the earlier years, NGOs were well-represented; they have been shunted out only in the last 3-4 years.
- There is also absolutely no representation of local community members or groups on these committees. This is blatantly unjust, as most of the development projects on which these committees take decisions are proposed to come up in rural and tribal areas and would impact natural resources with which communities have cultural and spiritual connections and over which they have rights and privileges. This is particularly so for projects proposed in tribal areas coming under Schedules V and VI of the Constitution for protecting tribal rights and cultures. It is inappropriate that formal experts alone take decisions regarding development projects, when it is entirely possible to have the representation of local communities capable of bringing into the committee their own traditional knowledge and understanding of environment and development issues.

6. *Regional bias:* Most of the members of the expert committees are either from Delhi /Noida or Tamil Nadu. Out of the 64 members, 20 are from Tamil Nadu (mostly Chennai) and 26 from Delhi, making up two-thirds of all members! There is very little or no representation from states from North, Central, East and North East India. Can we expect these experts from Delhi and Tamil Nadu to know of the ground situation and the socio-political realities of the region where the proposed projects are to be located? It is unlikely that this regional bias is a mere coincidence, given that the present and previous ministers for Environment and Forests belong to Tamil Nadu.

7. *Faulty decision making in the committees:* Expert committees have and continue to recommend projects for clearance despite problems in substantive and procedural issues. There are number of reasons for this:

- Inadequate availability of information: Information available to ECs through Environmental Impact Assessment (EIA) reports is inaccurate and inadequate in most cases. A number of EIAs scanned by several NGOs and independent experts have revealed that aspects on biodiversity, livelihoods and dependence on natural resources and social aspects are very cursorily dealt with. NGOs have also brought to light the fraudulent practices of consultancy groups as in the case of the plagiarizing of the EIA report by the well-known consultancy group, Ernst and Young.
- Shortage of assessment time: ECs are under immense pressure to give a quick response on projects so that projects and investments are not delayed. Such pressure results in cutting corners in the process of investigations, site visits and detailed analysis of project reports. Any time required to conduct extra studies demanded by ECs is construed as delaying the project.
- No consultations with local communities: The EIA notification provides scope for the committee members to undertake site visits. But often, the only people met during these visits are the project proponents. Expert Committee members thus have the opinions and positions only of the project proponents and consultants and not of local community members, NGOs and other stake holders.

8. *No guidelines on what should be minimum qualification (educational or experiential) of an expert:* It is not clear from the list of committee members and their designations available on the MoEF website as to what their expertise is. A detailed web search with their names drew a blank for some of the EC members. It is not known whether the MoEF has a laid out process to identify experts in various fields including environment. The present composition of ECs is demonstrative of the lack of a sound process of selecting experts to be on these committees.

9. *Conditions for dissolution of committee:* The conditions for the dissolution of the committee are not clear. In 1995, the EC for river valley projects was abruptly terminated before its mandatory two-year term. It is not a matter of chance that this step was taken, as the EC had taken a radical decision to not grant clearance to any more projects in states where past projects were not complying with mandatory conditions. If terms and conditions are not laid down, then committees can be dissolved as and when they seem inconvenient to the MoEF.

10. *No committee for nuclear projects:* The website of the MoEF indicates that there is to be a committee to assess nuclear projects. This committee has not been constituted and no members have been listed as per the information on the website. As it appears, nuclear power and related projects listed in Schedule I of the EIA notification are being granted environmental clearance without the MoEF seeking 'expert advice'. For example Environmental Clearance for the 500 MW Prototype Fast Breeder Reactor at Kalpakkam in Tamil Nadu was granted clearance despite stiff opposition at the public hearing and detailed critiques of the EIA report. The MoEF website also has no entry for nuclear plants in both pending and approved clearances sections.

11. *Lack of representation of women or gender sensitivity:* Among the 64 members of all the committees there are only three or four women members, one amongst them being an MoEF official acting as member-secretary of the committee for mining projects. Further, it appears that there is no gender expert on any of the committees. This is despite the fact that an advisory committee constituted by MoEF itself for enhancing women's participation in forestry had strongly recommended that gender balance must be ensured in all committees set up by MoEF. The ECs need to be sensitive to the highly disproportionate negative impact displacement, pollution and other dislocation caused by 'development' projects has on women. Impacts, such as the entry of outside construction labour/contractors in an area seriously impeding women's mobility and personal security while undertaking their daily tasks or their loss of access to common grazing lands and forests for meeting essential livelihood needs also need to be taken into account. Most EIAs have hardly any analysis of this aspect. Therefore, it rarely forms the basis on whether clearance should be granted.

12. *Lack of recognition of the legal and constitutional protection for tribal rights and cultures:* Given that many mining, hydro and industrial projects are located in Schedule V and VI areas providing special protection to tribal resource rights and alienation of their lands to non-tribals, it is remarkable that the ECs have no members responsible for ensuring that the legal and constitutional provisions for safeguarding tribal rights and cultures are not violated by the environmental clearances that they grant.

Conclusion and Demands

All the above points together present serious and unacceptable flaws in the composition, functioning, and decision making of the current Expert Committees of the MoEF. We believe that the current Expert Committees of the MoEF are simply not qualified or fit to carry out the task assigned to them under the EIA Notification. They are inadequate in the expertise they contain to understand the social and environmental impacts of proposed projects. Further, they are also toothless bodies that recommend project clearance no matter how blatantly false the information provided by the project authority, or no matter how high the environmental damage to be caused. This is despite the stern warnings against any misleading claims or falsification of data contained in clause 4 in the EIA notification, which states.

“Concealing factual data or submission of false, misleading data/reports, decisions or recommendations would lead to the project being rejected. Approval, if granted earlier on the basis of false data, would also be revoked. Misleading and wrong information will cover the following:

- False information
- False data
- Engineered reports
- Concealing of factual data
- False recommendations or decisions”

We urge the MoEF to:

- Dissolve these committees, and reconstitute them with experts and experienced people from various stakeholder groups, who are reputed in environmental and socio-economic fields, and are known for their integrity, independent thinking and work;
- Make the process of selection of these committees open and transparent, providing a full list of the expertise/experience of each nominated member;
- Make the minutes of all committee meetings, decisions (including environment and forest clearance letters) and advice provided by these committees, open to public scrutiny, so that it is known whether the recommendations are made on the basis of sound science, information, and criteria of ecological and socio-economic sustainability and to make committee members accountable for the recommendations they give to the MoEF.
- The agenda notes of the meetings should be made public at least a week before the meeting and the minutes should be made public within a week of the meeting. All such agenda notes and meetings should remain on the MoEF website at least for five years.
- There should be a system built into the environmental clearance process whereby representatives of concerned communities and individuals and civil society organizations make presentations and directly discuss grievances with the expert committees, if they wish to do so.

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With

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2. Ramesh Agarwal, Lok Shakti Samiti, Raipur, Chhatisgarh
3. Bamang Anthony, Arunachal Citizens Right (ACR), Arunachal Pradesh
4. A. Giridhar, Babu, Deccan Development Society, Andhra Pradesh
5. Seema Bhatt, Biodiversity Consultant, New Delhi
6. Rita Boro, Indigenous Women's Leadership, NE India, Assam
7. Jayshri, C, Andhra Pradesh Coalition in Defence of Diversity, Andhra Pradesh
8. Udayashankar C, Hyderabad, Andhra Pradesh
9. Geevan C.P., Centre for Environment & Social Concerns, Ahmedabad
10. Rattan Chand, Himalay Bachao Samiti, Chamba, Himachal Pradesh
11. Girin Chetia, NEADS, Assam
12. Rajnibhai Dave, Manaviya Technology Forum, Gujarat
13. Sukhendu Debbarma, Indigenous/Tribal Peoples Development Centre, Tripura
14. Swati Desai, Mozda Collective, Gujarat
15. Madhumita Dutta, Corporate Accountability Desk, The Other Media, New Delhi
16. Dino Dympep, Meghalaya Peoples' Human Rights Council, Meghalaya
17. Ashish Fernandes, Ecologist Asia, Mumbai
18. Dilip Gode, Vidarbha Nature Conservation Society, Nagpur, Maharashtra
19. Monoj Gogoi, People's Movement for Subansiri Valley (PMSV), Assam
20. Kalpana Hazarika, Subansiri Sanrakha Nari Sanstha, Assam
21. Pandurang Hegde, Appiko/Prakruti, Sirsi, Karnataka
22. Joseph Hmar, Citizen's Concern for Dams and Development, Imphal, Manipur
23. Ramaswamy Iyer, Former Secretary, Ministry of Water Resources, New Delhi
24. Bharath Jairaj, Citizen, Consumer and Action Group, Chennai