

### **(1) India situation of the development of legal system for EIA**

In India, maintaining the environmental quality is difficult and prevents improvement of quality of life and sustainable development. UNDP report unveiled that environmental factors are responsible in multiple cases for the burden of diseases in India and the percentage is nearly 20%. A number of environmental-health factors are closely linked with different dimensions of poverty (e.g. malnutrition, lack of access to clean energy and water) in India. The rapid urbanization followed by development is having an increasing impact on the environment. The environmental issues are increasing at an alarming rate and further enhancing and perpetuating poverty, health issues, imbalance in the ecosystem, degradation of natural resources and many more. Realizing the need for balance and harmony between development and environment, the concern for environmental issues is increasing on the agenda of government, private sector, non-governmental agencies and citizens. The environmental policies, plan, programs, norms and standards are also evolving to address the growing environmental concerns. Government has initiated multiple programs and created instruments such as policies, plans, norms and standards for addressing the environmental issues and to positively to positively influence the relationship between development and environment. One major example of such an instrument is environmental impact assessment (EIA). It is a decision-making tool that compares various alternatives for a project and seeks to identify the one which represents the best combination of economic and environmental costs and benefit.

In India, EIA came into existence around 1978-79, but it was made mandatory only in 1994.

In 1980, the Department of Environment was established that formally attended the issues related to environment and forests. The environmental clearance of large projects was made an administrative requirement in 1980, to an extent that the proof of such clearance was asked from the private and government officials by the planning commission and the central investment board before according financial sanction. In 1985, the Department of Environment and Forests was established and issued guidelines for Environmental Assessment of river valley projects. These guidelines included studies of impacts on forests and wild life in the submergence zone, water logging potential, upstream and downstream aquatic ecosystems and fisheries, water related diseases, climatic changes and seismicity

Federal environmental legislation passed from 1980 to 2000 were the Forest (conservation) Act (1980), the Environment (protection) Act (1986), and the Air (prevention/control of pollution) Amendment Acts (1981 and 1987).

In 1985, Ministry of Environment and Forest was established which was more comprehensive and institutionalized. They set up pollution control boards (CPCB i.e. Central Pollution Control Board and SPCBs i.e. State Pollution Control Boards) and brought out several notifications restricting the development of industries in specified ecologically sensitive areas. In addition, the draft rules were framed for the establishment of industries, this was done under the umbrella of Environment Protection Act (1986), which was framed after the Bhopal Gas tragedy.

On 27th January, 1994 a notification called 'Environment Impact Assessment Notification 1994' was issued dealing with mandatory EIA. According to the notification the project proponents were required to submit an EIA report, and environment management plan, details of the public hearing and a project report to the impact assessment agency for environmental clearance. In some cases, a committee of experts was formulated for further review of the projects. Subsequent to the 1994 Notification, amendments were on 4th May 1994, 10th April 1997 and 27th January 2000 making environmental impact assessment statutory for 30 activities/projects divided into two categories 'A' and 'B', A will require clearance from central government and B will require clearance from State government.

The environmental impact assessment in India is positioned as the major procedures for review and approval of new and altered projects pursuant to the National Environment Policy 2006 developed under the Environment (Protection) Act 1986. In 2006, the Environment Impact Assessment Notification 2006, which stipulates the EIA procedures, was issued. The EIA Notification 2006 defines environmental clearance (EC), review organizations, categories, screening and scoping procedures, EC application methods, the effective period of EC, monitoring after EC acquisition, transfer of EC, and various forms. Even after the issue of the EIA Notification 2006, a number of revised Notifications, Office Memorandums, and Circulars were released to indicate the addition and deletion of, and exception clauses for, target projects. Many changes were made specifically to matters related to mining projects, coal-fired plants, industrial parks, critically polluted areas, developments around sanctuaries, and exception clauses for public hearings. Such changes are made more than a few times each year; therefore, the EIA Notification 2006 in which all changes were reflected has not been released since 2009.