

## Review Article

# Efficacy of Environmental and Social Safeguards Policies at Municipality Level under the Urban Infrastructure Development Projects: An Indian Perspective

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**Abstract**

This article describes the efficacy of safeguards policies of international development funding agencies like including World Bank, Asian Development Bank, etc. at municipality level in the urban infrastructure development projects along with the intentions to suggest ways the remedy of safeguards compliance weaknesses and overcome the constraints. Limited technical expertise and managerial skills in many borrower countries to implement safeguards policies in the development projects. Basically, in the areas of technical, contract management and institutional constraints and stakeholders involvement are needed improvement at the borrowers level. The intention of the article is to assess the weaknesses of compliances relating to safeguards process in urban infrastructure development projects and suggest remedy to overcome these constraints.

**INTRODUCTION**

There is an increasing trend of living standards, urbanization, industrialization and globalization in raising the prospect of environmental degradation, unhealthy living environment, deforestation, over population, social conflict, violent etc., collapsing the basic services. As corrective measures to these social, environmental as well as economic aspects at town level urban planning regimes embodying urban sustainability is needed to be constituted. However, regional planning management-oriented regimes for urban sustainability must be adapted the approaches towards the cities and regions where problems of social equality, urban infrastructure, and urbanization of the environment are creatively addressed.

Visionary urban Planner can meet the service needs of general public, while enhancing the urban environment through clear and goal oriented urban planning at town level. This can be achieved by designing an efficient and desirable sustainable infrastructure development like intra-urban electric bus system for expanding urban green space, and to meet the basic needs of environment friendly in nature of urban population. It reveals that the goals of making cities greener to mitigate their impact on the environment can be personified in urban infrastructure projects which make cities more comfortable for human life.

Nowadays, increasing urbanization and industrialization in the World play an important role in economic development, but it also causing many environmental and social problems,

especially the ecological balance related problems. In the face of pressing economic and environmental challenges, national and international efforts to promote green growth as a new source have been intensifying in recent decades [1]. Building on this momentum can help to accelerate the progress towards sustainable development and reduction in poverty through judicious use of natural resources including efficient use of energy and valuation of ecosystem services as well as maintaining the social balance through peoples' participation.

In Indian context sustainable development is necessity of the present scenario because as per the research in 2019 revealed that most polluted cities of the world (21 out of 30), were in India, which can be treated as a danger sign. There is a need to take immediate attention on this issue for improving the urban environment through sustainable development by increasing the greener space; otherwise, it would become more dangerous to the Indian society, especially for the coming generations.

Recently, Government of India has launched various initiatives on environment, including a clean cooking scheme, Clean India, Clean Ganga (Namami Gange) and Smart Cities Mission. The National Green Tribunal (NGT), has also been set up for handling the issues /cases relating to the environmental protection and conservation of natural resources in 2010. Air quality in Indian cities is also deteriorating and presently it is worse than the situation in China [10].

Indian Government is required to have more attention on

developmental activities, particularly the improvement of basic services as well as generating employment opportunities at grass root level which will help in checking the migration of people towards the urban areas. This step of the Government may become helpful in improving the urban environment making it cleaner and greener.

An environment friendly development plans is vital for India, which includes potential economic and social impacts of environmental degradation. Some of the municipalities in different states of India are most vulnerable to climate change and tend to be more dependent than advanced economic exploitation of natural resource for economic growth.

There is a need to prepare the development plans in which economic growth protecting the integrity of natural ecosystem including environmental and social aspects are included. However, urban planning must be the beginning through effective provisions of involvement of local masses by asking them which aspects of the natural environment should be saved under the development process. This may be helpful in protecting natural environment, placing it in proper perspective, as an opportunity for development and a constraint on it by adopting an integrated paradigm of environmental sustainability, economic and the social fabrics in the urban life.

In India, there is a huge inequality based on the gender, caste, religion, ethnicity, injustice and lack of basic amenities / services at all levels can be seen in the ground reality and documentary evidences in natural resource sharing, existing policies/ schemes including environmental and social safeguards implementation. It may be due to lack of awareness, motivation, education system as well as existing political system. Indian Government's attention towards environmental conservation, natural resource management was emerged during the decade 1970-80, after the Stockholm conference. However, its more conceptual clarity and necessity emerged after the Bhopal Gas tragedy on 23 Dec., 1984 which was a major disaster due to non-availability of strategy, policy as well as rules and regulations to control and handle the industries. Accordingly, First step towards the environmental conservation, protection and management was taken as preparation of a draft- Environmental Protection Act 1986.

Sustainable nature friendly development planning is essential for India. Accordingly, potential economic and social impacts of environmental degradation are important for many urban local bodies (ULBs). These ULBs are most vulnerable to the climate change and tend to be more dependent than advanced economy on the exploitation of natural resources for economic growth. In addition, most of them face severe environmental, social, economic and ecological threats from energy, food and water insecurity to climate change and extreme weather risks. It shows that planning must be in such a way that economic growth protects the integrity of natural systems. It should begin with the development process by knowing that which aspects of the natural environment are needed to be saved from development and effective public participation. This can help how the natural environment, placed in its proper perspective, should act as both an opportunity for development and a constraint upon development adopting an integrated paradigm of social, economic and environmental sustainability of the urban life [2].

The International development funding agencies like World Bank, Asian Development Bank and KFW etc. have developed their environment and social management guiding documents in form of environmental and social safeguards operational policies or framework for their borrower countries. These guiding documents provide guidelines for borrowers to protect human health, prevent environmental degradation, social conflict, and ecological impacts as a result of either individual investments or their cumulative effects. Enhancing positive environmental and social outcomes and as much as possible to avoiding social conflict among community members and strengthening the community social cohesiveness in the project area are the main ingredients of these documents .

The potential environmental issues may occur during project implementation are risk of loss of precious ecological values when a sub-project is located within and close to a natural ecosystem such as wildlife sanctuaries, natural forest, mangroves and wetland areas, etc.; air pollution due to construction activities as well as noise pollution impacted to wildlife and natural habitats; Soil pollution / health risks due to excessive application of fertilizers and pesticides; Fishery activities- Risk of overexploitation of fish stocks and long-term degradation of resource base, capture of non-target species and habitat damage through use of destructive fishing methods and gears; Downstream water pollution from discharge of effluents through drain water which affect the natural aquatic flora and fauna due to reduction of Oxygen level and many other factors.

India has a rich and long history of environmental and natural conservations laws dating back to the five decades back (around 1970s), poor sanitation conditions and sewage problems affecting the health of general population in the country. In the mid-1990s, a major international review of the effectiveness of EIA was implemented [3]. This paper is wide-ranging in its scope and comprehensiveness in the depth and analysis on environmental and social safeguards laws and policies implementation at the ground level.

## LEGAL PROVISIONS

The Indian Constitution contains specific provisions for environmental protection in different articles as well as in fundamental rights. As per the constitution of India the fundamental duties clearly impose duty on all citizens to protect environment. Article 49 has stated that the state shall endeavor to protect the environment and to safeguard the forests and wildlife of the country. Thus, protection and improvement of natural environment is the duty of the state 48-A and article 51-A (g), say that it shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures.

India has played a leading role from 1972 UN Conference on Human Environment at Stockholm to 1992 UN Conference on Environment and Development at Rio de Janeiro and also in the Earth summit Plus 5 of 1997 at New York [4]. India is therefore, under an obligation to translate the contents and decisions of the international conferences, treaties & agreements into the stream of its national laws. However, article 253 emphasized Parliament has power to make any law for the whole or any part of the

country for implementing any treaty, agreement or convention with any other country.

Parliament has made use of this power to enact Wildlife Protection Act, 1972 and Environment Protection Act (EPA), 1986. The EPA 1986 which acts as an umbrella act of Government of India and applicable in all the infrastructure development projects, Water (Prevention and Control of Pollution) Act of 1974, Rules of 1975, and amendments, Air (Prevention and Control of Pollution) Act of 1981, Rules of 1982 and amendments, Child Labour (Prohibition and Regulation) Act, 2000, The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (RTFCTLARR Act, 2013), Requirements under this Act is applicable during construction., Solid Waste (Management and Handling) rules, 2016; Construction and demolition waste management Rules, 2016 and Guidelines on Environmental Management of Construction & Demolition (C & D), Wastes (Prepared in compliance of Rule 10 sub-rule 1(a) of C & D Waste Management Rules, 2016), and many more are applicable in the urban infrastructure development projects in India as well as enacted to implement the decisions/agreements with United Nations and other international countries [5].

Environmental Impact Assessment Notification 1994, which was replaced by EIA Notification of 2006 and 2009 of Government of India, set out the requirement for environmental assessment in India. This states that Environmental Clearance is required for certain defined activities / projects, and this must be obtained before any construction work or land preparation (except land acquisition) is commenced. Projects are categorized as A or B depending on the scale of the project and the nature of its impacts. Categories A projects require Environmental Clearance from the National Ministry of Environment and Forest. Category B projects require Environmental Clearance from the SEIAA.

World Bank Group (WBG), has a number of policies to help in ensuring that its investments “do no harm.” In the 1980s, in response to public criticism of its involvement in controversial projects such as the Narmada dam in India that displaced 3,00,000 people—the World Bank began to develop a set of safeguard policies that require clients to consider the environmental and social implications of projects. WBG’s environmental and social policies are OP4.01: Environmental Assessment (1999); OP4.04: Natural Habitats (2001), OP4.09: Pest Management (1998), OP4.11: Physical Cultural Resources (2006), OP4.10: Indigenous Peoples (2005), OP4.12: Involuntary Resettlement (2001), OP4.36: Forests (2002), OP4.37: Safety of Dams (2001), OP7.50: Projects on International Waterways (2001), and OP7.60: Projects in Disputed Areas (2001). These policies now require clients to conduct an environmental assessment and consider a project’s potential impacts on surrounding communities.

WBG safeguard policies meet global standards, such as international human rights and environmental law. While it may not have a legal obligation to meet these standards in many cases the clients do in response, harmful impacts of investment projects financed by the Bank [6].

In October, 2018, World Bank introduced a new concept ‘Environmental and Social Framework’ (ESF) and replaced

the older one ‘Safeguard Policies’ that had incrementally emerged since the 1980s. The new ESF requires the Bank and its borrowers to assess and manage environmental and social risks, consultation with stakeholders, and to compensate certain project-affected people. Transparency and accountability are necessary to implement the safeguards effectively in all the investment projects financed by the international development agencies [6].

Implementation of the policy will help to ensure that aid investments do not cause harm including injury or injustice to the people to whom it is intended to assist, or to their wider communities or environment. The policy will assist compliance with World Bank and partner government policies and laws for social and environmental protection; and improve the consistency, transparency and accountability of decisions. The policy requires early identification of environmental and social risks and impacts during the planning stage of investments and their continued management throughout the period life of investments.

Safeguards are measures taken to avoid or minimize the negative impacts of aid investments on people and the environment. Investment design and implementation must meet the safeguard principles, which are considered at each stage of World Bank aid management cycle: policy and planning; design and procurement; implementation and performance management; and review and evaluation. The safeguard principles underpin the successful application of the five environmental and social safeguards.

It is mandatory to screen all investments, regardless of value or delivery mechanism for environmental and social impacts. Screening quickly identifies aid investments with potential safeguard impacts that may require more detailed assessment. Where screening indicates that an impact may occur, the level of risk must be assessed and rated.

If indicated by the risk rating, an environmental and social impact assessment (ESIA), proportional to the level of risk, must be completed. Depending on the circumstances, the assessment could be a brief review or a comprehensive technical assessment (for example, for a major infrastructure project). An effective assessment requires effective consultation and consideration of the needs of different people in a gender-responsive way.

Identified impacts are needed to be managed through an environmental and social management plan (ESMP), a document that sets out details of how impacts will be mitigated, including timing, budget, roles and responsibilities of different stakeholders. The management of safeguards must be monitored and reported as part of the implementation of the investment implementation process.

Steps in the safeguard process must be completed in a way which is consistent to the environmental and social safeguard principles including effective engagement with stakeholders and coordination with other partners. Any or all of these steps may be carried out by the World Bank project implementing partners. However, World Bank can make sure that the safeguards applied by partners are consistent with the requirements of the policy and monitored to ensure they are implemented effectively.

Specific methods and tools may need to be used to identify, assess and manage the impacts relevant to different safeguards. For example, a resettlement action plan, indigenous peoples plan, or a health and safety management plan may be required.

## APPROACH AND IMPLICATIONS

It is essential to review the urban investment programs at the municipality level with the detailed explanation of the anticipated environmental and social impacts of the project that has been financed under the external aided projects. These programs need to screening, categorization of subsequent, assessment, planning, including meaningful consultations with the project affected persons and other project stakeholders and information disclosure requirement.

The environmental and social safeguards criteria that required to be used in selecting/rejecting of subprojects and or components under the project and examine the adequacy of the borrower's capacity to implement World Bank safeguards policies and national as well as state level policy/law's requirement and identify requirement for institutional capacity building. At the implementation level, procedures including the budget, institutional arrangements, and capacity development need to be rigorously analyzed. Monitoring and reporting system is required with the description of the responsibilities of the environmental assessment (EA) and of WB in relation to the preparation, implementation, and progress review of safeguard documents of subprojects.

International funding agencies including World Bank's approach for ensuring the compliances of safeguards policies and law's in urban infrastructure development projects are mainly at two levels first is World Bank level and another is at borrowers' level. Further, two levels are at World Bank Country level safeguards experts another is Regional Safeguard (RSA) level. At the borrowers' level, Safeguards compliances are ensured by 3 tier - Project Management Unit (PMU), Project Management Consultant (PMC) and Project Implementation Unit (PIU). Further, safeguards and quality of the project compliance are being ensured by Independent verification Team (IVT), Independent safeguard auditor firm- third party consultant. However, it can be mentioned that the safeguards compliances including environmental, social, Health and Safety (ESHS) are screened at seven layers experts as per the World Bank agreements with borrowers' country level and Operational manual of borrowers.

The World Bank has independent experts and mechanism for ensuring the safeguards compliances at borrowers' level. The World Bank experts team members also monitor the borrower's compliance with all safeguard requirements stipulated in the loan agreement and project operating or credit regulations implementation at ground level during their support missions at quarterly or half yearly basis. The point is why the World Bank or other international development agencies are facing problems in ensuring safeguards compliances at municipality level in India instead of the several layers of implementation, management, monitoring and verification.

The author based on his association with various other projects is of the opinion that there are several implications and gaps that

affect compliances of safeguard policies and law's at municipality level. Some of the implications that have been observed by the author are as - (i) issues in contract management- Borrowers are reluctant or not able to mobilize the team member/experts who were proposed during the bid process management or in agreement and thus, projects suffer a lot; (ii) lack of peoples participation and other stakeholders consultations and their involvement at different stages of the project; (iii) Lack of motivation and reluctances among the borrowers to implement safeguards policies; (iv) Borrowers are not ensuring technical expertise and motivation to implement safeguards at contractor level; (v) Unnecessary interferences of the outsiders particularly the local leaders, in the project; (vi) Reluctance on part of some of the management and decision makers, particularly, who are specially Technocrats having engineering background are not interested in involvement of the local masses and compliances of safeguards policies. They are interested only in physical infrastructure development activity , ignoring the importance of environmental and social issues involved under the project; (vii) Similarly, Environmental and social safeguard experts involved under the project have not freedom to work freely and independently; (viii) Lack of awareness among the stakeholders including local persons about the project and its various components; (ix) Existing working system not conducive to work freely; (x) Borrowers not interested in finding the solutions of the problem, instead they believe in hiding the facts; (xi) Creation of different layers in project without appropriate involvement of municipalities where urban projects are to be implemented; (xii) some of the institutional constrains; and (xiii) Lack of relative roles of baseline description and impact prediction at borrower level.

The International development funding agencies like World Bank are also having some of the challenges like limited enforcement mechanism of the Panel. The Panel investigates and at times, monitors compliances and implementation of World Bank policies and procedures. However, it cannot compel the bank to abide by their decisions. The Banks also do not have sufficient monitoring and evaluation (M&E), process of implementing the safeguards especially the implementation of involuntary resettlement policy [7].

To improve the level of safeguards compliances in the infrastructure development projects are required to implement some of the remedies like improving the contract management system such as during the mobilization of experts by the consultants/agencies it is to be to ensured that they must be in accordance with the contract document. Borrowers are required to provide freedom and power to safeguards experts at each level. International development funding agencies must enforce the borrowers to create separate wing / unit which should be headed by environmental and social field experts, at each level especially looking for safeguards compliances rather than designate/nominate or engage individual experts. Indian Government is required to provide license / power for environmental, social, health and safety experts like Chartered Accountants (CAs), Doctors and Architects, etc. Meaningful public consultation at each stage of the project must be the prerequisite based on the realities and need of the project area. Similarly, involvement of Women, vulnerable communities, project affected persons and

other stakeholders at each level of the project is must not as the generic formalities, rather it is to ensure that their views and concerns are taken seriously. Bank must ensure the capabilities, expertise and intension of the borrower pertaining safeguards during appraisal of the development project.

## CONCLUSION

Finally, through the lens of the Safeguards expert, the international funding agencies policies and borrower country laws along with state provisions are theoretical instead of practical that can be implemented on the ground. There are several challenges, gaps and implication in the compliance of safeguards policies at different levels including financing institutions (World Bank and ADB, etc.) [8,9], and borrowers. For implementing the safeguard policies and ensuring the compliances on the ground, financing institutions must be focused on meaningful stakeholders' involvement at different stages of the project. Independently working spaces for safeguards professional without any pressure or fear and assessment of the capacity and technical expertise of the borrower along with technical and managerial capacities development are also to be ensured.

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