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A Review of Implementation Gaps in the Enforcement of Environmental Regulation in India

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1. Introduction

The Judiciary observes in the opening line of the judgement of the Supreme Court on CRZ pertaining to the *Indian Council of Enviro-Legal action vs. Union of India 1996*, that if the mere enactment of laws can ensure a clean environment, perhaps India would be pollution-free¹ and opines that despite enactment of several laws the desired result has not been achieved due to their poor implementation. The Legislature highlights, through the recent report of the Parliamentary Committee on Science & Technology and Environment and Forests on 'Functioning of the Central Pollution Control Board' (henceforth referred to as the Parliamentary Committee), the various inadequacies in structures and mechanisms of implementation of pollution prevention and control in India. Civil society rhetoric has repeatedly articulated that environmental legislation has been systematically weakened to provide a better climate for development projects to languish by removing legal impediments².

Overall, it would be stating the obvious to say that the scenario of implementation of environmental regulation has followed a declining curve. When superimposed on a sine curve of formulation of effective regulation, clear and undesirable gaps in enforcement emerge exemplifying the frustration of environmentalists, researchers and activists working to improve environmental protection. The regressive trend has prompted NGOs to even conduct the "funeral" of the Ministry of Environment and Forests (MoEF) for its poor implementation track record.

2. Excessive reliance on courts

Given this era of poor implementation, the Supreme Court of India has stepped in or has been looked up to time and again for improving implementation. This judicial activism led 'ad-hoc' implementation has, over the years, transformed the role of the courts to that of a policy maker, and even an educator³! In the case of environmental legislation, it becomes abundantly clear with the saga of implementation of hazardous waste management in the country where the Supreme Court, for many years, donned the role of implementer to discipline polluting industries⁴.

2.1. Hazardous waste management

In the mid-90s, following a writ petition⁵, the Supreme Court took cognisance of the growing mismanagement of hazardous waste and constituted a 'High-Powered' committee chaired by Prof.MGK Menon to look into the problems and present the findings periodically for immediate and appropriate action. The comprehensive review was necessitated primarily due to the myriad issues for consideration and shed light on several flaws in the administration of the hazardous waste legislation.

¹ Divan, Shyam & Rosencranz, Armin; Environmental law and policy in India; 2nd edition; OUP; 2002; pp82-83

² Open Letter to MoEF, 29th October 2004, www.kalpavriksh.org

³ Divan, Shyam & Rosencranz, Armin; Environmental law and policy in India; 2nd edition; OUP; 2002; pp1

⁴ Writ Petition No.657/95, Research Foundation for Science, Technology and Natural Resource Policy v/s Union of India and ors.

⁵ Supra

The various areas that the recommendations covered include - the need for immediate closure of industries operating without authorisation or without having fulfilled the conditions under which the consent to operate was established; the development of clear mechanisms for improved implementation; the need for environmental protection authorities to adhere to the purposes of their creation and the creation of structures and agencies that would supplement or supervise in order to ensure implementation remains effective⁶. The committee concluded with a significant recommendation of setting up a monitoring committee akin to the role of a 'project manager' to ensure that the tasks that required to be carried are time bound out and more importantly supervised.

Based on the report of the MGK Menon committee, the Supreme Court passed a detailed order on the issue of implementation of hazardous waste management in October 2003. As recommended, the Honourable court also constituted the Supreme Court Monitoring Committee (SCMC). The SCMC, while supervising the execution of the order, passed directives from time to time to the SPCBs on pressing issues - control of flaring by petrochemical plants in Manali Industrial Area (North Chennai), on closure of units in Cuddalore SIPCOT Industrial Area (Cuddalore, TamilNadu) or remediation/restoration orders pertaining to the mercury pollution caused by a thermometer manufacturing plant⁷ (Kodaikanal, TamilNadu), to name a few in the state of TamilNadu alone.

Further, the SCMC, in consonance with the order, directed the SPCBs to convene Local Area Environment Committees (LAECs) to assist in implementation at the level of the region (town, industrial estate, industrial clusters or individual industries). These LAECs included members of the local community, experts and NGO representatives and were meant to be the 'eyes' and 'ears' of the SCMC in reporting mismanagement and violations.

2.2. Ship-breaking at Alang

In the course of the writ petition, the arrival of international ships to Indian shores for dismantling evinced further action from the court. A case in point is a warship named *Clemenceau* - 27,000-tonne decommissioned French aircraft carrier laden with asbestos, Poly-Chlorinated Biphenyls (PCBs), lead, mercury, and other toxic chemicals - which is now headed for Britain⁸ for being dismantled and which was originally proposed to be broken for scrap at Alang, Asia's largest shipbreaking yard⁹. Environmental groups agitated against this proposed move on the grounds that the level of hazardous substances especially asbestos was very high and on the potential violation of international moratorium¹⁰ on transboundary movement of hazardous waste. The issue was also brought to the notice of the Supreme Court Monitoring Committee (SCMC) on Hazardous Waste and Chemicals which had to intervene in the

⁶ Report of the High Powered Committee on Management of Hazardous Wastes - http://envfor.nic.in/cpcb/hpcreport/chapter_7.htm

⁷ Report of the visit of the SCMC to TamilNadu, September 20-22, 2004, http://www.sipcotcuddalore.com/scmc_visit_tamilnadu_092004.html

⁸ <http://www.hindu.com/2008/07/02/stories/2008070258410100.htm>

⁹ <http://www.thehindubusinessline.com/2006/01/04/stories/2006010403520900.htm>

¹⁰ Basel Convention on Transboundary Movement of Hazardous Wastes - <http://www.basel.int/text/con-e-rev.pdf>

matter. Close on the heels of the Clemenceau issue, another passenger liner, SS Norway or Blue Lady, also was sent to Alang whose fate was also left in the hands of the Supreme Court mired in the realm of technical considerations.

Alang as a case study¹¹ of ship-breaking exposed the shortcomings of regulatory enforcement, amidst an already long-drawn court intervention on hazardous waste in the country. While activists were disappointed at the differential treatment for the two ships, the litigation paved the way for the development and enforcement of detailed technical guidelines¹² to be followed on ship breaking in India, especially for ships containing asbestos and asbestos containing materials (ACM) – a function expected of the CPCB & Gujarat SPCB, which itself made only a limited contribution in assessing asbestos levels.

2.3. Coastal protection

Enacted in 1991 with an understanding that the shore and the coastal ecosystems are significant ecological entities, the Coastal Regulation Zone (CRZ) Notification has been a unique piece of legislation that environmentalists have held on to dearly. Over the 18-odd years of its existence, the CRZ has been widely used, variously interpreted and badly implemented. Setting aside for now the amendments the law has undergone, the text of the Notification has been the main point of criticism amongst practitioners. For example in a case¹³ concerning a dispute over a construction project in an ecologically sensitive estuarine area in the city of Chennai, the court cleared the construction equating a ‘mud path’ to a road. The notification did not define the term “existing road” which was a critical regulatory condition for coastal development in CRZ II areas (areas that are referred to as “substantially built-up areas” in the Notification). Many other such cases have been heard in coastal states of Goa and Karnataka, where terms such “traditional uses”, “temporary constructions” etc. have been left to courts to interpret and hand over to the implementers. In most cases, it is argued that court interpretation has not achieved the desired result espoused by the Notification.

3. Criticisms of court-led implementation

Courts enforcing the law by calling upon the implementers to do their duties, by disciplining industries, through imposition of penalties, by awarding compensation and by-and-large allowing judicial activism to flourish through Public Interest Litigation (PIL) have all been welcomed. Nevertheless, there have been criticisms of such court-led implementation in environmental issues.

The first criticism is that of the Supreme Court itself. Taking the case of hazardous waste, it is seen that the Supreme Court has ignored its committee's reports in numerous instances. Nityanand Jayaraman, Corporate Accountability Desk, remarks, “The SCMC's directions and observations were lofty and pointed to grave violations of the law, as

¹¹ Section 3, Order I.A. No. 34 of 2006 IN WRIT PETITION (CIVIL) NO. 657 OF 1995, S.H. Kapadia, J, 11/09/2007

¹² Order, WRIT PETITION (C) NO. 657 of 1995, (With SLP) No. 16175/1997, C.A. No.7660/1997 and Suo Motu Con.Petition 155/2005)

¹³ WP 8030/2000 Consumer Action Group vs Union of India & ors.

in the instance of the Sterlite¹⁴ expansion. But no action was taken. In the instance of Cuddalore (SIPCOT¹⁵ Industrial Estate), orders were to bring pollution under control by December 2004. Till date no change has happened, and the SCMC has not followed up.”

The next criticism is that not all problems get heard, even while the PILs have been made procedurally easy to file and argue. In the cases of closure of industries, legal practitioners opine that neither all the industries likely to be affected, nor the workmen employed in the industries were heard while passing orders, as a result of which the aggrieved parties flooded the court with petitions taking up a huge portion of the court's time¹⁶.

Another area of concern with the reliance on courts in environmental matters is the courts' dependence on amicus curiae and scientific/expert committees. The creation of such committees, like seen in the hazardous waste case discussed in the earlier section, often undermines the roles played by concerned government agencies. The end result, the officers are called upon for such functions and the actual functions of these officers (which are often that of monitoring and enforcement) get neglected. With respect to amicus curiae, which are often seen in PILs where the court feels that the petitioner could not articulate the various aspects of the case, the jury is still out on whether the court becomes dependent on the amicus and shuts out the petitioner from being heard¹⁷.

Whilst the courts increasingly pull up implementers for failing in implementation, growing resentment and resistance are seen amongst the agencies. In the case of hazardous waste, the implementation of the court order leaves a lot to be desired¹⁸, as seen from the fact that the LAECs did not enjoy the support of the SPCBs, and the lack of progress in creation of toxic inventories. Another dimension to this resistance, according to legal consultants, is portrayed in the example of the Delhi vehicular air pollution case and the mandatory CNG (Compressed Natural Gas) conversion for commercial and government vehicles. The court was mostly insistent on implementation of its order for conversion when the government was articulating the issues of supply, cost and technology thus raising concerns of the wisdom of the order itself¹⁹.

More recently, a judgement of the Delhi High Court relating to the National Environment Appellate Authority (NEAA) depicts the court's own frustration of government apathy in implementation²⁰. Such trends are interpreted as being a direct result of a growing interference of the judiciary in matters of the executive and the overstepping of the judiciary in its role in merely enforcing the law.

¹⁴ Sterlite Industries copper smelting plant at Tuticorin, Tamilnadu

¹⁵ Small Industries Promotion Corporation of TamilNadu

¹⁶ Desai, Ashok H. & Muralidhar S.; Public Interest Litigation - Potential and problems; International Environmental Law Research Centre; Available at <http://www.ielrc.org/content/a0003.pdf>

¹⁷ Supra

¹⁸ Pers Comm with Gopal Krishna, activist and petitioner in the Clemenceau and Blue Lady cases

¹⁹ Geetanjoy Sahu; Implications of Indian Supreme Court's Innovations for Environmental Jurisprudence; Law, Environment and Development Journal (2008); pg 375; available at <http://lead-journal.org/content/08375.pdf>

²⁰ <http://indiatgether.org/2009/feb/env-neaa.htm>

4. Institutional problems of implementing agencies

In this section, we take a closer look at the micro-issues concerning the functioning of the agencies, particularly the pollution control boards, which have created gaps in implementation. The Comptroller and Auditor General (CAG) of India's recent report card on municipal solid waste²¹ squarely blames the pollution control boards for failing to address waste management issues. The author's personal experiences with engagement on this subject and other areas with the enforcers substantiate that huge systemic lacunae exist. Without measures to plug these, improvements in enforcement would be a far cry.

4.1. Lack of technical expertise

The growing number of industries, the increasing types of industries and the growing number of functions of the Boards²² dictate an urgent need for capacity building within the SPCBs and the CPCB. While three separate initiatives with World Bank assistance (including the Environmental Management Capacity Building (EMCB) programme) are under way, the results of these exercises are still to materialise with respect to achieving pollution mitigation. This view is echoed by the Parliamentary Committee and it has noted that multi-disciplinary training to control the various forms of pollution is not made available to the engineers of the CPCB.

If the CPCB therefore is not technically competent, it would not be hard to imagine the condition of the SPCBs. The situation has been evident with the case of the TamilNadu Pollution Control Board and its implementation of the bio-medical waste rules²³ enacted in 1998. Environmental groups based in Chennai had raised the alarm consistently²⁴ on the need to step up the efforts and it was only through the initiatives and knowledge shared by such groups that the Board's engineers' capacity has been built. The author himself has been personally involved in innumerable training sessions to help develop an understanding of the law, the emerging technologies and their applications, and methodologies for enforcing compliance.

4.2. Lack of man power

The absence of technical capacity is compounded by the lack of technical man power within the Boards. Again, an observation made by the MGK Menon committee and reiterated by the recent report of the Parliamentary committee. In addition, the experiences of the SCMC implementing the October 2003 Supreme Court order on hazardous waste, have led to a recommendation to SPCBs to lift any recruitment bans²⁵. The author's presence in the LAEC of Manali industrial estate (January – June 2004) revealed that only one District Environmental Engineer alone was overseeing two

²¹ http://www.cag.gov.in/html/reports/civil/2008_PA14_SD_civil/Exec-Sum.pdf

²² <http://www.cpcb.nic.in/faq2.php>

²³ Bio-medical Waste (Management & Handling) Rules 1998

²⁴ *Healthcare-less*; CAG (Citizen consumer civic Action Group) & Toxics Link; 2000 & *Status Report on bio-medical waste*; CAG & Toxics Link; 2002

²⁵ Directive against reopening of Coke plant, *The Hindu*, 20 July 2005; Available at <http://www.hindu.com/2005/07/20/stories/2005072012370400.htm>

heavy industrialised belts (Manali and Ambattur), and is not often available immediately when communities complain of gas/odour leaks from factories. According to former Board officials, the policy of recruitment through employment exchanges is too long-drawn and does not attract the right manpower. Direct recruitment to the Boards would be the most suitable option²⁶.

Exercises such as monitoring and enforcement have almost 24/7 requirements which in turn mandates a bigger workforce. The problem of lack of insufficient workforce is unequivocally stated in the Parliamentary committee report,... "a Gujarat SPCB technical person spares 1.77 days to monitor an industry in a year, the Karnataka SPCB technical person 1.72 days a year and a Maharashtra SPCB technical person 1.23 days a year". The submission²⁷ of the CPCB to the committee reveals that amongst technical staff 17 posts of 'Assistant Environmental Engineer' and 22 posts of 'Junior Scientific Assistant' remain vacant.

In addition, the Finance Ministry's policy to scrap vacant positions of scientific departments after one year seems flawed. The posts could potentially be lying vacant owing to the lack of availability of suitable candidature, however the situation may change. It is quite unreasonable to assume that simply because the post has remained vacant it has lost relevance and thus could be scrapped.

4.3. Lack of funding support & lack of revenue generation

The CPCB and the state boards are heavily reliant on the funds directly provided by the MoEF. The SPCBs especially receive only marginal funding from the Central Government and mostly through specific projects to be executed at a state level. According to the CPCB²⁸, the SPCBs are dependent on the reimbursement of cess/tax collected under the Water (Prevention and Control of pollution) Act and other consent and authorisation fees imposed on industries.

The Departments of Environment at the State level also face a similar problem, being unable to enforce laws due to adequate financial support. For a country with about 7500 kms of coastline, the Coastal Regulation Zone (CRZ) Notification 1991 set out a range of activities for its own implementation such as preparation of maps, coastal zone management plans and zone demarcations. Such a significant statute was not backed up with funding support, thereby all the above activities necessary for its effective implementation did not quite enthruse the state governments.

4.4. Lack of technology capacity

At one level, there are reasonably sophisticated labs, equipment and infrastructure, however field-level monitoring needs to be bolstered if newer pollutants and forms of pollution need to be monitored and mitigated. Some of the modern and more hazardous pollutants are still not under the radar, nor are there any standard prescribed for them. The technological gaps of the monitoring and implementing agencies can be

²⁶ Pers. comm. Dr.V.N Rayudu, Ex-TNPCB engineer, interview conducted on 19 May 2009

²⁷ Annexure 1; 192nd report of The Parliamentary Committee on Science & Technology and Environment and Forests on 'Functioning of the Central Pollution Control Board'

²⁸ <http://www.cpcb.nic.in/faq2.php>

best explained with some extracts of the report of the Parliamentary committee – “out of 332 monitoring stations number of them are not online.....only criteria pollutants (SO₂, NO₂, CO & SPM) are being monitored....number of other hazardous pollutants like VOCs, BTX, PAHs, PM 2.5, Ozone etc. present in the ambience are neither being monitored nor any standards been set for them”. The report also mentions that, “ambient air quality monitoring network should be strengthened and expanded...to atleast 1000 stations”.

Moving on, the information from the monitoring stations is collated by the CPCB and shared on its website²⁹. Such a passive form of dissemination of information may help research agendas but is not construed as beneficial in building a pro-active agenda for mitigation. The use of modern information and communication technology tools would find favour with citizens, if pollution information is broadcasted as alerts to people informing them of the health risks in their regions.

4.5. Lack of power and accountability

The provisions of the Environment (Protection) Act 1986 make the Central Government/MoEF the chief custodians of the environment³⁰. Even though powers have been devolved to the CPCB to take action the centre retains the power of revoking such actions ultimately rendering the CPCB devoid of any legal authority.

Ironically though, it appears that the SPCBs have a free run when it comes to implementation. A specific example is the manner in which SPCBs implement the Water (Prevention and Control of Pollution) Act 1974. Section 25 (4)(a)(iii) & (7) of the above Act reads as follows:

“(4) The State Board may ~

(a) grant its consent referred to in sub-section (1) subject to such conditions as it may impose,

(iii) that the consent will be valid only for such period as may be specified in the order,

(7) “The consent referred to in sub-section (1) shall, unless given or refused earlier, be deemed to have been given unconditionally on the expiry of a period of four months of the making of an application in this behalf complete in all respects to the State Board.”

This provision applies to the consent procedure for industries. While setting up additional facilities for trade effluent discharges, consents need to be obtained from the SPCB. Without a speedy and effective mechanism of granting consents, the SPCBs turn a blind-eye, and without being questioned by the Ministry or CPCB, willfully allow many industries to enjoy “deemed consent” status³¹. In a related enforcement slackness, often conditions are placed by the Board before such a consent is granted. Owing to the non-compliance with such conditions, the consent is not renewed by SPCB and

²⁹ www.cpcbcbdb.nic.in

³⁰ Sec 3,5; Environment (Protection) Act 1986

³¹ http://www.dnaindia.com/mumbai/report_npcb-clearance-a-click-away_1099743, accessed on 14 June 2009

industries continue to function “illegally”. In such a situation, SPCBs do not act speedily to book erring industries and allow escalation of water pollution³².

Thus Parliamentary Committee rightfully concludes that, “The committee feels that our experiment with the existing framework/model i.e. simultaneous existence of two parallel Boards one at the Central and the other at the State levels each one working as independent and autonomous entity in its own capacity with no central authority to command and control, has led us to nowhere over the last 33 years”³³

5. Political influences in environmental regulation

5.1. Re-engineering of the EIA and CRZ notifications

Let us consider the CRZ Notification at this juncture. Issued in 1991 and touted as a progressive law, it is now a ‘toothless tiger’ due to innumerable amendments mostly of the nature of exemptions for development activities³⁴. This is diametrically opposite to its stated objective of protection by regulating development activities³⁵. The original notification had very good intentions but stopped short of defining certain key elements on which the law was built upon thus leaving it open to various interpretations and ambiguities. Citing these as the very reasons for a revamp of the Notification, the MoEF constituted the MS Swaminathan committee to review the CRZ. The revamp envisaged a change of regime from that of a regulatory approach to a management approach, which is claimed as an undemocratic, regressive and an attempt at dilution by public interest NGOs³⁶

As tinkering of the CRZ was going on, the Centre championed the comprehensive rehaul of the EIA law (Environment Impact Assessment Notification 1994), perhaps the only environmental statute that enshrines ‘an invited space’ for public consultation through the public hearing process. Using investment as a reason to revisit these laws in totality the Govindarajan Committee on Investment reforms was constituted and the committee in its final report had pointed to some of the environmental and forest legislations as potentially hindering a pro-investment³⁷ and pro-development climate. Citing the delays caused due to clearance procedures, including the public hearing process, the MoEF armed with the Govindarajan committee recommendations embarked on and has completed a re-engineering of the EIA. This move has come under heavy criticism from the pro-environment lobby³⁸ who argue that badly done

³² *Citizens’Action, Water Pollution and Public Health - An analysis of administrative and implementation dimensions*; Report by Department of Politics & Public Administration, University of Madras, Foundation for Sustainable Development, IIT Madras, Chapter 5, pp 97-98.

³³ 192nd report of The Parliamentary Committee on Science & Technology and Environment and Forests on ‘Functioning of the Central Pollution Control Board’; Available at <http://164.100.47.5:8080/committeereports/reports/EnglishCommittees/Committee%20on%20S%20and%20T,%20Env.%20and%20Forests/192%20Report%20CPCB.htm#A4>

³⁴ Amendments to the CRZ Notification 1991 available at <http://envfor.nic.in/legis/legis.html#D>

³⁵ <http://envfor.nic.in/legis/crz/crznew.html>

³⁶ Comments on the draft CMZ notification, 2008; submitted by Citizen consumer and civic Action Group (CAG) to the Secretary - Government of India, Ministry of Environment and Forests, New Delhi On 3rd July 2008

³⁷ Presentation made by Mr.Arun Shourie during the release of the *Report on reforming investment approval and implementation procedures, part II*

³⁸ Saldanha, Leo F.; Naik, Abhayraj; Joshi, Arpita; Sastry, Subramanya; *Green Tapism - A Review of the Environmental Impact Assessment Notification - 2006*; Environment Support Group; 2006

EIAs by consultants engaged by project proponents and the state governments³⁹ who fear “federalisation” of powers are the main reasons for delays in project clearance and implementation. Subsequent to the re-engineering, the Centre also appointed a member of the said committee as the next Secretary of the MoEF.

Thus, a proposed Coastal Management Zone (CMZ) Notification that will replace the CRZ is on the anvil, while the new Environment Impact Assessment Notification has already been legislated in 2006 – both laws signal the lack of political commitment in safeguarding environment with effective regulation.

5.2. Single-window clearance acts

A significant development in industrial projects establishment has been the enactment of Single Window Clearance Acts by many states beginning with Andhra Pradesh. The objective is to help fast-track the clearance of projects. For example, under such an act it is possible to get clearance for projects under one crore at the district level and projects above one crore within a 45-day time period⁴⁰. Ironically, the High-Powered Committee on Hazardous Waste recommended that industrial establishment should not be a political decision but a well-planned process⁴¹. Such statutes undermine the rigour necessitated for studying environmental impacts and associated social concerns and will run antagonistic to the enforcement of existing regulations.

6. Roles of Ministries and State governments

The authority of giving environmental clearances to projects has been contested repeatedly by the state and central agencies. While the Centre seems to want to retain control over such an authority, the State often feels unimportant in the case of large development projects coming up in its region – its role is limited to granting just a No Objection Certificate (NoC). A case in point is the petition filed by Punjab Chief Minister with the Prime Minister and Minister for Environment & Forests, asking for enhancement of the limit of Rs.50 crore set by the EIA notification 2006, in providing provisional NoCs to expedite setting up of development projects⁴².

The oppositions from state governments came even prior to the enactment of the new notification in 2006. The stipulated sub-categorisation of projects to be cleared by the State required a screening in order to decide whether the Centre or State needs to be giving clearance. This was the bone of contention, where in the states maintained that such an additional step is cumbersome and would not promote a decentralisation of clearance processes⁴³. For long, the MoEF has been criticised for additionally performing the role of providing clearances instead of attending to more macro-tasks of environmental protection.

³⁹ <http://indiatogether.org/2006/jun/env-ciastates.htm>

⁴⁰ *Licences in 45 days under AP single-window Act*, The Hindu Business Line; 23 August 2002; available at <http://www.blonnet.com/2002/08/23/stories/2002082300221700.htm>

⁴¹ Supra note 6

⁴² *Eco factor delaying mega projects*, Indian Express, Thursday, July 12, 2007 available at http://cities.expressindia.com/local-news/archivefullstory.php?newsid=245504&creation_date=2007-07-12

⁴³ <http://indiatogether.org/2006/jun/env-ciastates.htm#continue>

This centre-state confusions, or rather animosities, have resulted in lax implementation of laws and maybe seen glaringly in the case of CRZ implementation. The lack of preparation of coastal zone management plans, High Tide Line demarcation etc. were not actively pursued owing to the fact that the state was not supported by funds and that the notification was imposed on states without adequate consultation⁴⁴. In a quasi-federal democracy set-up in India where the states are consulted after the centre decides a course of action these issues will continue be a roadblock for effective environmental enforcement unless states are democratically involved.

7. Focus areas for improvement

Having reviewed a range of lacunae that led to shortcomings or failures in effective implementation of environmental regulation there are some key areas where immediate action is required.

A comprehensive review of environmental regulation maybe necessary and this should begin with the two major notifications - the EIA and the CRZ. The review should be able to (a) address shortcomings in existing provisions, (b) roll back amendments that amount to dilution and (c) provide a comprehensive framework for public participation in re-formulation and implementation. Coupled with such a review, efforts to harmonise policy directives of states and state-level laws (such as single-window clearance acts) with existing environmental legislation should be undertaken.

Such a review would be meaningless if the agencies implementers and regulators are not strengthened with provision of adequate technical support, financial autonomy, clear decision-making powers built into accountability mechanisms.

Finally, a critical area of focus that often left out in implementation is the support of the citizenry. Participatory implementation models such as the LAEC have been experimented and met with reasonable success. The learning from such models needs to be refined and incorporated into monitoring and enforcement mechanisms. Over time, such efforts would build trust amongst industry, government and public at large, and facilitate holistic implementation.

⁴⁴ Pers Comm with Dr.S.Neelakantan IAS, former Director, Department of Environment, GoTN.