

Ms. Sonia Gandhi
Chairperson, NAC
2, Moti Lal Nehru Marg,
New Delhi

20th October, 2004

Sub: Citizens' concerns regarding the draft National Environment Policy

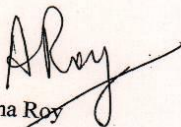
Dear Ms. Gandhi,

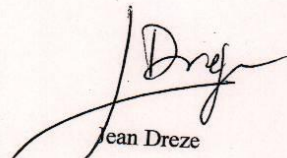
As you are aware the Ministry of Environment and Forests (MoEF) has proposed a National Environmental Policy in August 2004. I enclose for the consideration of the NAC at its next meeting the comments and feedback on the same from a large number of civil society organisations, groups and experts from across the country.

Meanwhile, we wish to draw your attention to an urgent request made in this note, namely that **the deadline for finalisation of the National Environmental Policy should be extended beyond the 31st of October 2004, so that a broad based process of consultation maybe initiated in the light of the Common Minimum Programme.**

With regards,

Yours sincerely,


Aruna Roy


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To: National Advisory Council
New Delhi

18 October, 2004

Citizens' Concerns regarding the draft National Environment Policy

The Ministry of Environment and Forests (MoEF) has put up a draft National Environment Policy, in August 2004, for public inputs. Citizens' groups across the country have expressed serious reservations about the process and substance of the NEP. Of special concern is the fact that the draft Policy in many parts runs contrary to the stated objectives of the government's Common Minimum Programme. In particular, the following points have been made by several groups and networks involved in various issues relating to environment and development:

1. The draft NEP appears to subordinate environmental interests to short-term economic growth, by providing a 'green' face to powerful vested interests. It displays a very strong "economic fundamentalist" approach, which assumes that market and economic instruments will solve basic environmental problems. This is illustrated by its approach to pollution, international trade, environmental standards, and other such issues. The NEP hardly manages to achieve the CMP's commitment to "reconcile the objectives of economic development and environmental conservation".
2. The draft attempts to weaken the already inadequate regulatory mechanisms meant to safeguard the environment. This is illustrated by its approach to 'simplify' or 'reduce delays' in key regulations such as the Coastal Zone Regulation notification (with potential adverse impact on livelihoods on several million fisherfolk), and Environmental Impact Assessment notification (which are unfortunately seen as obstacles to development whereas they are strong tools for making development truly sustainable).
3. The draft pays lip-service to the livelihood dependence and rights of adivasis and other ecosystem-dependent communities in India, and in so doing seriously deviates from the core focus of the CMP, in which the government reiterates being "wedded to the welfare of... weaker sections of society".
4. The draft retains an exclusionary approach to wildlife conservation, and in the case of protected areas implies that there will be further displacement and dispossession of people traditionally dependent on these areas. This runs counter to the CMP's commitment that "eviction of tribal communities and other forest dwelling communities from forest areas will be discontinued."
5. It also deviates from the CMP and from stated government commitments to genuine political decentralisation, by dealing with "people's participation" at a superficial level, and providing virtually no concrete powers to people's institutions at local levels.
6. The process of drafting the NEP, and of discussing it in the public domain, has been profoundly undemocratic. There has been very little meaningful consultation with environmental NGOs, and perhaps none with village communities. The fact that the draft is still only available on the internet, only in English, and with a very short time

period (of 75 days) for public inputs, puts it out of reach of most people in India. This makes a mockery of the CMP's commitment to "provide a government that is... accountable at all times" and "that is responsible and responsive at all times".

7. The draft is weak from a technical and scientific perspective, missing out critical conservation priorities (such as marine areas), ignoring a number of innovative technological solutions, failing to move into integrated land and water use planning, and leading to unacceptable compromises of environmental standards in lieu of other considerations.

We urge that the NAC:

1. Take note of the discordance between the draft NEP and the CMP, as mentioned above, and accordingly instruct the concerned ministry to ensure that any such policy confirms to the principles of ecological sustainability, priority to rural poor and their secure livelihoods, and the centrality of public participation and accountability at all levels of decision-making.
2. Also instruct the concerned ministry to considerably extend the deadline of finalisation of the NEP, so that the many genuine concerns of the people, regarding both the process and the content, can be addressed.
3. Consider initiating a process of consultations with people's groups, communities, NGOs, and others across the country, to ensure that the NEP is made consonant with the CMP and much more sensitive to both environmental concerns and the needs and rights of local communities.

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C.P. Geevan, **Centre for Environment and Social Concerns**, Bhuj, Gujarat

Kanchi Kohli, **Kalpavriksh**, Delhi/Pune

Mahesh Pandya, **Paryavaran Mitra**, Ahmedabad

Madhu Sarin, Development planner, Chandigarh

Shekhar Singh, **National Campaign for People's Right to Information**, Delhi

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**Why is the Government Systematically Undermining
the Environment?**

As people's groups, NGOs, and mass movements, we are deeply concerned and anguished at the way governments over the last few years have severely undermined the importance of environmental issues in decision-making. In particular, the role of the Ministry of Environment and Forests (MoEF) seems increasingly to be that of simply a clearing agency for unsustainable and destructive economic and commercial activities. To make matters worse, the MoEF appears to be systematically undermining the participation of citizens in its decision-making process, and has become more and more closed in its functioning. Lack of transparency not only reduces public participation, it is also a way to avoid serious scientific scrutiny. These trends seem to have become worse in the last few years, such that the lay person is left wondering: is the mandate of the MoEF to help industries and 'developers' by-pass or get over environmental regulations, rather than safeguard the country's environment?

Several actions of the MoEF (and of GOI in general) point to the following broad trends:

1. Severe reduction in opportunities available to citizens to input into MoEF (and GOI) decisions, and in the seriousness with which MoEF considers such inputs;
2. Decline in the ability and willingness of MoEF to ensure that 'development' processes and projects (e.g. in hydro-power and infrastructure) are oriented towards integrating environmental and social concerns.
3. Declining emphasis on improving regulation and regulatory mechanisms, and instead pushing for 'voluntary' and 'market based' instruments.

Examples of the above (which have been clearly pointed out to the government) include:

1. **The notification of the Biological Diversity Rules 2004:** These Rules notified under the Biological Diversity Act 2002, are scientifically unsound, considerably undermine the role of local communities in safeguarding biodiversity and traditional knowledge, and have *completely* ignored the very many sound inputs provided by NGOs and activists when the draft Rules were first put out by MoEF. These Rules actually dilute the spirit and letter of the Act, which in any case was not fully adequate in its provisions regarding conservation, sustainable use, and equity.
2. **The dilution of notifications under the Environment Protection Act:** Over the last few years MoEF has considerably reduced the scope and weakened the provisions of various notifications and rules under the Environment Protection Act 1986. The promulgation of this comprehensive Act had in 1986 indicated that the government was committed to environmental conservation, and towards making development projects sustainable. However, a series of dilutions (about 30 in all!) have considerably weakened various notifications under the Act. The dilutions include: (in the case of the Environment Impact Assessment notification) public hearings being dropped for projects such as the widening of highways and mining leases for major minerals under 25 ha.; (in the case of Coastal Regulation Zone notification) allowing Special Economic Zones, effluent treatment plants, industrial salt pans, and the mining of atomic minerals in coastal areas. These dilutions have significant impacts. For instance, in the case of the mining projects, Indian Bureau of Mines data shows that almost 50% of the mining leases for major minerals are below 25 ha (and they add up to tremendous environmental and social destruction).

Simultaneous to these dilutions, regulatory norms are being eased for developmental projects and industries. A MoEF press release in June this year on "good practices" to be adopted to facilitate 'expeditious decision making' stated that no application (for clearance) will be rejected on procedural grounds alone. This could mean that applicants could get clearance even when they provide incomplete and inadequate information.

3. **The clearance of 'development' projects without adequate assessment:** There are many shocking instances where MoEF has given clearance to dams, mining, roads, ports, industries, and other projects, without an adequate environmental impact assessment or without ensuring that environmental safeguards are built into the project. This is not surprising because increasingly members of various environmental clearance expert committees of MoEF, have little or no independent environmental record or credibility. NGOs and community groups have frequently pointed out such faulty decision-making, and have provided strong evidence of the dangers posed by such projects, but have been consistently ignored. Examples of this abound: Lower Subansiri hydro power project (Arunachal Pradesh), Allain Duhangan H-E project (Himachal), Teesta Low Dam (W. Bengal), Bodh Ghat project (Chhattisgarh), Raoghat Bauxite project (Chhattisgarh), and many others. Some of these projects even threaten many areas that governments have themselves declared protected for wildlife.
4. **Reluctance to insist that environmental conditionalities are followed by project proponents:** A large number of development projects cleared by MoEF do not fulfil the conditions under which they were cleared, yet MoEF has taken action on hardly any of them.
5. **Waste of capacity building funds:** A huge loan was received by MoEF some years ago, for "Environmental Management Capacity Building Programme" which essentially required: a) A comprehensive review of the Environmental Clearance Mechanism ; b) Preparation of Manuals for Environment Impact Assessment ; c) Development of an Environmental Information Centre and d) Environmental Law Capacity Building both for the Ministry and for other agencies. Yet this process has been developed with meager consultation, and despite the debt incurred, the results do not seem to have resulted in any significant improvement in the functioning of the MoEF.
6. **The framing of a National Environment Policy without public participation:** Having heard that MoEF is drafting a National Environment Policy, some of us have repeatedly asked for details on how this is happening and how citizens can make inputs. A draft was put up on the MoEF website on 21st August, for comments. There has been no other process of reaching out to the citizens of India for inputs to the Policy, in particular to local communities who do not access websites or read English. Moreover, what is the guarantee that this Policy will not be pushed through like the Biodiversity Rules 2004, completely ignoring public inputs?
7. **The delaying of the National Biodiversity Strategy and Action Plan (NBSAP):** Despite itself facilitating a uniquely consultative process over four years, to prepare the NBSAP, MoEF is now delaying its final approval, publication, and release. The reasons being given are that even as a final technical report, the draft needs to go through Cabinet approval, and that it needs to wait for the National Environment Policy to be finalised (though the process of framing this Policy began over three years after NBSAP did). We understand the need for the final NBSAP to get political (cabinet) approval, but there is no justification for delaying the printing and public release of the final technical report. MoEF is neither respecting the effort and time put into this process by tens of thousands of people, nor its contractual obligation to the Global Environment Facility and United Nations Development Programme (UNDP) who funded the process.
8. **Siding with the building lobby:** Rather than help conserve natural ecosystems against unchecked urban growth, MoEF has often tried to make the way easier for the building lobby. For example, instead of supporting people's groups to protect some of the last

remaining forest areas in the highly polluted city of Delhi, including parts of the Delhi ridge, MoEF has favoured the lobby that wants to promote the construction of five star hotels and shopping malls in this area. This is also despite the fact that these are critical water catchments and their destruction would result in the further lowering of an already very low water table in Delhi.

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10. **Lack of public discussion and transparency on genetic engineering:** Another example of the increasing opaqueness of functioning in the government is the lack of public participation in decisions regarding genetic engineering. This risky technology is being pushed through with no long-term safety tests, and almost no independent scientific or public inputs.

These are only a few of the many examples where MoEF in particular and the GOI in general, have undermined environmental issues and ignored public inputs. **In almost all such cases NGOs and affected people have protested, pointed to violations and destructive implications, and often even offered alternatives, yet all this has been systematically ignored.** Indeed, resistance to the trends by sensitive government officials themselves has been largely sidelined. Worse, there is no accessible platform on which MoEF (and GOI in general) can be made accountable to the public. It is not surprising therefore that citizens have had to take recourse to the courts to obtain justice.

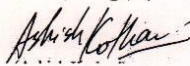
These trends have occurred within the context of both the previous government and the current one, providing almost no serious consideration to the environment. The previous government systematically undid many of the gains of growing ecological awareness and standards of the earlier decades. The current governments in its Common Minimum Programme has almost nothing on the environment. Nor has there been acknowledgement of the fact that tens of millions of people in India continue to depend directly on natural resources for their survival, livelihood, health, and future development with dignity. Indeed many of the decisions taken by MoEF have further reduced the access and rights of communities to livelihood resources and supported 'development' projects that impinge on community lands and resources.

We do believe, however, that the new government has the opportunity to reverse this trend. **It needs to take at least the following steps:**

1. Providing a legally mandated and explicit role for citizens (especially local communities) in the decision-making process within MoEF (and GOI in general). This can be done by including independent and credible representatives of communities and civil society in the various expert committees; ensuring that citizens' inputs in draft notifications and legislation are considered through a transparent process; strengthening the public hearing process for 'development' projects; constituting an independent monitoring and evaluation agency to assess compliance of environmental conditions and regulations; and other such measures.

2. Considerably strengthen the mandate and functioning of the Ministry of Environment and Forests, e.g. by increasing the number of technical experts and officials who are known for their commitment to the environment.
3. Centrally integrate environmental considerations across the entire decision-making process, right from the planning and design stage of economic sectors and projects and not only at the final stage of clearance. This includes, the strengthening of the EIA, clearance, and monitoring procedures.
4. Reviewing the Common Minimum Programme and its implementation from the environmental perspective, including through a serious consideration of environmental issues in forums such as the National Advisory Council (NAC). The NAC is a step towards more public participation in decision-making, but needs a greater integration of environmental concerns in its deliberations.

We urge the government to draw up a concrete action plan on how to take the above and other steps, to significantly improve the manner in which decisions are taken on environmental issues. This should include the setting up of an independent monitoring and evaluation body, comprised of community and civil society representatives, that can ensure environmental sensitivity in decision-making. While drawing up such an action plan, there should be active and meaningful participation of community organisations, people's movements, NGOs, and other civil society organisations.

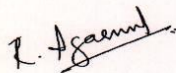


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On behalf of*:

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2. Ravi Agarwal, **Toxics Link**, Delhi

3. G. Ananthapadmanabhan, **Greenpeace India**, Bangalore
4. Sunderlal Bahuguna, **Save Himalaya Movement**, Tehri
5. Gautam Bandopadhyay, **People's Alliance for Livelihood Rights**, Raipur, Chhatisgarh
6. Jayanta Bandopadhyay, Environmental Expert, Kolkata
7. Amitabh Behar, **National Centre for Advocacy Studies**, Pune
8. Erach Bharucha, **Bharatiya Vidyapeeth Institute of Environment Education and Research**, Pune
9. Seema Bhatt, Biodiversity Consultant, Delhi
10. Prashant Bhushan, Advocate, Supreme Court, Delhi
11. Bharati Chaturvedi, **Chintan**, Delhi
12. Achyut Das, **Aragamee**, Kashipur, Orissa
13. Sripad Dharmadhikary, **Manthan**, Badwani, Madhya Pradesh
14. Dilip Gode, **Vidarbha Nature Conservation Society**, Nagpur, Maharashtra
15. Debi Goenka, **Bombay Environment Action Group**, Mumbai
16. Colin Gonsalves, **Socio-Legal Information Centre**, Delhi
17. Pandurang Hegde, **Appiko/Prakruti**, Sirsi, Karnataka
18. Ramaswamy Iyer, Former Secretary, Ministry of Water Resources, Delhi
19. Bharath Jairaj, Citizen, **Consumer and Action Group**, Chennai
20. Nalini D. Jayal, **Himalaya Trust**, Dehradun
21. Asmita Kabra, **Samrakshan Trust**, Delhi/Madhya Pradesh
22. Smitu Kothari, **Lokayan**, Delhi
23. Ashish Kothari, **Kalpavriksh Environmental Action Group**, Pune/Delhi
24. Ashok Kumar, **Wildlife Trust of India**, Delhi
25. Souparna Lahiri, **Delhi Forum**, Delhi
26. Harsh Mander, Delhi
27. Thomas Mathew, **South Asian Conservation Foundation**
28. Kisan Mehta, **Save Bombay Committee**, Mumbai
29. T. Mohan and S. Devika, Advocates, Chennai
30. Fr. Victor Moses, **St. Xavier's Social Service Society**, Ahmedabad
31. Somnath Nayak, **Nagarika Seva Trust**, Gurvayankere, Karnataka
32. Satheesh P.V., **Deccan Development Society**, Pastapur, Andhra Pradesh
33. Rekha Panigrahi, **Vasundhara**, Bhubaneswar, Orissa
34. Sanjay Parikh, Snr. Advocate, Supreme Court, Delhi
35. Medha Patkar, **Narmada Bachao Andolan**, Narmada Valley
36. Sujit Patwardhan, **Parisar**, Pune
37. Pradip Prabhu, **Kashtakari Sanghatna**, Dahanu, Maharashtra
38. M.K. Prasad, **Kerala Sastra Sahitya Parishat**, Cochi, Kerala
39. Asad Rahmani, **Bombay Natural History Society**, Mumbai
40. Sreedhar Ramamurthy, **mines, minerals and People/ Academy of Mountain Environics**, Dehradun, Uttaranchal
41. Ravi Rebbapragada, **Samata**, Hyderabad, Andhra Pradesh
42. Suman Sahai, **Gene Campaign**, Delhi
43. Bittu Sahgal, **Sanctuary Magazine**, Mumbai
44. Salam Rajesh, **Manipur Nature Society**, Imphal, Manipur
45. Leo Saldanha, **Environment Support Group**, Bangalore, Karnataka
46. Priya Salvi, **Prakruti**, Mumbai
47. John Samuel, **National Social Watch Coalition**, Pune
48. Madhu Sarin, Independent consultant, Chandigarh
49. Savyasaachi, Academic, Jamia Millia University, Delhi
50. Jai Sen, Delhi
51. Devinder Sharma, **Forum for Biotechnology and Food Security**, Delhi

52. Gam Shimray, **All India Coordinating Forum of the Adivasi/Indigenous Peoples**, Delhi
53. Samar Singh, **Samarpan Foundation**, Delhi
54. Shekhar Singh, **Centre for Equity Studies**, Delhi
55. Indu Prakash Singh, Activist/Researcher, Delhi
56. Neera Singh, Independent Researcher, Bhubaneswar
57. Subrata Sinha, former Dy. Director General, Geological Survey of India, Kolkata
58. Aarthi Sridhar, Independent Researcher, Bangalore, Karnataka
59. K.S. Gopi Sundar, **Indian Cranes and Wetlands Working Group**, Delhi
60. Bibhab Talukdar, Environmental Activist, Guwahati, Assam
61. Himanshu Thakkar, **South Asia Network of Dams, River and People**, Delhi
62. Lokendra Thakkar, Bhopal, Madhya Pradesh
63. David Thangliana, Editor, Newslink English Daily, Aizawl, Mizoram
64. E. Theophilus, **Foundation for Ecological Security**, Uttaranchal
65. Thoraya, Freelance Writer, Secunderabad, Andhra Pradesh
66. Malavika Vartak, **Housing and Land Rights Network**, Delhi
67. Vincent, **National Campaign on Dalit Rights**
68. A.C. Zonunmawia, **Centre for Environment Protection**, Aizwal, Mizoram

* These are endorsements to the Open Letter as of 20th September 2004, including several that came after the Letter was released on 3rd September.

Open letter to the Ministry of Environment and Forests

Issued on 3 September, 2004

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We do believe, however, that the new government has the opportunity to reverse this trend. **It needs to take at least the following steps:**

1. Providing a legally mandated and explicit role for citizens (especially local communities) in the decision-making process within the MoEF (and GOI in general). This can be done by including independent and credible representatives of communities and civil society in the various expert committees; ensuring that citizens' inputs in draft notifications and legislation are considered through a transparent process; strengthening the public hearing process for 'development' projects; constituting an independent monitoring and evaluation agency to assess compliance of environmental conditions and regulations; and other such measures.
2. Considerably strengthen the mandate and functioning of the Ministry of Environment and Forests, e.g. by increasing the number of technical experts and officials who are known for their commitment to the environment.
3. Centrally integrate environmental considerations across the entire decision-making process, right from the planning and design stage of economic

sectors and projects and not only at the final stage of clearance. This includes, the strengthening of the EIA, clearance, and monitoring procedures.

4. Reviewing the Common Minimum Programme and its implementation from the environmental perspective, including through a serious consideration of environmental issues in forums such as the National Advisory Council (NAC). The NAC is a step towards more public participation in decision-making, but needs a greater integration of environmental concerns in its deliberations.

We urge the government to draw up a concrete action plan on how to take the above and other steps, to significantly improve the manner in which decisions are taken on environmental issues. This should include the setting up of an independent monitoring and evaluation body, comprised of community and civil society representatives, that can ensure environmental sensitivity in decision-making. While drawing up such an action plan, there should be active and meaningful participation of community organisations, people's movements, NGOs, and other civil society organisations.

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40. Sreedhar Ramamurthy, **mines, minerals and People/ Academy of Mountain Environments**, Dehradun, Uttaranchal
41. Ravi Rebbapragada, **Samata**, Hyderabad
42. Suman Sahai, **Gene Campaign**, Delhi
43. Bittu Sahgal, **Sanctuary Magazine**, Mumbai
44. Salam Rajesh, **Manipur Nature Society**, Imphal
45. Leo Saldanha, **Environment Support Group**, Bangalore, Karnataka
46. Priya Salvi, **Prakruti**, Mumbai
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57. Subrata Sinha, former Dy. Director General, Geological Survey of India, Kolkata
58. Aarthi Sridhar, Independent Researcher, Bangalore, Karnataka
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* These are endorsements to the Open Letter as of 20th September 2004, including several that came after the Letter was released on 3rd September.