

Assessment of Public Consultation Process for Environmental Clearance of Hydropower Projects in Upper Ganga Segment

GRB EMP : Ganga River Basin Environment Management Plan

by

Indian Institutes of Technology



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Preface

In exercise of the powers conferred by sub-sections (1) and (3) of Section 3 of the Environment (Protection) Act, 1986 (29 of 1986), the Central Government has constituted National Ganga River Basin Authority (NGRBA) as a planning, financing, monitoring and coordinating authority for strengthening the collective efforts of the Central and State Government for effective abatement of pollution and conservation of the river Ganga. One of the important functions of the NGRBA is to prepare and implement a Ganga River Basin: Environment Management Plan (GRB EMP).

A Consortium of 7 Indian Institute of Technology (IIT) has been given the responsibility of preparing Ganga River Basin Environment Management Plan (GRB EMP) by the Ministry of Environment and Forests (MoEF), GOI, New Delhi. Memorandum of Agreement (MoA) has been signed between 7 IITs (Bombay, Delhi, Guwahati, Kanpur, Kharagpur, Madras and Roorkee) and MoEF for this purpose on July 6, 2010.

This report is one of the many reports prepared by IITs to describe the strategy, information, methodology, analysis and suggestions and recommendations in developing Ganga River Basin: Environment Management Plan (GRB EMP). The overall Frame Work for documentation of GRBMP and Indexing of Reports is presented on the inside cover page.

There are two aspects to the development of GRB EMP. Dedicated people spent hours discussing concerns, issues and potential solutions to problems. This dedication leads to the preparation of reports that hope to articulate the outcome of the dialog in a way that is useful. Many people contributed to the preparation of this report directly or indirectly. This report is therefore truly a collective effort that reflects the cooperation of many, particularly those who are members of the IIT Team. Lists of persons who have contributed directly and those who have taken lead in preparing this report is given on the reverse side.

Dr Vinod Tare
Professor and Coordinator
Development of GRBMP
IIT Kanpur

The Team

- G N Kathpalia gnkathpalia@gmail.com
- Indrajit Dube, IIT Kharagpur indrajit@rgsoipl.iitkgp.ernet.in
- Mukesh Khare, IIT Delhi mukeshk@civil.iitd.ac.in
- N C Narayanan, IIT Bombay ncn@iitb.ac.in
- Paritosh Tyagi, Former Chairman, CPCB paritoshtyagi@gmail.com
- Shyam Asolekar, IIT Bombay asolekar@iitb.ac.in
- Subodh Wagle subodhwagle@gmail.com
- Uday Shankar uday@rgsoipl.iitkgp.ernet.in
- Vinod Tare vinod@iitk.ac.in

Lead Persons

- N C Narayanan, IIT Bombay
- Kalyan R Tanksale, IIT Bombay

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List of Abbreviations

DPR	:	Detail Project Report
EAC	:	Environmental Appraisal Committee
EC	:	Environmental Clearance
EIA	:	Environmental Impact Assessment
EMP	:	Environmental Management Plan
HPPs	:	Hydro Power Projects
IA	:	Impact Assessment Division
MoEF	:	Ministry of Environment and Forest
MW	:	Mega Watt
NTPC	:	National Thermal Power Corporation
PAPs	:	Project Affected People
PC	:	Public Consultation
PLG	:	Policy, Laws and Governance
PRIs	:	Panchayat Raj Institutions
SPCB	:	State Pollution Control Board
UEPPCB	:	The Uttarakhand Environment Protection and Pollution Control Board

1. Preamble

This report analyzes the Public Hearing and Consultation (PC) process which is mandatory for hydropower projects (HPPs) to ensure transparency, accountability and participation in the environmental clearance process. PC is an important vehicle in democratic environmental decision making by developing an arena where the views and suggestions of public are incorporated. Eight case studies of HPPs sampled for rivers Bhagirathi and Alaknanda were undertaken to understand the issues in PC. There is no claim of representativeness of these samples since it is only a miniscule proportion of the HPPs in the region. However, the in-depth case studies illustrated issues in the microcosm, which is indicative of the macro issues. This report especially brings out Civil Society Organisations' (CSOs) perspective, which if considered appropriately may expedite the process of development while protecting the environment and equitable utilization of natural resources.

2. Introduction

Uttarakhand Government with the support of Central Government sanctioned various small, medium and large Hydropower Projects (HPPs) on rivers Bhagirathi, Alaknanda and their tributaries. River Ganga, plays a significant role in the lives of people living on her banks economically, socially, historically, politically, culturally and spiritually thereby making them natural stakeholders in the schemes leading to alterations in natural settings of river Ganga. Public participation is an important vehicle in democratic environmental decision making by developing an arena where the views and suggestions of public are incorporated. The environmental clearance process of projects is one aspect of its application where elements like accountability, transparency, inclusivity and fairness can be brought in.

The Environmental Impact Assessment Notification-2006 issued by Government of India prescribes the stage of 'public consultation' mandatory in the environmental clearance process in hydropower projects. This report analyzes the Public Consultation (PC) process for environmental clearance of hydropower projects in Upper Ganga Basin to identify the violations and/or inadequacies. The report is based on the one month long extensive field visits that covered the *Garhwal* Region of Uttarakhand (in the districts *Haridwar, Deharadoon, Chamoli, Uttarkashi, Pauri Garhwal, Tehri Garhwal and Rudraprayag*). Eight case studies of hydropower projects sampled for rivers Bhagirathi and Alaknanda were undertaken to understand the issues in public consultation.

3. Rationale for Preparing Report

According to EIA notification, 2006 the 'Public Consultation' stage is mandatory to get clearance for bringing in transparency, accountability and participation regarding the decision making of HPPs. This report mainly focuses on public consultation process to find the gap between what needs to be done and what is being done. It also attempts to identify

the gap between the legislative procedures and the practices in the environmental clearance process.

4. Objectives

1. To review the provisions for PC process as per the EIA notification of 2006.
2. To assess the process of PC for environmental clearance of HPPs in upper Ganga basin through case studies.
3. To draw implications for improving the PC process for HPPs in India.

5. Methodology

To understand the provisions for public consultation and the process, a review of latest EIA notification was done. A detailed comparative review of notifications (1994 and 2006) is presented. Eight case studies were conducted to understand the issues on the ground considering the difficulties in generalizing the projects, which are of different scales (small and large). The sampling criteria and samples are given as follows:

1. River Basin : Alaknanda and Bhagirathi
2. Size of the Projects: Small, medium or large
3. Provisions applicable to the project: Notification of 1994 or 2006
4. The project developer: Government, Public Sector Company or Private Company
5. Stage of construction and status of clearance: Completed and in operation; PC done and project under construction, PC is done but either EC decision is pending or decision has been taken but the construction work is yet to start.

Figure 1 illustrates the statutory provisions for PC and concepts of participation based on available information. Among eleven attributes identified, the first one and last eight were used for understanding inadequacies in the existing notification and for identifying lacunas in its implementation whereas conclusions are based on attribute nine to eleven. There is no claim of representativeness of these samples since it is only a miniscule proportion of the HPPs in the region. The in-depth case studies, to a large extent, illustrate the issues in the microcosm, which is indicative of the macro issues. However, the insights are triangulated with a range of knowledgeable stake holders who are well aware of the issues at hand in the region.

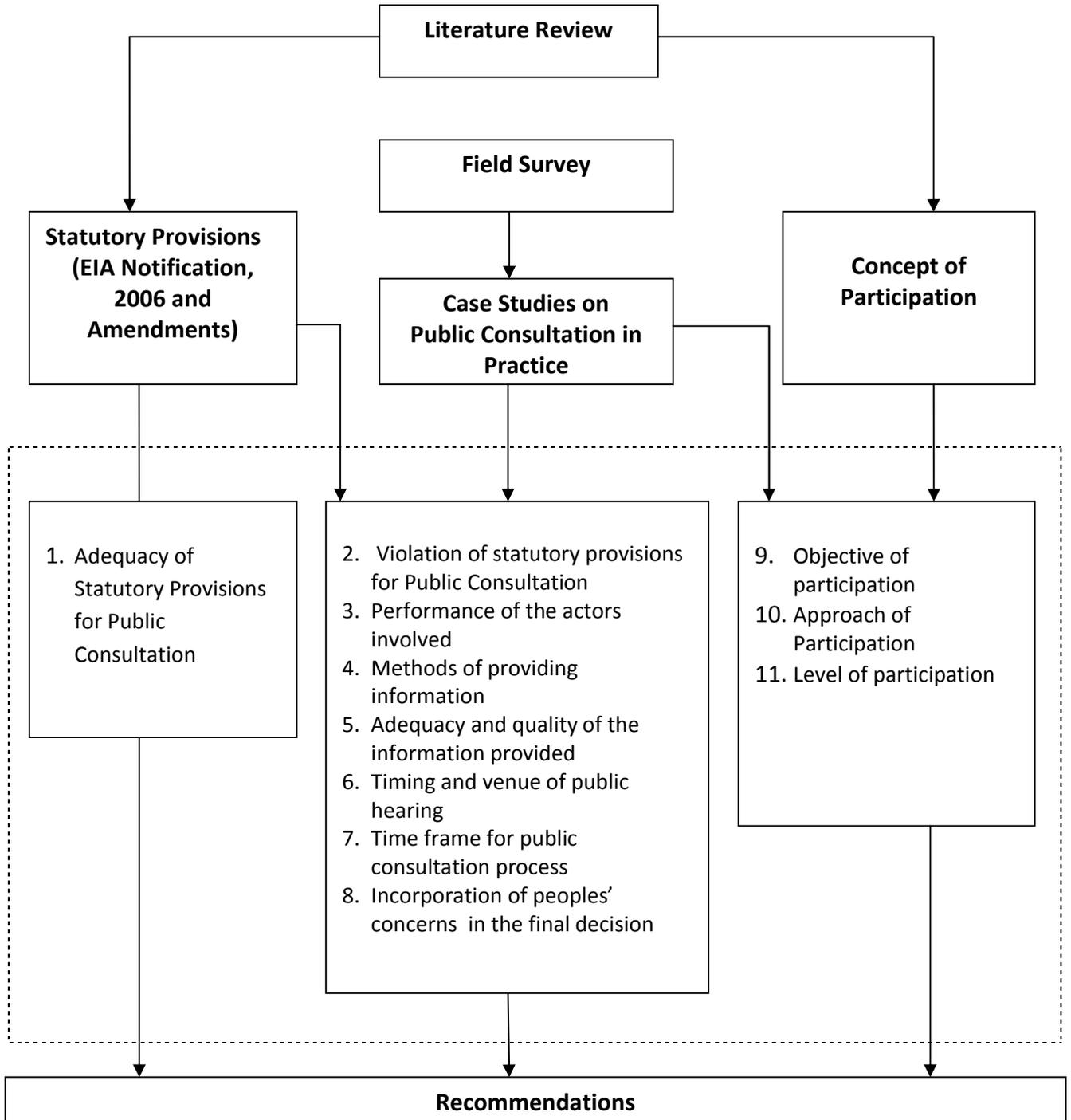


Figure1: Framework for analysis of the statutory provisions for public consultation and concepts of participation in according Environmental Clearance to Hydropower Projects in Ganga Basin

Table 1: Details of the cases selected for the study

Name of the Project	Capacity (MW)	Developer	Status*	
Alaknanda Basin	Kotli Bhel 1B	320	NHPC	Under Construction
	Vishnugad Pipalkoti	444	THDC	Under Construction
	Vishnu-Prayag	400	JP Associates	In Operation
	Devsari	252	SJVNL	Under Construction
Bhagirathi Basin	Maneri Bhali -2	304	ULVNL	In Operation
	Phalenda	22.5	Swasti PEL	In Operation
	Singoli Bhatwari	99	L&T Power	Under Construction
	Phata Beyung	25	Lanco	Under Construction

6. Comparative Analysis of Provisions of PC Process between EIA Notification of 1994 and 2006

While the provision of Public Hearing was originally introduced in the 1994 notification with a view of strengthening it, prima facie some of these provisions appear to have been diluted in the latest notification of 2006. This section analyses certain important provisions in the EIA notifications to identify its lacunae and gaps and dilutions made therein over a period. The implementation of these will be taken up in detail and illustrated through the observations in the case studies in the next section.

Table 1: Comparison of Provisions for PC as in 1994 and 2006 EIA Notifications

Attributes of the Comparison	Provisions in 1994 Notification	Provisions in 2006 Notification
Applicability of the provisions	Public Hearing mandatory (<i>Schedule 4</i>) for all projects listed in Schedule I of the notification for hydropower projects of all capacities.	Projects having installed capacity less than 50 MW and for which, as suggested by SEIAA, EIA studies are excluded from PC provisions (<i>Para 3, i (C)</i>) If project site is extending beyond a state/district, PC should be undertaken in each of the State/district. (<i>Schedule 4, Point 2.1</i>)
Government Agencies to undertake PC	SPCB was given the responsibility to inform people about meeting, facilitate the meeting and forward proceedings to the EAC. (<i>Schedule 4, Para 2</i>) EAC, after considering the concerns expressed by people as reflected in proceedings of the meeting and final EIA report prepared by developer, was to make recommendations for EC. (<i>Clause 2.III.c</i>)	District Magistrate (DM) is responsible to steer the meeting being a panel member. The change in date, time and venue and postponement of meeting only on her/his recommendations. (<i>Schedule 4, Point 4.1</i>) DM is supposed to sign the proceedings of the meeting on the same day. (<i>Schedule 4, Point 6.4</i>)

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Attributes of the Comparison	Provisions in 1994 Notification'	Provisions in 2006 Notification
Participants	<ol style="list-style-type: none"> 1. Any person who is likely to be affected by grant of EC 2. Bonafide residents 3. Environmental Group 4. Any person who owns or has control over the project 5. SPCB, MoEF officials (<i>Schedule 4, Para 2, point 2</i>) 	<p>Only</p> <ol style="list-style-type: none"> 1. Affected People 2. Government Officials and 3. Concerned Government Officials <p>Can attend the meeting. Other interested people can raise their objections, suggestions in writing to the SPCB (<i>Clause 7 (III) 1, EIA Notification 2006</i>)</p>
Methods of intimating people about the meeting	<p>SPCB issues a notice in at least two newspapers widely circulated in the region around project, one of which shall be in local vernacular language (<i>Schedule 4, Para 2, Point 1</i>)</p>	<p>In addition to the provision of informing people through newspaper notice, following government agencies are supposed to widely publicize about the meeting in their jurisdictions</p> <ol style="list-style-type: none"> 1. District Magistrate 2. Zila Parishad and Municipal Corporation 3. District Industries office 4. Concerned regional office of the MoEF (<i>Schedule 4, Point 2.3</i>) <p>SPCB is supposed to use innovative ways of informing people like for example using village level drummers to make announcements or posters, pamphlets etc. (<i>Point 3.2, amendment of 2009, S.O.195</i>)</p>
Documents to be made available	<ol style="list-style-type: none"> 1. Executive Summary of Draft EIA report in local language 2. Environmental Impact Assessment report (<i>Schedule 4, Para 1, Point 1</i>) 	<p>Same documents are to be provided with a change that confidential information including non-disclosable or legally privileged information involving intellectual property right shall not be made available (<i>Clause 7.III.VI</i>)</p>
Availability of the documents	<p>The aforementioned documents are to be made available at following places:</p> <ol style="list-style-type: none"> 1. District Magistrate 2. Zila Parishad and Municipal Corporation /local body 3. District Industries office 4. Concerned regional office of the MoEF 5. Head office of SPCB 6. Concerned departments of the state government (<i>Schedule 4, Para 4</i>) 	<p>In addition to the places designated by the earlier notification MoEF is also supposed to promptly display the summary of draft EIA report on website and to make available full draft EIA report available for reference at notified places in Delhi. (<i>Schedule 4, point 2.3</i>)</p>
Timing and venue of the Public Hearings	<p>To be decided by SPCB and should be informed to the people through notices published in newspapers (<i>Schedule 4, Para 2, Point 1</i>)</p>	<p>Specified that SPCB should intimate people about the time and venue of the meeting within 7 days from the date of receipt of the draft report. And People to be provided with minimum of 30 days period for furnishing their responses. (<i>Schedule 4, Point 3.1</i>)</p>

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Attributes of the Comparison	Provisions in 1994 Notification'	Provisions in 2006 Notification
Composition of the Panel	<ol style="list-style-type: none"> 1. Representatives of SPCB 2. District Collector or the nominee 3. Representative of state government dealing with the subject 4. Representative of department of the state government dealing with environment 5. Not more than three representatives of the local bodies such as municipalities or Panchayats 6. Not more than three senior citizens of the area nominated by DM <i>(Schedule 4, Para 3)</i>	<ol style="list-style-type: none"> 1. District Magistrate or his representative not below the rank of Additional District Magistrate 2. Representative of SPCB <i>(Schedule 4, Point 4.1)</i>
Methods for facilitating the PC	No provision	<ol style="list-style-type: none"> 1. No quorum required for attendance for starting the proceedings<i>(Schedule 4, point 6.2)</i> 2. A representative of developer should initiate the discussion with a presentation on project and EIA <i>(Schedule 4, point 6.3)</i> 3. Attendance of all those who are present should be noted and annexed to the final proceedings. <i>(Schedule 4, point 6.1)</i>
Methods for developer to respond to the peoples' concerns	No provisions	Makes it mandatory for developer to address, after completion of the public consultation, the material environmental concerns expressed during the meeting and make appropriate changes in the draft EIA-EMP report. <i>(Clause 7.III.VII)</i>
Methods to ensure transparency	No provisions	Videography, photography of the entire process to be made <i>(Schedule 4, point 5.1)</i> A statement of the issues raised by the public and the comments of the applicant should be prepared in the local language and English and annexed to the proceedings. <i>(Schedule 4, point 6.5)</i>
Methods to ensure transparency	No provisions	The proceedings of the public hearing should be conspicuously displayed at <ol style="list-style-type: none"> 1. Office of the panchayats concerned 2. Office of the concerned Zila Parishad and DM 3. Office of the SPCB <i>(Schedule 4, Point 6.6)</i> SPCB should also display those on their website and objections if any raised should be communicated to the MoEF directly. <i>(Schedule 4, Point 6.6)</i>
Time frame for the PC	60 Days <i>(Schedule 4, Para 5)</i>	45 Days

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Attributes of the Comparison	Provisions in 1994 Notification'	Provisions in 2006 Notification
Consideration of people's concerns	EAC should consider the proceedings of public consultation while recommending for an EC. (Clause 2.III.c)	Every person present at the venue shall be granted the opportunity to seek information or clarifications from the Developer. (Schedule 4, Point 6.4) The summary of the public hearing proceedings accurately reflecting all the views and concerns expressed should be recorded by the representative of the SPCB and read over to the audience at the end of the proceedings explaining the contents in vernacular language. (Schedule 4, point 6.4) A Statement of the issues raised by the public and the comments of the Developer should also be prepared in the local language and in English and annexed to the proceedings. (Schedule 4, point 6.5)
Peoples' participation in conducting EIA studies and preparing EMPs	No provision	No Provision
Provisions to make people able to challenge the final EC decision	No provision	No Provision

The following are the key general issues and observations from Table 1. The dilutions are mostly in the latest notification compared to the earlier one. Violations in the PC process are discussed in the next section through the observations from the case studies.

1. Public consultation is applicable to all Category 'A' and Category B1 hydropower projects. This is contested by many civil society activists since there is possibility that small scale projects which do not fall under these categories can also bring in huge environmental damage.
2. The 'interested people' (e.g. informed activists) other than project affected people (PAPs) are moved away from the public hearing meeting. Their involvement is changed from 'oral' and 'direct' mode to 'written' and 'indirect' mode of communication. This has seriously deterred the efficacy of the process, especially since the feedback process is weak. The inclusivity demanded by clause 7. III and exclusivity found in definition given here in the same clause (7.III.1) of the 2006 notification are thus contradictory. The term "material concerns" suggested has to be defined properly.
3. For a meaningful participation in public hearing, information about the project is needed. However, the notification suggests, "confidential information including non-

disclosable or legally privileged information involving Intellectual Property Right, source specified in the application shall not be placed on the web site (Clause 7 (III) 6, EIA Notification 1994)". It is not clear what is confidential and disclosable information since nothing is available in the website regarding the projects.

4. About the District Magistrate (DM) being responsible for steering the meeting: DM has the advantage of knowing the local context and interests. The disadvantages are that: (i) DM might not be in a position to deal with the local political interests; (ii) DM might not be able to spare quality time with other duties.
5. In the initial notification, SPCB was given the responsibility to decide the venue of the public hearing meeting and inform people and developers about it. The venue of the hearing in the 2006 notification is statutorily to be *"the project site or a place in its close proximity"*. This provision acts more in favor of the developer, the implications of which are discussed in the next section.
6. In Paragraph 6.2 of Appendix IV, there is no quorum needed to start the proceedings of the PC. This is an evasive provision, the need for which might have come because of the non-participation of people either due to lack of information or lack of faith in the process. The process has to be strengthened to ensure widest possible participation as prescribed in point 1, Annexure IV of 2006 notification.
7. The time frame from intimation about the process to forwarding the proceedings to EAC is reduced from 60 to 45 days, which reduces time available for people to understand the nuances of the EIA report and mould informed opinions.

The following are the observations from this section: There are contradictions in provision even within the same clause (example: provision for inclusivity); ambiguity of certain sections on applicability regarding and dilution of provisions between the old and new notification; inadequate information sharing and feedback process and doubts about the use of discretionary provisions like deciding the need for PC. These issues and others will be clarified and illustrated in the analysis of case studies in the next section.

7. Analysis of Public Consultation Process

This section closely examines the implementation issues of the public consultation process on the ground. It combines the perspectives of key stakeholders and the insights from case studies.

7.1 Objectives and Role of the Actors Involved in Public Consultation

An arena of actors ranging from MoEF to informal activists' groups and from developers to people concerned of the project is involved in the process of PC. Each one of these, from their respective perspectives, is playing a crucial role in the process. Based on their perspectives and interests there are differential perceptions about the objectives and

outcomes of the PC process. The following section attempts an indicative mapping of these from the case studies. Though generalization of the findings will be far-fetched, it definitely points to the issues at hand in the PC process.

7.2 Ministry of Environment and Forest (MoEF)

MoEF is an umbrella agency to implement the provisions for environmental clearance and PC is an important element of it. It has laid down provisions and has described the procedure for public hearing through EIA notifications. The 'Impact Assessment (IA) Division' has been given responsibility of implementing provisions of public consultation as a part of the EC process. IA relies on the state pollution control boards for conducting public hearing meeting of people affected by and concerned about projects and inviting concerns and suggestions from other interests groups.

7.3 State Pollution Control Board (SPCB)

SPCB is responsible for convening the PC process. After receiving an application from the developer to invite a public hearing, SPCB is supposed to i) publish a newspaper advertisement intimating concerned people about the date, venue and time of the public hearing (PC) meeting; ii) receive necessary documents from the developers and make those available for reference at various government offices as prescribed in the notification; iii) conduct public hearing meeting as a panelist and iv) forward proceedings of the meeting to EAC. The Uttarakhand Environment Protection and Pollution Control Board (UEPPCB), the concerned SPCB, informed that in the absence of required infrastructure, human and financial resources they often find it difficult to discharge their duties (For example, SPCB has to spent from their own budget the costs of publishing notification, logistics a sum of rupees fifty thousand to one lakh per public hearing meeting). Although constrained with resources, SPCB manages the logistics of inviting and conducting PC meetings, as informed by the villagers visited. Some of the objections raised by them were not included in the proceedings that were forwarded to the EAC and even vested interests were allowed to modify and supply names of fictitious people (For example in the case of third public hearing of Devsari project). Hence, the minutes of the public hearing and recommendations by panels do not always reflect the actual proceedings.

7.4 Project Developer

The project developer, while applying to SPCB for inviting a public hearing meeting, submits a set of documents about the project as input essential for informed and active participation. The developer also arranges the venue of the meeting and allied logistics. During public hearing the developer is supposed to inform the participants about the project, its possible impacts on environment and resulting livelihood issues and propose a plan for minimizing and mitigating these impacts. Since the developer is a party in the debate they are not supposed to sit on the public hearing panel. However, developers often violate this statutory norm and also try to influence public opinion by elegantly hosting PCs and circulating pamphlets claiming the positive outcomes of the project to the people. They

seek to control the meeting by putting barricades, bringing large number of police and use muscle power to control and constrain people. Once the representatives of the people expressed their concerns and suggestions, developers are supposed to incorporate those in the final EIA-EMP and send it to EAC for decision regarding clearance or otherwise of the project.

7.5 Project Affected People (PAPs)

The role of project affected people is very important in two ways: i) they are the one who will have to bear the costs of possible loss of their local natural environment directly; ii) they are the local custodian of the natural resources for generations and have the indigenous knowledge about these. The notice about the public hearing meeting is announced through a small advertisement published in a newspaper in local language and a national daily. The PAPs are supposed to proactively read the notice and attend the meeting at a venue in proximity of project, which might be far away from the habitation areas. This is a common observation across the cases studied that people (particularly women) found it difficult to attend the meeting by travelling to far away project sites. During the meeting they should only raise their concerns about the possible impacts of the project. In many of the cases studied, it was found that the people are aware of the project activities and unfortunate experiences of people affected from different projects in the state. Hence, they are less willing to believe in the developers' promises (See Section 3.6). As reported by one of the informed activists, since it is not mandatory for EAC to give speaking justifications of their recommendations, people believe that once the public hearing is done it is less likely that the concerned authorities would adhere to the provisions for considering their perspectives while giving the clearance. Therefore, as learned from the case of Kotli Bhel 1B, Devsari and Vishnugad Pipalkoti, people boycotted the meeting creating conflict situation.

7.6 Local Governance (Gram Panchayat)

The EIA notification at present does not prescribe any role for the Panchayat Raj Institutions (PRIs) and thus have ignored the potential of local formal and informal institutions. The *Gramsabhas*, *Womens' Gramsabhas* and the traditional practices of disseminating information in villages are useful instruments for participation. The communities generally seem to have great respect for and faith in the *Grampradhan*, who plays a crucial role in mobilizing villagers and dealing with developers. There are cases like Kotli Bhel 1B, Vishnugad Pipalkoti and Devsari where the *Grampradhans* of affected villages played important roles in encouraging their community to participate in the PC process and representing community to express their concerns during PC meeting. On the other hand, there are also some cases like Vishnuprayag and ManeriBhali II where the *Grampradhan* were influenced and manipulated by the project developer by taking their consent for the project in an uninformed way.

7.7 Public Hearing Panel

A representative of SPCB, who is allocated work of recording minutes of meeting, and the district magistrate who chairs the panel could sit on the panel. However, in almost every case studied it is evident that many people including but not limited to developers, local elected representatives, government officials sit on the panel. District Magistrate (who often does not come for the meeting sending a representative as per the directives of the notification), being accountable to the elected representative like MLA cannot make them to comply statutory provisions. The panel is expected to ensure that public hearing meeting is done in the prescribed manner and to control the situations leading to violation and disputes. Neither DM nor SPCB officer is expected to ensure whether the developer is furnishing correct information and adequately responding to people's concerns. There is no provision for an independent authority and or a person with expertise in the hydropower projects to be in the panel and facilitate the discussion. Moreover, the EIA consultant employed for conducting the surveys and preparing the EIA report must also be present in the public hearing so that the questions raised can be replied and suggestions incorporated.

7.8 Environmental Groups (Activists/Protest group)

Environmental and social activists and leaders of protest groups have done substantive activism fighting for the environmental, social and cultural concerns of local people. These groups showed their participation in the public consultation process overwhelmingly by commenting on EIA reports, by sending letters to authorities regarding violations of environmental laws and human rights. There are innumerable examples in all the case studies where they continuously mobilized, facilitated and encouraged the PAPs to raise their voices by educating them and by unveiling the facts about the positive and negative impacts of the hydropower projects. A two-day workshop on 'how to conduct an EIA' was organized for villagers in Chamoli district which was facilitated by the Hazard Centre in Delhi is a good example of contribution from environmentalist groups and activists to build capacities of the villagers to conduct and understand EIAs.

8. Lacunae in Existing PC Process and Practice

Existing processes of i) disseminating information regarding the PC meeting; ii) acquainting them with adequate knowledge by providing necessary documents; iii) conducting meaningful public hearing meeting and incorporating people's views in final EIA report, and; iv) considering people's concerns in final clearance decision has several challenges to overcome. Following sections discuss these challenges as understood from on field interactions with various stakeholders.

8.1 Dissemination of Information

Even though the provisions of providing necessary information about PC through newspaper publication of the public notice is followed, it was found inadequate. The Gujarat High Court passed an important judgment pertaining to the advertisement for public hearing in EC

process which brought two major elements; i) the newspapers should have a wide circulation, and ii) the public notice must be sent to the concerned Gram Panchayat. However, while investigating the newspaper cuttings of public notices, it was found that the size and font of the advertisement are not encouraging enough to be read, the notice is published once in a while and only in selected regions. Importantly, the people in remote villages of Uttarakhand rarely read newspapers and even if they get chance to read, may skip the advertisement, resulting in manipulated participation or non-participation.

The EIA Notification, 2006 prescribes various places where the documents providing knowledge essential for meaningful participation can be accessed. However, the case studies revealed that in the absence of a responsible authority for ensuring that the documents are made available, they are either not available or could only be accessed during office hours making it tedious work. For example in case of Kotli Bhel 1 B, only the date, venue and time of public hearing were intimated through newspaper notice but it had not mentioned about the place where from people could access the relevant documents. As per the amendment of 2009 to EIA notification the SPCB should use innovative ways like beating the drum in villages (in addition to this they can also practice public meetings, advertisement on radio and television, announcements through loudspeakers, display of illustrative materials such as pamphlets, maps, models, etc.). However, as informed by an UEPPCB officer, they could not implement this provision because of lack of resources.

8.2 Provision of Knowledge Inputs

For a meaningful participation, stakeholders must be acquainted with adequate and credible knowledge on possible effects on environment and livelihoods. This includes design of the projects, its various construction activities (like tunneling, blasting for road construction) and their possible impacts. The developer is supposed to undertake a detailed EIA study through independent consultants. However, the design and content of these studies are inadequate (See Report: 008_GBP_IIT_PLG_ANL_02_Ver 1_Dec 2011). For instance, in case of Bhilangana, the consultant had neglected all affected areas arguing that there are no residents around the project and for this reason is blacklisted by the World Bank. Similarly in the case of Kotli Bhel 1B, the consultant employed for EIA was a Professor from a local University who had employed students (of different discipline) to undertake surveys for EIA studies, which, as informed by the villagers, resulted in inadequate and incredible information. And in case of Devsari hydropower project, only 5 out of the affected 26 villages were taken for survey.

Some of the developers (like in case of Devsari Hydropower project, Kotli Bhel 1B and Vishnugad Pipalkoti) claim to have established 'information centers' with a view of helping people to access outputs of EIA studies and clarify their doubts. However, case studies revealed that in the absence of a facilitator with required competence to interact with people, these centers could achieve only limited success. For example, in the case of Devsari hydropower project, as found in the field visit, 100-125 villagers from 26 villages had visited

the information centre being far away from their places and having less confidence about receiving credible and adequate information. In order to overcome these lacunae and inadequacies three kinds of demystification has to be done. These are discussed as follows:

1. *Demystifying the complex, technical language: EIA reports and other documents that are to be provided to the villagers are being presented in highly sophisticated and technical manner making it difficult to communicate to a diverse and often formally illiterate population. Although, developers make summary of EIA reports available in local language, a twenty five page summary might not adequately communicate the findings. In some cases (Bhilangana Hydropower project for example) these reports were kept secret. There is a debate about whether the detailed project report (DPR), which the developer and EIA notification claims to be an intellectual property, be made available in public domain. While asked about this provision, an officer from National Thermal Power Corporation (NTPC) informed that people do not have required competence to understand technical designs of the project given in DPR; it is less useful for them and even a summary of DPR adequately gives the essence of the report.*
2. *Provision of knowledge in local Language: Since the summary of EIA reports is prepared in English, villagers cannot understand it. Therefore it is mandatory for developers to provide summary of EIA reports in local language. However, violation of this provision is evident in some cases like Bhilangana and Vishnuprayag hydropower projects. Secondly, the summaries are not written in Hindi but translated from original documents in English. Translations are done literally and it makes document burdensome. In some of the cases, like Kotli Bhel 1B, Vishnugad Pipalkoti and Devsari, developers instead of providing summary of EIA notification had circulated a pamphlet describing only the positive impacts of the project and its benefits to the villagers, which is not expected. However, there is no statutory provision to avoid such unintended practices.*
3. *Inclusion of indigenous knowledge: Conduct of EIA and preparation of EMP can and should engage local people so as to incorporate their indigenous knowledge, experience and perspectives in environmental management. At present there are no such provisions and practices for encouraging this.*

9. Timing and Venue of Public Hearing

The place where public hearing is conducted has a significant role in the process as it determines the extent of public participation and the question of who controls the process. In some cases like Kotli Bhel 1B and Devsari, the venue for public hearing was very far from many of the affected villages discouraging them (particularly women, elderly people and poorer sections of the community) from attending the meeting by spending money on traveling. Similarly, the season of the year is also a crucial element. If conducted during the rainy season, on the eve of local/national festivals and peak agricultural seasons, it results in low public participation. None of the cases revealed that the date and time were finalized after consulting with the local people. Statutorily the venue of the hearing is to be “the

project site or a place in its close proximity". This provision acts more in favor of the developer and sometimes allows them to influence the process by 'hosting' the event.

10. Time of Public Consultation Process

The statutory provision of 30 days' time to complete public hearing process is insufficient for villagers and other interest groups to access documents made available at different places to understand the nuances of the project, submit written comments on EIA reports and raising concerns during public hearings due to the inherent limitations of the mechanism. Every project is supposed to undertake only one public hearing per district which, according to the civil society activists and villagers visited, is done just with an aim of completing the requirement for getting the clearance. On the contrary, it may require more than one public hearing based on the administrative jurisdictions, population, nature and significance of the concerned issues. In most of the cases, many people informed that they were neither given enough time to speak in public hearing nor for discussions and even opinions of the entire participants who were willing to talk were not recorded. PC is supposed to be done before the developer prepares the final EIA report and applies for the environment clearance. However, the developers procure the land; start constructing office buildings and approach roads simultaneously with the conduct of EIA. Once these investments are made, developers argue against relocating the project. Thus, for making participation meaningful, facilitating participation in the initial phase of the project is a must.

11. Incorporation of Peoples' Concerns in the Final Decision

The case studies revealed that people's concerns have been disregarded and neglected in the environmental decision making process. Developers, violating the statutory norms did not respond satisfactorily during meetings and people's concerns were inadequately incorporated in the final proceedings. Also, it is not mandatory for EAC to give speaking justifications to the people in order to inform them how their concerns and suggestions are considered while recommending for the clearance. This is mainly because of (i) gaps (including dilutions) in existing notification, (ii) violation of provisions, and (iii) absence of the feedback mechanism to ensure meaningful communication between people and the decision makers. There are cases (for example: Vishnuprayag, Maneri Bhali-II, Devsari and Bhilangana) where people's concerns were inadequately considered while making clearance decision, and adverse impacts on local environment and livelihoods is evident and people are suffering. Some cases (for example: Bhilangana and Maneri Bhali II) pointed out that the developers did not adhere to their promises, especially after inflating people's expectations that led to unintended consequences like agitation.

12. Recommendations

The report related to Environmental Clearance Process (008_GBP_IIT_PLG_ANL_02_Ver 1_June 2011) suggests alternative provisions and procedures for the environmental clearance, especially a serious re-vamp of the PC process in the long run. Understanding the pressing need for addressing inadequacies and serious lacunae in the process, some tentative recommendations for immediate intervention are suggested below:

1. The public consultation process must be mandatory even for the hydropower projects having a capacity of less than 25 MW because they also cause significant environmental and social impacts.
2. If the public consultation process could not be completed because of people's protest or other reasons; it must not be postponed and should again be conducted by the same agency. MoEF may exercise their statutory powers to appoint other (independent) public agencies also to undertake public hearing meetings.
3. All concerned people through their respective *Gramsabhas* should be intimated formally about the date, venue and timing of the meeting. The implementing authority should ensure provisions for widespread diffusion of information suggested in the new notification to ensure adequate and informed participation. The timing and venue of the meeting for public hearing must be finalized after consultation with the respective *Gramsabhas* and *Mahila (Women's) Gramsabhas* to ensure their convenience.
4. Knowledge is an essential requirement for a meaningful participation. People must be provided with adequate and credible knowledge in simple local language. It is better that this task is assigned to an independent body to make sure that all the information; especially the negative impacts are not omitted from the document. The good practice of establishing information centers, which seems not working satisfactorily at present, could be extended to village level activities like illustration/presentation/discussion on EIA reports for facilitating people's learning of complex concepts.
5. District Magistrate, who is accountable to the local elected representatives in the state assembly, sometimes cannot resist attempts by these representatives to sit on the panel and influence the process. Hence, the public hearing panel must be chaired by a competent judicial authority not below the rank of the District Judge with two other members including the DM and a person of social eminence and credibility among a wide range of stakeholders hailing from different, preferably a distant district. It should also be ensured that all the concerns expressed by stakeholders are incorporated in the proceedings of the meeting and adequately addressed in the final EIA report.
6. The public hearing panel should be finalized well in advance and should meet a day before the meeting and ensure that the transparency related provisions in the notification are adhered to.
7. In order to ensure meaningful participation, the concerned agencies should streamline

the process to ensure active and informed participation, which then needs removing of counterproductive provisions in the notification such as “no quorum of attendance is required to start a public hearing meeting”. Adequate time should be given to the interested people to learn the EIA-EMP reports and express their concerns and suggestions to ensure meaningful consultation since they are supposed to convey their concerns and suggestions through written communication, instead of directly attending the public hearing meeting. Knowing the limitations of the written communication, EAC may invite interested stakeholders for more interactive sessions like public proceedings.

8. The following necessary provisions are to be included in the notification: (i) to provide final EIA-EMP reports in simple local language, incorporating views of the people expressed during public hearing and through written communication to the EAC, (ii) to ensure that the EAC would respond formally to the concerns and suggestions communicated; (iii) to inform people about how their suggestions and concerns are considered while making clearance decisions; and (iv) to allow people to raise objections if their concerns are not incorporated adequately and appropriately in final EIA-EMP report and challenge EAC decisions in the absence of it.
9. Experience of many projects that were studied pointed that the provisions in the EIA notification were not adhered to. Hence, it should be made mandatory for concerned implementing authority to compile a report on compliance and send it to the Secretary, MoEF. The Secretary, MoEF will be responsible for ensuring preparation and timely submission of such compliance reports (in a prescribed format) and its dissemination to local people through the offices of DM and DJ, and also through the MoEF websites.
10. The following is the summary of suggestions for strengthening the EC process: (i) the date, venue and time of PC to be decided after consulting with people; (ii) ways of disseminating knowledge about project activities and their impacts by incorporating indigenous knowledge and perspectives; (iii) appoint more credible people having wider acceptance from various stakeholders in the PC panel. In addition to District Magistrate, a District Judge and a person having social eminence and from different district preferably a distant one is preferable; (iv) implementation of transparency related provisions by making it mandatory for the PC panel to be constituted a day before the meeting and oversee all such provisions; (v) implementation of statutory provisions for making preparation and submission of a report on compliance mandatory for SPCB; (vi) by suggesting that the Secretary, MoEF should be responsible for such compliances; (vii) before the final EC decision, EAC should inform people about how their concerns and suggestions are incorporated in the EC recommendations; and (viii) by making necessary provision to strengthen each of the stakeholder’s right to challenge the EAC decision.

13. Concluding Observations

Public participation in environmental decision making is essential to bring in transparency and accountability in the EC process and ensure the incorporation of local perspectives. Though the State has made attempts to make the EIA-EC practice more transparent and accountable to reach out to affected people and other interest groups, the efforts have been limited to “hearing” and “consultation”. The cases studied revealed that the public participation in PC process has been limited and needs fundamental restructuring. Strengthening the EC process would help expedite the project clearance and smoother implementation to avoid financial and other losses due to social conflicts and in turn to make the process more transparent and accountable.