High Level Committee of Ministry of Environment and Forests and Climate Change walks out of Public Consultation in Bangalore

The High Level Committee headed by Mr. T. S. R. Subramanian, former Union Cabinet Secretary, constituted by the Union Ministry of Environment and Forests and Climate Change to review environment, pollution control and forest conservation laws, invited the public at large for a consultation between 12 and 1.30 pm today (27th September) at Vikas Soudha, the high security office complex of the Government of Karnataka. Advertisements to this effect had been issued by the Karnataka Department of Forest, Ecology and Environment in various newspapers on 21st September 2014, followed up by various press releases inviting the public to interact with the Committee.

When various individuals and representatives of public interest environmental and social action groups turned up for the meeting, the police prevented their entry at the gates. It was only following a spot protest that the police consented to allow them to participate in the consultation. Despite this indignifying experience, all who gathered proceeded to the meeting hall with the intent of engaging with the High Level Committee.

The meeting commenced with introductory remarks by the Chairperson Mr. Subramanian. Broadly, he shared that the intent of the Committee was to hear views from across India on the type and nature of changes that were required in the environmental and forest protection laws. He stated that the Committee had the mandate of the Government to propose necessary changes that would help improve the quality of life and environment. But he said the need to ensure develop was primary, as the country was very poor (over 80% were poor he claimed) and thereby it is found essential to streamline environmental clearance processes that thwarted growth. Mr. Subramanian also shared
that it was a matter of concern to the Government that several development projects were getting mired in litigation on environmental grounds, leading to needless delays. Concluding his introductory remarks he shared that the Committee is not in any manner guided by the Ministry and their recommendatory report would be submitted to the Union Government. The Committee's proceeding, he clarified, were not open to the public, unless the committee decided to engage with the public. Responding to a question, Mr. Subramanian said that nothing that was submitted to the Committee would be shared with anybody, and that only the report would be submitted to the Government. Mr. Subramanian also said that the Ministry never proposed a public consultation exercise, but he had suggested this should take place.

Mr. K. N. Bhat, Senior Advocate and a member of the Committee, shared that there were a variety of submissions the Committee had received and each of this would be considered. He aired that environment and development should go side by side and the objectives of the laws if not found sufficient to address current needs, need for their review exists. The industry in particular, he said, had raised concerns over delays in environmental and forest clearances when the Committee met with them.

On these introductory notes Mr. Subramanian asked the members of the public to suggest changes to the existing environmental law framework. Officials assisting the Committee did not provide any rationale for the Ministry proposing changes to existing laws. The Committee also did not have any procedure, excepting online submissions of opinions on the Ministry’s website (limited to 1000 words).

When the turn of the public came, a submission was made by the Karnataka Planters Association about procedural difficulties in securing forest clearance and conforming with pollution control norms, and sought amendments for the benefit of plantations. Thereafter, Mr. A. C. F. Anand, an RTI Activist, suggested that all environmental laws must be translated so that it would be understood by all and thus the compliance rates improved.
Speaking next, Mr. Leo F. Saldanha of Environment Support Group requested the Committee to address the basis for its functioning, and whethe the TOR constituting the Committee was sufficient for such a massive and onerous task that involved fundamentally reviewing all environmental laws that were intricately linked to Right to Life, Clean Environment and Livelihoods. He sought to know what it meant, as is main TOR, “(t)o recommed specific amendments needed in each of these Acts so as to bring them in line with current requirements to meet objectives”.

Mr. Subramanian responded that neither he nor any other members of the Committee were influenced by the TOR in any manner and that they worked per their own understanding of the mandate given to them by the Government. But when Saldanha pressed to know how a Committee consisting of high ranking former civil servants, a former Judge and a Senior Advocate could at all have agreed to such vague terms, Mr. Subramanian reacted dismissively. He claimed that this was a non-substantive issue and sought to move on to hear others. Saldanha argued that it is disturbing that Mr. Subramanian unilaterally rules a legitimate concern over vague and weak TORs as being of trivial concern, when, in fact, it would have been fit and proper for the Committee to have first explained in the interest of public accountability and transparency how they found the terms rationale and acceptable to them. And in case the terms were acceptable, then the High Level Committee, unshackled as it were by the bureaucratic norms of the Ministry, could have provided a clear note on the nature of the reforms being considered and also explicated on the procedure of consulting and receiving criticisms from various sectors, peoples, regions, geographies, etc.

Mr. Vinay Sreenivasa of Alternative Law Forum submitted that the process by which the Committee was conducting the consultation was rather opaque. The vague TOR and the fact that the Committee was constituted by a Government that sought to belittle the importance of the National Wildlife Board and rush pet projects through the clearance mechanism, seemed to suggest the entire exercise appeared to be merely ritualistic. Ms. Aruna Chandrasekhar of Amnesty International - India sought to know what specific amendments were being proposed or demanded by industry/corporate sectors, and requested the Committee put it all out. But Mr. Subramanian waved away this request too.

Prof. Puttuswamy wanted to know how a High Level Committee sought to improve environmental laws when notifications of Ministry were being issued to dilute the laws. To which Mr. Subramanian responded saying he is not a “Postman” for the Ministry. Ms. Priti Rao, meanwhile, asked for decentralised solid waste management. Mr. Vijayan Menon shared that even though he was not an official, he had walked into the Committee’s immediately preceding engagement with Government officials where a clear set of amendments were being proposed. He expressed surprise that this presentation was not being made for the benefit of the general public.

Ms. Bhargavi Rao of Environment Support Group wanted to know how law could be reformed when forest officials are unaware of biodiversity protection laws that had been passed over two decades ago and asserted that this rushed exercise in reviewing environmental laws had all the trappings of making light of people’s fundamental rights and concerns. Justice A. K. Srivatsav (Retd. Judge of the Delhi High Court) and a Member of the High Level Committee stated at this juncture that the public must have confidence in a Committee in which a senior retired Judge is a member. By which time Mr. Subramanian had remarked several times that the public was wasting the Committee’s time and there was no point continuing with this procedure. Several who had gathered protested such an assessment by the Chairman of the High Level Committee. Mr. Srinivas of Mavallipura sought to speak, saying he represents a community impacted by mal-development and waste dumping in his

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village, and he too was brushed aside.

At this point, Mr. Subramanian got up and said “We will end the joke here!” and walked out. He was followed by the rest of the Committee.

When Mr. Subramanian walked out, it was 1 pm. Members of the common public who had travelled great distances to engage with the Committee protested Mr. Subramanian taking them for granted and dismissing their views as of trivial concern. They demanded that the Committee return to hear the public and as advertised remained in the Hall till 1.30 pm. Neither did the High Level Committee return, nor did any official of the Ministry of Environment and Forests or Karnataka Environment Department come back to explain to the public why the High Level Committee had behaved in this manner. In fact, throughout the engagement with the public, not one Karnataka Government official was present in the Hall.

Illustration 3: The Public refuses to leave the Hall demanding the High Level Committee return for the Consultation

The undersigned are deeply disturbed by the manner in which the T. S. R. Subramanian headed High Level Committee has treated this public consultation process. The undersigned demand that the Ministry of Environment and Forests and Climate Change call off this exercise as it has all the markings of being a ritual exercise. In its place the undersigned demand that the Ministry must constitute a Committee that has a clear rationale for reform and Terms of Reference that are democratic, consultative and transparent. In particular, the following demands are made:

1. Environment Ministry must first come out with a White Paper discussing the nature of the reforms that it proposes in environmental, forest conservation and pollution control laws.
2. On the basis of such a Paper, an accessible Committee must be constituted that would hear peoples responses across the biologically, culturally and linguistically diverse country and also from various sectors equally.
3. The membership of the Committee should be so constituted that it would reflect diverse
concerns and sectos, and in particular ensure that members conversant with tribal and human rights, environmental management, conservation biologists, biodiversity, risk assessment, planning, etc., and not merely ex-bureaucrats or members of the legal fraternity were included. Particularly important is the need to ensure there is adequate representation of women on the High Level Committee, which presently is constituted only of men.

4. The process of the consultation to be followed has to be meaningful and conform with Principle of Prior and Informed Consent, even if this is not a consenting process.

5. The timeline for the Consultation mechanism for such a critical review has to be reasonable as laws sought to amended, or tweaked, fundamentally affect the Right to Life and Livelihoods, and Right to Clean Environment.

6. The entire process has to be transparent, all meetings must be recorded publicly, none of the deliberations must be in camera (as it appears to be the case now), and all proceedings, submissions, minutes and reports must be in the public domain.

7. Adequate facilities must be made to ensure that anyone interested can participated with dignity and without being inhibited by language or geographical location. To ensure this, the process must be devolved by enlisting the support of State and Local Governments.

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