



# The 'Voice' of the Public during Social Impact Assessment (SIA): A Case Study of Teesta IV hydroelectric project in India

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## ABSTRACT

*The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement 2013 Act (RFCTLARR Act) ensures that the 'public' is an integral part of the Social Impact Assessment (SIA) process. The law now mandates that their opinions would be considered in the report through a public hearing of the affected families. However, the inclusion of the affected people is often questioned in developmental projects such as hydropower projects, especially in hilly areas where the local people whose land is acquired are completely dependent upon it for their livelihood. Their resistance is also depicted through collective social action as a result of their former experiences with the outcomes of public projects, due to which the public and private companies conducting the SIA study tend to neglect their views. The aim of this paper is to examine the role of public and its inclusion in the SIA process in India, using a case study methodology focusing on the SIA report of Teesta-IV hydroelectric project submitted in 2018. Following a secondary data based approach, this study will argue that the local tribal communities do not equate the construction of dams with the concept of sustainable development. However, this does not cease the construction of those projects, thereby, questioning the notion of inclusion of the local people. It is, therefore, recommended that the agencies involved in conducting the process of SIA must take into consideration the conflicting views of the affected families and train their consultants to be responsible legally and ethically for project approvals, thereby fostering accountability in the process of development.*

**Keywords:** Development, Public Inclusion, RFCTLARR Act, Social Impact Assessment (SIA), Teesta-IV.

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## 1. INTRODUCTION

Social Impact Assessment, commonly abbreviated as SIA, is the practice of assessing the possible impacts of a project, before the land is acquired as per the Indian legislation of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement 2013 Act (RFCTLARR Act). The process of SIA entails the examination of the predictable and unpredictable consequences of development activities of a government or a private enterprise on the human civilization associated with that activity (Vanclay, 2002). This implies that SIA is the practice of examining, supervising and managing the social consequences of planned or implemented development interventions. In the case of India, the practice of SIA has been made mandatory through the recent RFCTLARR Act, 2013 by forming a SIA report before the start of any public or private developmental project in which land is acquired, except for certain cases as notified in the Act. An important aspect of this process is the role of the 'public', referring to the 'affected families'. Section 5 of Chapter II of the said Act specifies that a public hearing must be held to take into account the views of the affected people due to the upcoming project which must be included in the SIA report (Government of India (GoI), 2013). This particular section along with other features of the Act make the local people as much a part of the process of land acquisition as the private or public entity acquiring the land. This would foster sustainable and equitable development for all stakeholders involved, which includes the government as well as the SIA consultants other than the local people.

This paper aims to examine the role of public inclusion in the SIA process in India. For this purpose, the case study of Teesta-IV hydroelectric project (HEP) proposed to be built in the Mangan subdivision of North Sikkim. The SIA report submitted for this project in 2018 will be analysed along with other relevant secondary data that raised the debates concerning voice of the public in this project. This paper will argue that the local tribal communities do not necessarily equate the construction of dams with sustainable development and progress, however, this does not cease the construction of those projects, thereby, questioning the idea of public inclusion in the SIA process. Further, questions are also raised on accountability of all the involved stakeholders towards these people, which calls for a deeper understanding of how to better the process of SIA. In the following section, the

literature review of the role of the 'public' will be conducted with respect to international and national guidelines and existing studies in the field. This will be followed by a discussion of the methodology used for this study including a brief profile of the Teesta-IV HEP. The last section will discuss the findings of the study.

## **2. ROLE OF THE 'PUBLIC' IN SOCIAL IMPACT ASSESSMENT (SIA): LITERATURE REVIEW**

### **2.1 Public Inclusion Under the Purview of Law**

One of the earliest guidelines on the process of SIA was published by The Interorganizational Committee on Guidelines and Principles titled "Guidelines and Principles for Social Impact Assessment" in the United States in 1994, in which the first step was 'public involvement' indicating the participation of the potentially affected people through survey method (Interorganizational Committee on Guidelines and Principles (ICGP), 1994). The Committee then considered public meetings as an inadequate method for collecting information and preferred the survey method instead. But even earlier than that, experts in the field like Burdge & Robertson (1990) wrote extensively on the idea of 'public involvement' (PI) as a continuous process in the SIA since it prepares the involved public as well as the project developer for the possible problems/benefits that may be faced by the project. These guidelines and studies imply that the need for the inclusion of public was set in the process of SIA since its initial stages itself internationally. However, many studies at that time also pointed out that there remained a huge gap in the understanding of equating PI with SIA. For instance, writings of Burdge & Vanclay (1996) argued that the former is only a step in the entire process and that consultants involved in conducting SIA must be trained in social problems to understand people's opinions during this exercise. The conduct of the process of SIA was also seen as only a mechanism to make the people understand the impacts of a likely project rather than taking their opinion upon the execution of it (Freudenburg & Olsen, 1983). This problem with the idea of including people thoroughly in the process of SIA still continues, as most private firms with few specialists in the field of community management are assigned to complete the SIA process. Nevertheless, the emphasis on PI is very much a part of the process even today.

In the case of India, SIA as a legal mandate for planning and development is a very recent practice since 2013, as mentioned previously. This is why notions of accountability and public inclusion went amiss most developmental processes previously, leading to poor planning practices that made the concerned public averse to many projects in the past. For example, a World Bank led Independent Review Commission for the Sardar Sarovar Dam on the Narmada river in 1991 found that the launch of the project was announced without even knowing the number of people that it was going to displace in its vicinity, attracting hostility from locals and environmentalists (Mathur, 2016). The 1994 legislation on environmental impact assessment (EIA), amended further in 1997 and 2006, brought forth the concept of conducting 'public hearings' to include people's voices in the case of developmental projects that impacted them (Valappil et al., 1994; Diduck et al., 2013). The first step of conceiving PI in the process of SIA along with EIA was mandated through the 2007 National Rehabilitation and Resettlement Policy through its Clause 4.3.2 (Government of India (GoI), 2007). Mathur (2016) contends that this was a feeble attempt of the government since it accounted more for loss of community resources than its impact on the people. The limitations of this policy have been fulfilled by the implementation of the RFCTLARR Act, 2013 which specifies a detailed process of conducting the SIA and upholds the importance of public hearing emphasising upon "*giving adequate publicity about the date, time and venue for the public hearing, to ascertain the views of the affected families to be recorded and included in the Social Impact Assessment Report*" (GoI, 2013). However, movements against most developmental projects like the Teesta IV hydroelectric project suggest that even though the inclusion of the 'public' has now become mandatory since the inception of the 2013 Act, in practice, it continues to be a mere formal obligation for project approval.

### **2.2 Public Inclusion: Its Benefits and Tools in SIA**

The effectiveness of a SIA report lies in recording and reporting the actual opinions of the project affected families in order to forecast the probable impacts and mitigate the negative ones. Michell & McManus (2013) evaluate the process of SIA at the Northpark Mines, New South Wales to suggest that the idea of development becomes sustainable when the local community is engaged by the project developers. This is because their attitudes towards the project can be shaped when they become a part of the ongoing developments and their views are considered alongside. The other advantages of PI in SIA include increased democratisation, better communication between people and the decision-makers, added legitimacy towards developmental processes and providing equitable outcomes of the project (Freudenburg & Olsen, 1983; Gibson, et al., 2005). The local knowledge of the people supplements the competency of the decision-making authorities through the process of 'social learning' (Webler et al., 1995). The RFCTLARR Act, 2013 aims to add transparency, accountability, participation, and consensus to the process of SIA in India by making affected families a definite part of the report formation (Das, 2018). These studies affirm the necessity and advantages of including public's voice during SIA for developmental projects nationally and internationally.

While the primary tool of gathering people's opinions is through the conduct of 'public hearing' in the 2013 Act, related requirements for inclusion of the public in the process comprise of publicity of the public hearing, recording and reporting people's objections, and publishing the notice for the hearing and the report in local language both online and offline (GoI, 2013). The compliance with these steps also helps in determining the quality of impact assessment studies undertaken by various agencies. Additionally, the kind of tools used decide the degree of PI in this process. The International Association for Impact Assessment (IAIA) differentiates between the terms 'public involvement' and 'public participation' in which the latter goes further on to involve people through a planned intervention in the decision-making process of a project (André et al., 2006). The planned interventions may either be unilateral and passive in nature, or be consultative and interactive using tools of public hearings, open houses, workshops, mediations among others (André et al., 2006). Other methods also include surveys, focus groups, and observation by SIA consultants during field visits to evaluate the public's perspective regarding an upcoming project. The aforementioned tools are formal processes governed by law for undertaking the process of SIA. However, Glucker et al., (2013) bring to light the informal processes like protests, media campaigns, and petitions that also have the tendency to influence the decision of the likeliness of a project. The Teesta-IV hydroelectric project is an apt example of the contestations between the formal and informal tools used by the diverse stakeholders proposed to be impacted by it, the discussion of which is the strength of this paper.

### **3. METHODOLOGY**

This paper utilises the case study method to examine the notion of public inclusion in the SIA process by focusing on the Teesta-IV hydroelectric project (HEP). The case study method is a qualitative research tool that identifies a particular phenomenon or process to place it in the field of the related literature and forms observations (Njie & Asimiran, 2014). The 520 MW Teesta-IV HEP proposed to be constructed in North Sikkim by NHPC on river Teesta has been selected for this study. The Administrative Staff College of India (ASCI), Hyderabad was the notified agency for conducting the SIA for this project who submitted its report in 2018 following the due process as per the RFTLARR Act, 2013. Although the report having been in the public domain for nearly five years, clarifies taking into account, the views of the multiple groups residing in the project affected area, the project still awaits Stage II clearance amidst the protests that continue even today against it. The Stage I environmental clearances were sought, but 3 of the likely to be affected 10 Gram Panchayats have not given consent to the Stage II clearance, which is mandatory according to the Forests Rights Act, as informed by a Senior Manager of the NHPC (Dhungel, 2022). This project is of further interest because it is one of the longest awaited developmental decisions in the country as the Memorandum of Understanding (MoU) between the Government of Sikkim and the NHPC was signed in March, 2006 as per the SIA report (Administrative Staff College of India (ASCI), 2018). This has created an ongoing battle between the pro-dam supporters and anti-dam protestors, the latter consisting of tribal Indigenous Lepchas residing in Dzongu region. They have mobilised under organised groups labelled Affected Citizens of Teesta (ACT), Concerned Lepchas of Sikkim (CLOS) and the Indigenous Lepcha Tribal Association (ILTA). The voices of both the supporters and the protestors have been taken into account by the SIA report, the EIA report, media, and related academic sources on the subject. This study will examine these secondary data sources to report the findings on the issue of inclusion of public voice in the case of SIA for Teesta-IV HEP.

### **4. FINDINGS AND DISCUSSIONS**

A preliminary investigation of the various secondary resources points to the wide-staged opposition amongst the Lepcha community in Dzongu region against the Teesta-IV HEP. The detailed study, however, highlights the complex issues regarding public voice that may have been taken into account in the SIA study, but remain unresolved in practice, hence, leading to the delay in the project's construction. The crucial issue includes the tussle among the various groups of people- the supporters and the protestors, both of which comprise the 'public' and await that their voice be heard by the authorities. Secondly, claims regarding forced or neglected public opinion in the EIA and SIA reports have often emerged questioning their credibility. Lastly, the sensitivity of the decision-makers towards Indigenous people and the impact of such projects on their socio-economic lives has been questioned several times in the development debate on North-East India. These issues will be discussed in this section in detail supported by relevant literature.

The SIA report on Teesta-IV HEP and the various media articles recognise the presence of both pro-dam supporters and anti-dam protestors in the proposed area. A list of a total of 8 revenue blocks with 187 landowner families on the left bank and 6 revenue blocks with 88 likely to be affected families on the right bank of the river was drawn in the SIA report, witnessing resistance from 4 Gram Panchayat Units (GPUs) on the latter side withholding participation of about 29 landowners in the public hearing conducted for the study (ASCI, 2018). The report also emphasises that the opposition faced by the team members was more on account of the representatives of these panchayats and the Lepcha community rather than the landowners themselves, as majority of them travelled to the left bank side for the public hearing voluntarily (ASCI, 2018). This reveals the reason behind the

classification of the groups labelled as 'pro-dam supporters' and 'anti-dam protestors' in the media regarding this project. The former were also reported to be sitting in protest recently as they claim to have waited for over 20 years for this project since they received the letter of intent from the NHPC, and further modification on any land is prohibited by law (Dhungel, 2022). On the other hand, the contenders of the project organised under different labels represent the concerns of the Lepchas whose livelihood is dependent on mostly natural resources in the area which will be affected negatively by this project (Parvaiz, 2017). The protestors have been successful in negating the construction of four hydroelectric projects on river Teesta as a result of their hunger strike in 2007-08. Massive protests in Costa Rica led to the shutdown of a mine and eventually caused the ban of open-pit mining in the country depicting the impact of informal methods of public opinion on developmental projects (Glucker et al., 2013). It is feared by the supporters that a similar situation will follow in the case of Teesta-IV for which they have suffered losses and no compensation has been given since the project has not received clearance yet. The clash between these groups of people on both sides stresses upon the significance of public opinion and participation in SIA since neither can be dismissed.

Cases of forced and manufactured consent have also been highlighted by the media and legal cases regarding the same also stay pending in the state court and the Supreme Court, which poses a threat to public voice in the conduct of SIA. The SIA report mentions its limitations regarding non-participation of 29 landowners from the right bank in the public hearing and absence of another 16 from the left bank since they could not be traced despite several attempts (ASCI, 2018). Nonetheless, legitimacy of this report has been challenged by the ACT in the Sikkim High Court on grounds of preparing a report that dismissed the actual consent of the affected people (Choudhury, 2023). Further, studies also suggest that the EIA and the SIA reports usually do not take into account the possible negative impact on the regional law and order situation if this project is realised (Lepcha, 2017). The focus on following a certain procedure for doing the SIA by fulfilling the criteria of public participation leads to the neglect of long-term impacts that may not be evident during public hearings. Mathur (2016) identifies these impacts as non-tangible and differential impacts which remain invisible and may impact different communities differently. The credibility of the reports is challenged either due to non-cooperation of people or lack of foresight of impacts that may not have been observed during field surveys. Hence, the complete inclusion of the diverse public voices in impact assessment is complex and remains a gap that needs to be addressed by the law itself.

The Teesta-IV case study offers a compelling reason to study the balance between the voice of the Indigenous people and the development of a sensitive area. The primary threats feared by the Lepchas owing to increased damming in the region relate to their ecosystem – landslides, earthquakes, damaging cultural heritage, submergence of villages and unfavourable consequences on the biodiversity of the area (Choudhury, 2023). These concerns have risen due to their past experiences and local knowledge of the area that is prone to ecological calamities. Moreover, the tribal communities consider land as an integral part of their culture and livelihood and any intervention has the potential to create a conflict between man and nature. For instance, the SIA report states that an area of 75.54 hectares of the total land to be acquired consists of a Lepcha reserve, which is considered holy by the community and witnessed diverse interests from the people during the study (ASCI, 2018). There exist cultural reasons for those resisting it. On the other hand, for the government, the approach is to develop the area which is often considered neglected and hydropower generation is a viable option to overcome this gap for revenue generation and upliftment of the local people (Arora, 2009). However, the top-down development approach is criticised for dismissal of the public voice which is also articulated through civil society organizations like the ACT, CLOS and ILTA who have been resisting this project. Therefore, the need for reaching at an equilibrium between development and public voice is required.

## **5. CONCLUSION**

This study aimed to examine the concept of inclusion of public voice in the process of Social Impact Assessment (SIA) by choosing the case study of Teesta-IV hydroelectric project in Sikkim. It has been argued that the local people are divided between supporters and contenders of the project leading to a split in public opinion, also causing non-participation of the Lepchas who do not view construction of dams sustainable for their environment. This has further led to challenging the reliability of the SIA and EIA reports, since the public has not provided its consent to this project. Questions have also been raised regarding the dismissal of the minority people in an ecologically sensitive region calling for more accountability and reconsideration of top-down developmental approach in Sikkim. These gaps can be fulfilled by including participation of all stakeholders with each other in the SIA process and make the SIA consultants more responsible to re-evaluate the advantages and disadvantages of the project, making the process more transparent, democratic, legitimate, and equitable.

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