



Management

PUBLIC PARTICIPATION IN ENVIRONMENTAL IMPACT ASSESSMENT-LEGAL FRAMEWORK

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Abstract

Development is a continuous process and is essential to enable the population to attain a better standard of life. But it should not be at the cost of the environment. The challenge of a development pattern striving to harmonize economics with social and environmental need requires active citizen participation in public issues. Involvement of the public is one of the fundamental principles of a successful EIA process. It not only provides an opportunity to those directly affected by a project to express their views on the environmental and social impacts of the proposal but also brings about transparency in the environmental clearance system. This paper focuses on public participation in EIA and its legal frame work.

Keywords: Environment; Public Issues; Transparency; Impacts; EIA.

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1. Introduction

Public participation in EIA will surely prove to be important for assessment of environmental impact of development projects and actually support the decision-making processes that will be so crucial to the protection of both the environment and human health. The US National Environmental Policy Act (NEPA) not only initiated the development of EIA, but at the same time embedded in the process of EIA the concept of public participation (Petts, 2003). At several international conferences following the introduction of EIA, the importance of public participation for environmental decision-making has been formally recognized.

1.1. Background and the Extent of Public Participation

Public concerns regarding continual environmental degradation as a result of industrial development projects prompted the emergence of Environmental Impact Assessment (EIA) in the US in 1969 under the US National Environmental Policy Act (NEPA). The increase in scale and numbers of profit-orientated industries and governmental enterprises following the end of World War II resulted in a growing public distrust of both industry and the government in the preservation of environmental quality. Thus, the creation of NEPA was a mechanism to look beyond a single-factor risk of projects, to cover a wide range of issues aimed at protecting the environment, and human health (Glasson et al. 2005). Public participation as key to improving the decision-making processes was further promoted in the early 1990's. Specifically, in the context of risk management and communication, local environmental improvement and sustainable development as translated by Local Agenda 21, following failures in decision-making in these areas, signaled by continuing public opposition to development projects. As a result, participation proposed emphasis being placed on considerations of interests of the affected parties and consensus building among developers and public interests (Petts, 1999).

2. International Framework for Public Participation

Numerous international agreements affirmed the fundamental principle of public participation in decision making.

2.1. Rio Declaration, Principle 10

Principle 10 of the 1992 Rio Declaration⁷ that emerged from the United Nations Conference on Environment and Development --also known as the Earth Summit--, articulated three pivotal principles that inform the formulation of participation policy and regulations. These principles are: access to information, access to participation and access to justice.

2.2. Universal Declaration on Human Rights and International Covenant on Civil and Political Rights

It is widely recognized that access to information and access to participation have an ultimately expression as human rights.

Article 19 of the Universal Declaration of Human Rights and article 19 of the International Covenant on Civil and Political Rights establish the right to information. "Both these texts protect the rights to freedom of opinion and expression, and to seek, receive and impart information through any media, regardless of national boundaries."

Article 21 of the Universal Declaration of Human Rights provided the basic right to participation.

2.3. Agenda 21

The United Nations Conference on Environment and Development recognized that the commitment and genuine involvement of all social groups is critical to effectively implement Agenda 21. Furthermore, in the context of the environment, Chapter 23 of the Agenda 21 recognized “the need of individuals, groups and organizations to participate in environmental impact assessment procedures and to know about and participate in (pertinent) decisions”

2.4. The Vienna Declaration

The 1993 World Conference on Human Rights adopted the Vienna Declaration. It emphasized on participatory democracy and stated that: "Democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing. Democracy is based on the freely expressed will of the people to determine their own political economic, social and cultural systems and their full participation in all aspects of their lives."

3. EIA and Public Participation

EIA is defined as “an activity designed to identify and predict the impact on the biophysical environment and on man’s health and well-being, of legislative proposals, policies, programmes, projects and operational procedures, and to interpret and communicate information regarding the effects” Munn (1999, p. 1).

EIA requires, among others things, the preparation and publication of an environmental report outlining the potential significant impacts of the proposed activities. The objective of an EIA is to inform the decision-makers of the likely environmental effects of activities. This helps to ensure that such activities are only undertaken in an acceptable manner, through amendment of development proposals and mitigation of potential adverse effects. Thus, the ultimate goal of EIA is to promote sustainable development (McDonald and Brown, 1995, Glasson, et al. 2005; Jay, et al. 2007).

Within the EIA, consultation and public participation are key elements of forward planning and participatory environmental management tools (Jay et al. 2007). Participation plays a role in raising public awareness and consciousness with regard to environmental issues (McDonald and Brown 1995).

4. The need for Public Participation Process in EIA

Participation and communication should be an integral part of the EIA, allowing interests groups and the general public to express their views in the EIA stages listed below. (Glasson et al. 2005; Fischer, 2007):

- 1) Determining the scope of the EIA (screening and scoping)
- 2) Providing specialists with knowledge about the site (scoping)
- 3) Evaluating the relative significance of the likely impacts (scoping)
- 4) Proposing mitigation measures (assessment and report)

- 5) Ensuring that the EIA is objective, truthful and complete (assessment and report)
- 6) Monitoring any conditions of the development agreement (follow-up)

5. Basic Principles of Public Involvement

There are a number of basic principles that can be followed to help insure a successful outcome when using public involvement techniques (Prem Kumar Dara, 2016)

- 1) **Sufficient relevant information** must be provided in a form that is easily understood by non-experts (without being simplistic or insulting);
- 2) **Sufficient time** must be allowed to stakeholders to read, discuss and consider the information and its implications.
- 3) **Adequate time** ought to be allowed to enable stakeholders to present their views;
- 4) **Responses** should be provided to issues/problems raised or comments made by stakeholders. This enables public confidence in the public involvement and the EIA process to be maintained; and
- 5) The selection of venues and the timing of events should encourage maximum attendance and a free exchange of views by all stakeholders (including those that may feel less confident about expressing their views).

6. How to engage public participation

A broad range of techniques can be taken to encourage public participation, including but not limited to:

- 1) **Public meetings** (these are “open” with no restriction as to who may attend);
- 2) **Advisory panels** (a group of individuals, chosen to represent stakeholder groups, which meets periodically to assess work done/results obtained and to advise on future work);
- 3) **Open houses** (a manned facility in an accessible local location which contains an information display on the project and the study. Members of the public can go in to obtain information and make their concerns/views known);
- 4) **Interviews** (a structured series of open-ended interviews with selected community representatives to obtain information/concerns/views);
- 5) **Questionnaires** (a written, structured series of questions issued to a sample of local people to identify *concerns/views/opinions*. No interviewing may be involved); and
- 6) **Participatory appraisal techniques** (a systematic approach to appraisal based on *group* inquiry and analysis and, therefore, multiple and varied inputs. It may be assisted, but not controlled or directed, by external specialists).

7. Conclusions

Public participation is vital for resolving or reducing environmental disputes as they are more aware towards their surrounding environment. Besides, consulting the public helps in smoothen the process especially in decision-making.

Public participation is based on the principle that dialogue between decision-makers and the public benefits both parties. It allows the public to gain an understanding of government

decisions and policies, while providing the government with input to help them design and implement a better and legitimate trade process. Effective public participation requires not only dialogue, but also the provision of relevant information and the allocation of adequate resources in advance.

If used properly, public deliberation workshops, online public deliberation, educational programs, and media outreach, among others, can enable government to effectively engage the general public and establish a more mutually beneficial government and citizen relationship.

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