



Potentialities for a regional public participation framework in Asia: An environmental assessment perspective



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ABSTRACT

This study attempts to investigate the potential to develop a regional framework of public participation (PP) in environmental assessments (EA) within Asia. In so-doing, this paper examines the status quo of public participation in EA within Asia from a legislative point of view. The existing situation of EA in Asia is first examined, followed by an analysis on the status and challenges of PP within the region's environmental assessments. Eight Asian countries subject for this research have all implemented EA at different degrees, yet challenges of enforcement remain. Possible solutions to these challenges are to first improve and standardize the legal framework and implementation mechanism in each individual country, as a first step leading to a transboundary framework in Asia. PP within EA is legally defined in some countries, but it is not widely practiced. Multi-stakeholder process is suggested as a potential tool that comprehensively covers the components necessary for PP promotion. There are information gaps between countries, which could be improved by creating a regional agency governing information exchange. Limited collaboration among countries, likewise, could be improved by bilateral or multilateral environmental agreements.

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1. Introduction

1.1. Need for a regional public participation framework in Asia

According to the Principle 10 of the Rio Declaration on Environment and Development (1992), “[e]nvironmental issues are best handled with the participation of all concerned citizens” at relevant levels of governance, and “each individual shall have appropriate access to information concerning the environment that is held by public authorities”. The governments are, therefore, responsible for facilitating the information access (IA) and providing the opportunity to participate in decision-making processes. As environmental problems grow across national borders, public participation (PP) in the process of transboundary environmental assessments is deemed to become increasingly critical to the management of problems. As a result, regional frameworks that incorporate PP to approach environmental issues have been growing in the past few decades.

The Espoo Convention (1991) is one of the most prominent regional frameworks, which attempts to bring together stakeholders to prevent irreversible environmental damages in Europe. The Article 2.6 of the Espoo Convention provides that “the public in the areas likely to be affected [should be provided an opportunity] to participate in relevant environmental impact assessment (EIA) procedures regarding proposed activities” (United Nations Economic Commission for Europe [UNECE], 2015). The strategic environmental assessment (SEA) protocol (2003) to the Espoo Convention stipulates more extensive and detailed provisions on PP, such that the concerned public is informed, consulted, provided with opportunities to voice concerns and able to exercise rights without discrimination (UNECE, 2015). In contrast to such well-established framework in Europe, neither a mechanism for transboundary environmental assessment nor a region-wide PP framework has been institutionalized in Asia. Therefore, this study attempts to investigate the potential to develop a regional framework of PP in environmental assessments within Asia. In so-doing, this paper first examines the status quo of PP in environmental assessments within Asia.

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1.2. An overview of environmental assessment

Environmental assessment is a process of estimating and evaluating impacts of a program or project on the quality of associated location's environment. Among many types practiced in the world, EIA and SEA referenced in this study are one of the most widely known environmental assessments for their benefits in tackling both domestic and transboundary environmental issues. EIA is a legal process of identifying, predicting and evaluating potential environmental impacts incurred by a proposed project or development prior to decision-making. It offers 3 features: integrative management of environmental impacts; consensus-building of stakeholders; and granting of permission to the executing body (Overseas Environmental Cooperation Centre [OECC], 2000). EIA is instituted either by a dedicated legislation or other environmental law, and details of process, subject of assessment and duration depend on each implementing country. Since the first EIA was introduced in the United States in the late 1960's, it has been studied and implemented in more than 100 countries around the world (Robinson, 1992; Wood, 1997; Sakumoto, 2011). EIA spread across Asia by 1980s, following the pioneering cases of Thailand and the Philippines implemented in 1975 and 1978 respectively (OECC, 2000).

The definition of environment within EIAs can be quite broad which includes social, cultural and health impacts whenever necessary. While legislative provisions are considered to be the most appropriate basis for EIA internationally (United Nations Environmental Programme [UNEP], 2002), the provision for EIA may be administrative or executive depending on the country. In practice, EIA is typically an ex-ante evaluation conducted to assess environmental impacts of project already defined. Therefore, in most cases it is difficult to change foundations of the projects even though significant environmental impacts are identified; alteration of such project plans may lead to significant cost increase and prolonged duration of the project. In addition, environmental considerations against potential impacts at the EIA stages are limited to comparative evaluation of multiple options based upon the project concept (Hayashi, 2007; Sakumoto, 2011).

As for SEA, its basic objective is to investigate environmental impacts derived from activities at an earlier stage, which allows discussions to revisit or modify basic concepts, plans and projects. SEA is an environmental assessment that covers a wider range of activities over a longer period of time compared to EIA. Therefore, taking into account cumulative impacts on the environment from those activities, so-called rebound effects (Binswanger, 2001) derived from the subject activities could be avoided. SEA activities may vary in openness to the public, scope, intensity and duration. Thus, Sadler and Verheem (1996) defined SEA as a formalized, systematic and comprehensive process to identify and evaluate environmental consequences of proposed policies, plans or programme.

Speaking broadly, SEA is regarded as a more preferable option than EIA, due to its involvement of the public to plans and programmes from earlier stages. Implementation of SEA is generally assumed to be followed by EIA. While their differences are known, cases of EIA and SEA in Asia are used in this study as representative examples of environmental assessments as a whole.

1.3. Public participation (PP) in environmental assessments

PP within environmental assessments allows the public and various stakeholders to influence decision-making and share control over development of proposals that may affect them. Disclosure of information to the public regarding the decision-making process, providing opportunities for the affected public to participate or engage in policy and planning is essential to manage environmental problems. In countries with democratic traditions such as the

United States, Canada and European countries, PP in environmental assessment processes has contributed to success in mitigating environmental damages derived from the projects.

The vital role of the public in developing, implementing and supporting environmental assessment is described in the context of EIA and SEA under the Espoo Convention and its SEA Protocol. Particularly in transboundary contexts, PP in EIA will help the following:

- relationship improvement between peoples and countries, and prevention of transboundary environmental conflicts;
- development of civil society and democracy in the countries of the ECE regions;
- promoting the timely disclosure of relevant information to participations in the environmental decision-making process; people's understanding and respect of final decisions on projects; and
- giving an insight to environmental protection and long-term environmental problems.

The SEA Protocol stipulates that opportunities for PP shall be ensured by each signatory country of the Protocol, and transboundary consultations should take places upon agreed arrangements and participation of concerned public by providing an opportunity to submit opinions on the draft plan or programme and the environmental report (UNECE, 2015).

However, in reality, it is not easy to promote and secure information disclosure and PP within decision-making processes in developing countries. Improvement of transparency in the decision-making process is a fundamental problem for institutional reform in developing countries.

1.4. Research questions

Unsustainable growth associated with population increase, urbanization challenges and consumption increase have continued to environmental degradation exacerbating in Asia. Environmental problems are no longer an issue merely for one country; they have now escalated into transboundary problems affecting neighboring countries in the region. It is imperative that multilateral environmental agreements (MEAs) need to be strengthened and enforced by each country in Asia to solve the transboundary environmental issues (Olsen and Elder, 2011). In order to ensure Asia's compliance with the existing MEAs, it is necessary to identify various constraining factors and analyse the levels of PP in conjunction with information disclosure in each country (UNECE, 2011). The following research questions will be answered in this paper to pursue the goal:

- 1) To what extent have environmental assessments been implemented in Asia?
- 2) What challenges do Asian countries face in implementing and enforcing environmental assessments?
- 3) To what extent is PP a key factor in the current implementation of environmental assessment?
- 4) What are the trend and challenges of transboundary environmental assessment in Asia?

2. Methodology

In order to answer these questions, this study looks at environmental assessment frameworks in Asia from a legislative point of view. As a preliminary analysis, the existing situation of environmental assessments in Asia is first examined, followed by an analysis on the status and challenges of PP within the region's environmental assessments. Current situation and future potential of

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