



Implementing next generation assessment: A case example of a global challenge

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ABSTRACT

IA regime design has evolved significantly over the past 50 years. Current thinking includes a package of next generation approaches such as the incorporation of requirements for regional and strategic IA, the consideration of cumulative effects and alternatives, and the inclusion of sustainability criteria and trade-off rules for decision makers. These suggested changes to IA design largely come from the recognition, through experience, of the weaknesses with current IA laws and regulations and needs to accommodate new understandings, for example about sustainability and complexity. Here, we reiterate the key generic components of next generation assessment that are broadly suitable for application in all jurisdictions with at least moderate assessment capacities, focusing on the necessary process requirements that could be captured in IA law, regulation and policy. Through an illustrative case example of Manitoba, Canada, we show how the components of next generation assessment might be implemented as a package in the context of an existing IA regime. Our application of these principles reveals the value of careful consideration of the current legislative frame as well as needs to cooperate with other jurisdictions. It shows, for example, the importance of experience with using streams of assessment and ensuring meaningful public participation. We conclude that many jurisdictions are likely to find moving consistently to this more comprehensive form of assessment to be a natural progression and that the greatest challenges will probably be in building interjurisdictional cooperation, ensuring good faith application of the sustainability criteria in decision making, and implementing regional and strategic assessments.

1. Introduction

Over the past nearly 50 years, impact assessment (IA) theories, approaches and objectives have evolved significantly, in part due to learning from experience and in part in recognition of changing global and local conditions and demands. Responses in formal IA regimes and on-the-ground practices around the globe have also matured, though unevenly and not often as quickly as IA understanding and expectations. The evolutionary nature of IA has been captured by a number of scholars and has established the progression in thinking about IA processes and resulting IA design (e.g., Sadler, 1996, 2002; Wood, 2003; Meredith, 2004). Drawing on the earlier work of Sadler (1996), Gibson and Hanna (2016) outline four stages in the evolution of IA practice that clearly capture this thinking and design evolution (Table 1).

Stage 4 remains mostly aspirational (IAPA, 2012; Gibson and Hanna, 2016) and is therefore suitably described as “next generation” (Gibson et al., 2016). Especially in recent years, many governments have been moved to incorporate particular Stage 4 elements in their IA

regimes. Some have worked to correct long-standing deficiencies in project-centred assessment regimes – for example, to ensure better anticipation and monitoring of complex interactive effects, more meaningful public participation, and more effective attention to cumulative effects, broad alternatives and big policy issues especially through regional and strategic level assessments (see for example IAPA, 2012, 2013 for examples). Others have begun to respond to increasingly compelling demands to pursue and protect local and global sustainability requirements (Bond et al., 2012; Dalal-Clayton and Sadler, 2014).

Stage 4 components are, however still not incorporated into overall regimes as an integrated set. No existing regime to our knowledge integrates the Stage 4 components as a suite of mutually reinforcing parts and achieves effective application. The limited progress is not entirely surprising. As Bond et al. (2012) note, conceptions of effectiveness of IA processes are very much country-context specific, and different stakeholders hold different views of what works and what does not work in the delivery of effective IA process. They note further that the global

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Table 1
Stages in the evolution of EA processes (adapted from: Gibson (2002)).

Stage 1 – Reactive pollution control responding to locally identified problems (most often air, water and soil pollution) with technical solutions and issues addressed in often closed negotiations between government and polluters.
Stage 2 – Proactive impact identification and mitigation through relatively formal impact assessment and project licensing, but focused on biophysical concerns in the environment with no serious public role.
Stage 3 – Integration of broader environmental considerations in project selection and planning, but in the context of the individual activities proposed. This involves consideration of a full range of factors such as cultural, historic and economic impacts, the examination of alternatives, and public reviews.
Stage 4 – Integrated planning and decision-making for sustainability, addressing policies and programs as well as projects and cumulative local, regional and global effects, with decision processes that empower the public, recognize uncertainties and favour precaution.

recession and response to stagnating economies was a significant threat to IA thinking and progress. Bond et al. (2014) assess further the resulting streamlining of impact assessment in four jurisdictions: Canada, South Africa, United Kingdom and Western Australia. In Canada, for example, the federal government largely vacated the field of IA, going from carrying out over five thousand IAs per year at its peak in the late 1990s to about 30 per year since the enactment of *Canadian Environmental Assessment Act 2012* (Doelle, 2012; Gibson, 2012a). Bond et al. (2014: 46) conclude that “significant streamlining has been undertaken [in all four of the jurisdictions they considered] which has had direct adverse effects on some of the benefits that impact assessment should deliver, particularly in Canada and the UK.”

Indigenous nations, environmental and other non-governmental organizations, academics and some government officials continue to push for consideration of the issues and integration central to Stage 4. Examples include international associations such as the International Association for Impact Assessment through their best practice principles series (e.g., International Principles for SIA; EIA follow-up; Respecting Indigenous Peoples and Traditional Knowledge), the United Nations Economic Commission for Europe (UNECE) and their promotion of the development of SEA, and the work of others such as Organization for Economic Co-operation and Development (OECD) and the World Bank in spreading assessment principles. There has also been broad advocacy from the academic community for advancing IA with many notable examples such as the work of Morrison-Saunders et al. (2015) on sustainability assessment and the compendium books by Sadler and Dalal-Clayton on sustainability appraisal and strategic assessment (Sadler et al., 2011; Dalal-Clayton and Sadler, 2014). Roll-back and streamlining efforts have also been largely unsuccessful in terms of getting new large projects built. In Canada, for example, public expectations and Indigenous rights were offended by the changes to IA, some controversial projects were blocked or withdrawn and a new federal government initiated assessment reform to regain public trust (Government of Canada, 2017).

In this article, we reiterate the key generic components of next generation assessment that are broadly suitable for application in all jurisdictions with at least moderate assessment capacities, focusing on the necessary process requirements that could be captured in IA law, regulation and policy. Through an illustrative case example, we look to show how the components of next generation assessment might be implemented as a package in the context of an existing IA regime. In doing so, we consider the potential for a more efficient, effective, and fair decision-making process through clearer tests with criteria, earlier and broader guidance through regional and strategic assessments, early planning, and more process credibility.

Our approach was informed by our decades of conceptual and applied work, an integrative review of the literature (Torraco, 2005) that synthesized selected literature chosen for its connection to next generation assessment and the illustrative case study. In 2016 we published a paper that brought together our collective experience and

understanding of the literature and presented what we considered to be the basic components of next generation IA (Gibson et al., 2016). As we developed this article we shared our ideas with other scholars and practitioners, gained their input and our ideas were tested further in public forums related to the reform of IA in Canada. Others drew on and elaborated our thinking (e.g., WCEL, 2016), and we also published other papers on aspects of next generation assessment (e.g., cumulative effects assessment and meaningful public participation), all of which led us in this paper to identify eleven key components of next generation IA. We present these components, the foundations for their integration in next generation IA, as well as the literature that has developed around each component over the years, in section 2 of this paper. In doing so we recognize that applications must always recognize the specifics of case and context, and that there will be a diversity of views about the relative importance of some components and about how each may be most effectively incorporated into next generation IA.

We focus our attention of our application of the eleven key components of next generation IA on the illustrative case of assessment in the province of Manitoba in Canada. Through an iterative process among the three of us, we considered how the eleven components of next generation assessment could be implemented in the context of the existing IA process in Manitoba as governed by the *Manitoba Environment Act* (Government of Manitoba, 1987–88). We together worked through each of the eleven components and determined how they might be best reflected in the current process based on our collective experience, the input received by the government of Manitoba during a recent public consultation on the Act (as described below) and the literature. In applying the components, we also reflected on each of our 30 plus years of experience in participating in EA processes (e.g., hearing panel members, intervenors, expert witnesses), acting as policy advisors to various levels of government on IA, participating on various advisory committees on IA processes and publishing dozens of journal papers, book chapters and books on various aspects of impact assessment (e.g., in addition to others cited in this paper, Doelle and Critchley, 2015; Craik et al., 2012; Doelle et al., 2013; Gibson, 1993, 2006, 2013; Sinclair et al., 2012; Walker et al., 2014; Sinclair et al., 2017a,b). During the period of the development of the paper and its revision we were also heavily engaged in the reform of IA law federally in Canada. We were participating in daily to weekly discussions with other scholars, officials, practitioners and activists about how IA reform in Canada should unfold. Much of the discussion centred on the practicalities of incorporating and applying the eleven components next generation IA, which no doubt influenced our thinking of how each might be applied in the Manitoba context.

We selected Manitoba as a case because its established process of assessment follows a common basic approach used in many federated and non-federated jurisdictions worldwide (see Section 3). The IA process in Manitoba also provides a good example of the IA regime design and reform issues faced in a federal system, such as in the United States, Germany, or Australia. In Canada, Manitoba is one of ten provinces and three territories along with Indigenous governments and the Federal government that have IA regimes in place.

Discussions about changes to the IA process as governed by the *Manitoba Environment Act* have been actively underway since 2013 and now coincide with the new opportunity to coordinate with the Canadian federal government as it actively reviews and reforms its own IA process (Government of Canada, 2017, 2018). We had the opportunity to participate in this IA reform discussion in Manitoba in an advisory capacity through a process initiated by the Manitoba Law Reform Commission (MLRC, 2015). This helped to ensure our current knowledge of the IA process in Manitoba as we contemplated next generation reforms. The Government of Manitoba's own review also provided us with data in that it included the opportunity for stakeholders and the public to make written submissions. We reviewed each of the 24 formal submissions posted on the province's website analyzed

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