

SOCIAL ENGAGEMENT- HOW CAN WE MAKE IT WORK FOR ENVIRONMENTAL IMPACT ASSESSMENT SYSTEM

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ABSTRACT

Current approval processes for the proposed development requires the Environmental Impact Assessment (EIA) system and one key element to achieve effective implementation of the EIA system is public participation or social engagement. It helps ensure fairness and equity for the EIA system. It enables stakeholders to share and communicate the entire complex issues of impacts possibly happened from the proposed development project. Thailand has substantial legislation and regulations with the aim to enable social engagement for EIA process. However, implementation of social engagement provisions is failing at least to some degree.

Most would agree that quality of engagement varies across the projects: such as early engagement would ensure the informed consent of the stakeholders for the proposed projects.

Some experiences have shown that the exception of (early) engagement leads to missed opportunities and contribute to the development of a poor relationship among stakeholders, which may cause delays and significant costs of the proposed development.

This article explores how social engagement may be improved for EIA system in Thailand. A case study where social engagement techniques have been used is exemplified, and methods for employing effective social engagement tools to support EIA system are proposed.

Keywords: Social engagement, EIA, EIA system in Thailand, Public participation

INTRODUCTION

Current approval processes for the proposed development requires the Environmental Impact Assessment (EIA) system and one key element to achieve effective implementation of the EIA system is social engagement or collectively termed “public participation”. It helps ensure fairness and equity for the EIA system. It enables stakeholders to share and communicate the entire complex issues of impacts possibly happened from the proposed development project. Thailand has substantial legislation and regulations with the aim to enable social engagement for EIA process. However, implementation of social engagement provisions is failing at least to some degree.

Most would agree that quality of engagement varies across the projects: such as early engagement would ensure the informed consent of the stakeholders for the proposed projects.

Some experiences have shown that the exception of (early) engagement leads to missed opportunities and contribute to the development of a poor relationship among stakeholders, which may cause delays and significant costs of the proposed development.

This article explores how social engagement may be improved for EIA system in Thailand. A case study where social engagement techniques have been used is exemplified, and methods for employing effective social engagement tools to support EIA system are proposed.

The paper begins with a brief note of the importance of EIA system and the need of social engagement. Then the current laws and institutions enabling social engagement in Thailand EIA system will be outlined. This is followed by more detailed discussion of the governance challenges for Thailand in implementation of social engagement for EIA system. Then the paper will suggest potential directions for more effective implementation of social engagement tools to support EIA system in Thailand.

The importance of EIA system and the need of social engagement

EIA system or the Environmental Impact Assessment System is the prerequisite for the proposed development project. It is a systematic process for the examination and evaluation of the environmental effects of proposed activities that are considered probably to remarkably affect the environment. The EIA system also provides possible alternatives to the proposal, monitoring of the predicted and actual impacts and auditing for determining compliance with conditions attached to an approval (Gerry Bates, 2006). It allows stakeholders to predict the possible impacts and to examine how such impacts can be avoid or addressed from conducting the proposed development projects. Therefore, the EIA system is the tool for strategic environmental planning and management ensuring that all the proposed development projects will have least or even as no effect to environment and society as a whole. Several international financial and aid agencies implement EIA requirement and procedure as a condition to provide loans and implementing projects in developing countries with the expectation that EIA could be a useful instrument for improving the environmental soundness of investment operations(William V Kennedy, 1999).

The EIA system has been in existence since 1970 when it was introduced into the United States of America (Hussein Abaza, Ron Bisset, Barry Sadler, 2004, pp.7). The system was then introduced into the remarkable international environmental agreement in 1992. The 1992 Rio Declaration on Environment and Development calls for the use of EIA as an instrument of national decision-making for the proposed activities those are likely to have a

significant adverse impact on the environment.¹ The UN 1992 Conventions on Biological Diversity (CBD) cites EIA system as an implementing mechanism.²

Since its introduction, the EIA system has spread rapidly to all parts of the globe. EIA is still relatively new in some countries, but virtually all countries have it as a legal or administrative requirement. In 1991, 1995, and 1999 New Zealand, Canada, and Australia had a comprehensive reform of long-established EIA systems, respectively. In the same period, Vietnam, Uganda, and Ecuador also promulgated or amended their EIA legislation (The United Nations University, RMIT University, and the United Nations Environment Programme (UNEP), 2002).

Social engagement or community engagement or collectively termed ‘public participation’ or public consultation is an increasingly key element of environmental governance including EIA system. Ensuring stakeholder participation helps promote transparency, reduce the potential for corruption, and negotiate collaborative approaches to governance. Public consultation processes should give the government and the public an opportunity to share ideas about the advantages and disadvantages of proposed developments. Ensuring stakeholder participation is a key factor for success in effective EIA system implementation and related law compliance. It provides the basis for people to exchange information, ideas, and knowledge. For example, the community can provide the information on traditional management on the location of proposed development project, while the government can provide the science and technology or any technical benefit arising from the proposed development to local people.

Social participation could help ensure social equity in EIA system, as consulting with community about the proposed development project allow communities to express their need and concerns about the proposed projects, particularly the marginalised people whose livelihood affected by the proposed development project. Then the needs and concerns affecting community’s livelihoods could be translated into decision making process which would help better inform such decisions.

Failing to involve all stakeholders in EIA system may lead to unintended consequences. For example, excluding communities from project predetermining process can make them less likely to facilitate to collaborate as required by the government or can even lead to the conflicts between the project investors and the community.

¹ Principle 17 of the Rio Declaration on Environment and Development stating that:

“Environmental impact assessment, as a national instrument, shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a competent national authority.”

² Article 14 of the CBD: Impact Assessment and Minimizing Adverse Impacts stating that:

“1. Each Contracting Party, as far as possible and as appropriate, shall:

(a) Introduce appropriate procedures requiring environmental impact assessment of its proposed projects that are likely to have significant adverse effects on biological diversity with a view to avoiding or minimizing such effects and, where appropriate, allow for public participation in such procedures;

(b) Introduce appropriate arrangements to ensure that the environmental consequences of its programmes and policies that are likely to have significant adverse impacts on biological diversity are duly taken into account;”

The social participation in environmental management has been emphasised by a numbers of international agreements, such as the Stock Home Action Plan for the Human Environment 1972 addressed in Recommendation 39 that:

“It is recommended that Governments, in cooperation with the Secretary-General of the United Nations and the Food and Agriculture Organization of the United Nations where indicated, agree to an international programme to preserve the world's genetic resources:

(a) Active participation at the national and international levels is involved. It must be recognized, however, that while survey, collection, and dissemination of these genetic resources are best carried out on a regional or international basis, their actual evaluation and utilization are matters for specific institutions and individual workers; international participation in the latter...”

The Stock Home Action Plan 1972 highlighted the rights of everyone to access information and to influence their own environmental matter (Jorge E. Viñuales, 2015).

Then two decades later, the 1992 UN Rio Declaration emphasized the right to participation in the Principle 10 that:

“Environmental issues are best handled with participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities

In their communities, and the opportunity to participate in decision-making processes, States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided (Duvic-Paoli, L.-A. 2013).”

The 1992 UN Rio Declaration highlights three elements of rights to participate adding from the Stock Home Action Plan 1972. These encompass the right access to information, the right to be involved in decision-making process and finally the rights to access to justice.” Likewise, the CBD clearly indicates the need of stakeholder consultation for activities which are likely to significantly affect adversely the biological diversity.³

Then in 1998, the Aarhus Convention was adopted. It provides additional momentum supporting the promotion of public participation both at the national and international level. The Convention provides unprecedented legally binding commitments to guarantee the procedural rights of members of the public in relation to environmental decision making. It also explicitly commits its parties to promote public participation in international decision-

³ Article 14 of the CBD: Impact Assessment and Minimizing Adverse Impacts stating that:

“1. Each Contracting Party, as far as possible and as appropriate, shall:...

(c) Promote, on the basis of reciprocity, notification, exchange of information and consultation on activities under their jurisdiction or control which are likely to significantly affect adversely the biological diversity of other States or areas beyond the limits of national jurisdiction, by encouraging the conclusion of bilateral, regional or multilateral arrangements, as appropriate;”

making processes (Duyck, S. 2015). The Convention clearly encourages public participation in decision making on specific activities which may have a significant effect on the environment.⁴

⁴ Article 6 and Article 7 of the Convention on Access to Information, Public participation in decision-making and access to justice in environmental matter (the Aarhus Convention) stating that:

Article 6: PUBLIC PARTICIPATION IN DECISIONS ON SPECIFIC ACTIVITIES

“1. Each Party:

(a) Shall apply the provisions of this article with respect to decisions on whether to permit proposed activities listed in annex I;

(b) Shall, in accordance with its national law, also apply the provisions of this article to decisions on proposed activities not listed in annex I which may have a significant effect on the environment. To this end, Parties shall determine whether such a proposed activity is subject to these provisions; and

(c) May decide, on a case-by-case basis if so provided under national law, not to apply the provisions of this article to proposed activities serving national defence purposes, if that Party deems that such application would have an adverse effect on these purposes.

2. The public concerned shall be informed, either by public notice or individually as appropriate, early in an environmental decision-making procedure, and in an adequate, timely and effective manner, inter alia, of:

(a) The proposed activity and the application on which a decision will be taken;

(b) The nature of possible decisions or the draft decision;

(c) The public authority responsible for making the decision;

(d) The envisaged procedure, including, as and when this information can be provided: (i) The commencement of the procedure; (ii) The opportunities for the public to participate; (iii) The time and venue of any envisaged public hearing; (iv) An indication of the public authority from which relevant information can be obtained and where the relevant information has been deposited for examination by the public; (v) An indication of the relevant public authority or any other official body to which comments or questions can be submitted and of the time schedule for transmittal of comments or questions; and (vi) An indication of what environmental information relevant to the proposed activity is available; and

(e) The fact that the activity is subject to a national or transboundary environmental impact assessment procedure.

3. The public participation procedures shall include reasonable time-frames for the different phases, allowing sufficient time for informing the public in accordance with paragraph 2 above and for the public to prepare and participate effectively during the environmental decision-making.

4. Each Party shall provide for early public participation, when all options are open and effective public participation can take place.

5. Each Party should, where appropriate, encourage prospective applicants to identify the public concerned, to enter into discussions, and to provide information regarding the objectives of their application before applying for a permit.

6. Each Party shall require the competent public authorities to give the public concerned access for examination, upon request where so required under national law, free of charge and as soon as it becomes available, to all information relevant to the decision-making referred to in this article that is available at the time of the public participation procedure, without prejudice to the right of Parties to refuse to disclose certain information in accordance with article 4, paragraphs 3 and 4. The relevant information shall include at least, and without prejudice to the provisions of article 4: (a) A description of the site and the physical and technical characteristics of the proposed activity, including an estimate of the expected residues and emissions; (b) A description of the significant effects of the proposed activity on the environment; (c) A description of the measures envisaged to prevent and/or reduce the effects, including emissions; (d) A non-technical summary of the above; (e) An outline of the main alternatives studied by the applicant; and (f) In accordance with national legislation, the main reports and advice issued to the public authority at the time when the public concerned shall be informed in accordance with paragraph 2 above.

7. Procedures for public participation shall allow the public to submit, in writing or, as appropriate, at a public hearing or inquiry with the applicant, any comments, information, analyses or opinions that it considers relevant to the proposed activity.

8. Each Party shall ensure that in the decision due account is taken of the outcome of the public participation. 9. Each Party shall ensure that, when the decision has been taken by the public authority, the public is promptly informed of the decision in accordance with the appropriate procedures. Each Party shall make accessible to the public the text of the decision along with the reasons and considerations on which the decision is based.

The current laws and institutions enabling social engagement in Thailand EIA System

Thailand has also issued laws and institutions enabling social engagement in its national EIA system. The details of these are as below:

The institutions administer EIA system:

The EIA system was first issued in Thailand in 1975 (B.E 2518) when it was noted in the Enhancement and Conservation of National Environmental Quality Act B.E 2518. However, under this Act, EIA was only the voluntary, so this is insufficient to effectively protect environmental social interest from the proposed development project. As a consequence, the Enhancement and Conservation of National Environmental Quality Act B.E. 2518 was amended in 1981 (B.E 2524) and in 1992 (B.E 2524), respectively. The 1981 version required 10 prospective projects to conduct EIA before beginning of the project. However, as the continuously development and harm to environment occurred, the 1992 Act added a number of proposed projects to conduct EIA before beginning of the project. The 1992 Act requires more than 10 proposed development projects under the Ministerial Mandate which could cause significant harm to environment and society to submit the EIA report to the Office of Natural Resources and Environmental Policy and Planning (ONEP) before commencing of the projects. Then the ONEP will consider and give recommendations to permitting agencies or cabinet. EIA reports have to be prepared by a consulting firm which is registered by ONEP (ONEP, 2012).

The Minister of Natural Resources and Environment (MNRE) with the approval of the National Environment Board (NEB) is authorised to determine types and sizes of projects or activities requiring EIA reports.⁵ There are 35 project types or activities requiring the preparation of EIA reports⁶, 11 project types or activities which may seriously affect community with environment, and health requiring the preparation of Environmental Health

10. Each Party shall ensure that, when a public authority reconsiders or updates the operating conditions for an activity referred to in paragraph 1, the provisions of paragraphs 2 to 9 of this article are applied mutatis mutandis, and where appropriate.

11. Each Party shall, within the framework of its national law, apply, to the extent feasible and appropriate, provisions of this article to decisions on whether to permit the deliberate release of genetically modified organisms into the environment.”

Article 7: PUBLIC PARTICIPATION CONCERNING PLANS, PROGRAMMES AND POLICIES RELATING TO THE ENVIRONMENT

“Each Party shall make appropriate practical and/or other provisions for the public to participate during the preparation of plans and programmes relating to the environment, within a transparent and fair framework, having provided the necessary information to the public. Within this framework, article 6, paragraphs 3, 4 and 8, shall be applied. The public which may participate shall be identified by the relevant public authority, taking into account the objectives of this Convention. To the extent appropriate, each Party shall endeavour to provide opportunities for public participation in the preparation of policies relating to the environment.”

⁵ Section 46 of the Enhancement and Conservation of National Environmental Quality Act B.E 2535.

⁶ Notification of the Ministry of Natural Resources and Environment About defining type, size and procedure for Project or Activity which May affect community severely in respect of both the quality of Environment, Natural Resources and Health that Government agency, State Enterprise Or Private Sector should prepare environmental impact assessment report

Impact Assessment (EHIA) report,⁷ and some project types require both EIA report and the Initial Environmental examination (IEE) report. Similarly, MNRE with the approval of the NEB is also empowered to issue a notification describing the procedures, methods and guidelines for preparation of Environmental Impact Assessment report (ONEP, 2012).

The EIA process

Thai EIA process encompasses typically five stages including: screening, scoping, preparation, review, and monitoring evaluation and auditing (J.W.S. Longhurst, 2013; the Secretariat of the House of Representative, 2015).

In order to detect the impacts may be caused by the proposed projects or activities, the screening process is firstly conducted. This is to determine whether the proposed projects or activities require the EIA report or not. In Thailand, lists of projects or activities required EIA has been used as a screening tool.

The screening process is started by when the prospective developer submitting the proposal to initiate any project activity to the decision- making authorities for their approval. Then, the authorities will seek further information (screening) to determine whether the proposed projects or activities require the EIA report or whether the proposal is likely to significantly affect the environment, society or public health or not.

Then, the scoping will be undertaken to identify the impacts needed to be assessed. Scoping will narrow down EIA study into the significant issues.

Once the type or size of the proposed projects and the EIA need are identified, then it is the review process. There are two methods for EIA approval process which is subject to the types of the project proponent. Firstly, in case of the project proponent is carried out by the government agency, state enterprise or the project which is jointly conducted by government agency, state enterprise and private sector, the agency empowered to grant a permit of project development conducting, respond to prepare the EIA report and submit it to the National Environment Board (NEB) for final approval by the cabinet. Following this process, the permitting agency will prepare the EIA report at the stage of conducting Feasibility Study, and submit to the Expert Review Committee (ERC) for their comments. The ERC composes of a number of relevant expertise and the representatives from the permitting authorities. Then the ONEP will summarise the ERC comments to submit the comments with the EIA report to the NE. Next, the NEB will make their recommendation and submit the EIA report attached by the comments for final approval by the cabinet.

In contrast, in case of the development projects or activities do not require the approval of the cabinet; the project proponent is required to submit the EIA report to the

⁷ Notification of the Ministry of Natural Resources and Environment About defining type, size and procedure for Project or Activity which May affect community severely in respect of both the quality of Environment, Natural Resources and Health that Government agency, State Enterprise Or Private Sector should prepare environmental impact assessment report

authorized agencies, which the permitting agency has to delay the grant of permit to the applicant until the EIA report of such project will be approved by the ERC. To get the EIA approval from the ERC, the agencies empowered to approve the proposed projects will submit the EIA report of development or the construction proposal to the Environmental Impact Evaluation Bureau (EIEB) under the ONEP. This bureau is responsible for initially reviewing the EIA report and then makes the comments to the ERC for the final approval of the EIA report. Then, once the EIA report was approved by the ERC, the approval will be returned to the permitting authorities to allow the prospective developer continue their prospective development projects. However, the specialised committee may seek for any further information or rationale before final approval if the any issues relevant to the EIA report raised.

In addition to the normal process, the EIA report for the case of the development projects or activities do not require the approval of the cabinet can be approved even in case of the ERC does not finish the EIA report review within the indicated period.

Between these processes, public participation can be implemented along the stages of EIA process. It aims to allow public, Non-Governmental Organizations (NGOs) and relevant agencies affected by the projects to be informed. They can share their comments or experiences which will be taken in to account in project development and EIA process.

As noted previously, there are mainly three types of the environmental assessment format in Thailand: the EIA; the EHIA; and the IEE. As similar to as other jurisdictions, public consultation for EIA process is a legal obligation. Thailand has both general laws as the general frameworks and specific laws enabling social engagement in EIA system. Based on these laws, stakeholders those who are affected by the prospective development projects can be involved in environmental assessment process for every proposed development projects.

The general legal framework enabling social engagement in EIA process

Thailand has the *Constitution* recognises the rights of communities to preserve their customs and to participate in the management, maintenance and exploitation of natural resources.

Section 67 of the *Constitution* of Thailand B.E. 2550 indicates that the rights of people to participate with the community and the state in natural resource management shall be protected as appropriate. Environmental impact assessment, public consultation, and expert consultation have to be undertaken prior to conducting any activity which may severely impact the environment in the community. The community has the right to sue the government to force it to comply with this section.⁸

⁸*Constitution 2007* s 67 (Thailand).

These rights were consolidated by provisions associated with the rights and liberties noted in Chapter Three of the *Constitution*:⁹ the rights to information and to petition;¹⁰ the rights to freely express ideas,¹¹ and the rights to legal services to be protected in judicial procedures.¹²

Thai people also have rights to be protected based on international agreements in section 82 of the *Constitution*. The State must comply with international agreements, which can include the international agreements related to social engagement or public participation.¹³ These rights are also provided in section 87 of the *Constitution* which directly in relation to the rights to public participation. This section requires that the State promote public participation in the formulation of policies on economic and social development, public service and monitoring state action by strengthening public capacity in politics through a fund to subsidise people in political activity and encouraging people to express their ideas, as well as educating people about the parliamentary democracy with a constitutional King as the Head of State, and encouraging people to vote in national parliamentary elections.¹⁴ These provisions enable the community to introduce laws, including forest-related laws, to Parliament under section 163 of the *Constitution*, which empowers groups of 10,000¹⁵ or more electors to introduce a draft law to the Parliament.¹⁶

The Enhancement and Conservation of the National Environmental Quality Act BE 2535 (1992) also sets the framework for environmental management including public participation, environmental funds, liability and penalties for violations of the *Act*.

Thailand also promulgates *the Determining Plans and Process of Decentralisation to Local Government Organisation Act BE 2542 (1999)* to open to more possibilities for communities to be engaged in environmental management including EIA system. This *Act* establishes a committee of the central government called ‘The Determining Plans and Process of Decentralisation to Local Government Organisation Committee’ which has the power to initiate decentralisation plans and identify public-service activities (including natural resource management) that local government should be responsible for in their own administrative districts.¹⁷ Pursuant to this *Act*, communities can be involved in EIA system through forming the local government.

In addition, *Official Information Act, BE 2540 (1997)* also requires that the Government makes certain information on the environment and health available to the

⁹*Constitution 2007* s 27-29 (Thailand).

¹⁰*Constitution 2007* s 56-60 and s 62 (Thailand).

¹¹*Constitution 2007* s 45 and s 48 (Thailand).

¹²*Constitution 2007* s 81 (Thailand).

¹³*Constitution 2007* s 82 (Thailand).

¹⁴*Constitution 2007* s 85 and s 87 (Thailand).

¹⁵ Decreased from 50,000 people contained in *Constitution (1997)*.

¹⁶*Constitution 2007* s 163 (Thailand).

¹⁷*The Determining Plans and Process of Decentralisation to Local Government Organisation Act BE 2542 (1999)* (Thailand) s6, s12

public.¹⁸ This Act would considerably enable public to be able to access public information including the information regarding to EIA system.

The *National Health Act B.E.2550 (2007)* also has the most extensive social engagement provision. It is the first Act that includes several sections on EHIA. The Act includes the public participation process, particularly the section on the rights of the people to make a demand for and to participate in EHIA process (Decharut Sukkumnoed, 2013).¹⁹

The specific legal framework enabling social engagement in EIA process

According to the regulation issued by the Prime Minister's Office, public consultant is required at least two times for making EIA report including being involved in the scoping and the preparation stages.

For the scoping stage, communities is entitled to be informed about the prospective development project including the possible impact both positive and negative that could be occurred from conducting the proposed development projects and the scope of how the prospective projects will be carried out. This is enable people to assess and decide if the prospective development should be conducted or not. People can express their view and any rationale assessing and deciding whether the prospective projects should be continued or not.

Then, for the EIA report preparation stage, communities would be informed about the measures or alternatives to mitigate the severe impacts possibly occurred from conducting such the proposed projects. This is to allow communities to express their expressing their concerns and issues in EIA guideline and for a well-rounded assessment of possible impact and its mitigating solutions. The comments made by the communities need to be included as part of the EIA report.

In addition to the EIA report, Thailand also issue *the Notification of Ministry of Natural Resources and Environment* requiring the EHIA report making to arrange a public hearing to allow people and stakeholders who could be possibly affected by the proposed development projects or an activity that may cause severe impact to quality of environment, natural resources and health of a community, to express their concerns and any recommendations to the projects or activities.

¹⁸*The Official Information Act BE 2540 (1997)* (Thailand)

¹⁹ Section 10 of the National Health Act B.E.2550 (2007):

“In the case where there exists an incident affecting public health, a State agency having information relating to such incident shall expeditiously disclose such information and the protection thereof to the public.

Section 11 of the National Health Act B.E.2550 (2007): “An individual or group of people has the right to request for estimation or participating in the estimation of impact on health resulting from a public policy. An individual or group of people shall have access to information, explanation and underlying reason prior to a permission or performance of a programme or activity which may affect his or her health or the health of a community, and shall have the right to express his or her opinion on such matter.”

Section 25 (5) of the National Health Act B.E.2550 (2007): “National Health Commission (NHC) shall have powers and duties to prescribe rules and procedure on following up and evaluation in respect of national health system and the impact on health resulting from public policies, both in the levels of policy making and implementation.”

There are three stages of social engagement in EHIA report making as following:

1) The process of public hearing arranged for people and stakeholders to set up the scope and EHIA guideline: the project/activity proponent shall arrange a public assembly to set up scope and guideline of EHIA for people, stakeholders and related agencies to share their concerns and opinion on guideline of EHIA, and to complete the EHIA process. Community will be informed for a public-wide acceptance and preparation to participate in the hearing at least one month in advance through at least 3 ways of public communication media. Then the project document describing background, necessity, financial source, procedure, and implementing guideline will be disclosed to public. Also, preliminary information regarding factors that may cause impact to environment and health, and a draft proposal of scope and guideline of EHIA will be presented to stakeholders and public via at least 3 public communication ways 15 days in advance prior to the hearing date. Then opinion of related parties and public together with explanation will be summarized and prepared and submitted to ONEP for acknowledgment and to National Health Commission of Thailand for publicizing.

2) Evaluation and preparation of EHIA report: In evaluation and preparation process of EHIA report, the public participation guideline and social impact assessment guideline published by ONEP, MONRE will be followed by the project proponent, in order to create a well-balanced participation and hearing in all respects. At this stage, the survey will also be conducted to collect data and to understand the ways of life and environmental condition of communities located in the area that may get environmental or health impact from such project or activity. The data obtained will be considered with a high concern and will be summarized and disclosed to public within 15 days at the easily accessed and seen places.

3) Process of review the draft of EHIA report: the data and comments earned from the public hearing mentioned in the above stages will be included into the draft of EHIA report and the draft will be reviewed community, stakeholders and related organizations to examine correctness and completeness of the draft of EHIA report, as well as to present data, fact, and additional comment to the said draft of EHIA. Then the final draft of the EHIA summarize opinion of related parties and public together with comment and explanation of the project proponent, the project approval authority or other related organizations to be submitted to ONEP for acknowledgment and to National Health Commission of Thailand for publicizing.

Constraints of ensuring effective social engagement for EIA system in Thailand

Even though Thailand has laws encouraging social engagement in EIA system, there is insufficient for effectively implementing the EIA system, the following section provides detailed discussion of the constraints of ensuring effective social engagement for EIA system in Thailand.

Inappropriate time-lag considerably undermines effective social engagement in EIA system

The *Notification of Ministry of Natural Resources and Environment* and the *Enhancement and Conservation of the National Environmental Quality Act* clearly detail the stages of social engagement in EIA system. However, the time provided to finish each stage is quite short; for instance, Section 48 of the *Enhancement and Conservation of the National Environmental Quality Act* requires Office of Environmental Policy and Planning to notify the person applying for permission who files the report within fifteen days from the date of receiving such report. Similarly, the Office of Environmental Policy and Planning have to finish the review and make preliminary comments on the report within thirty days from the date of receiving in order to submit the report to the ERC. Concluded from the time lag indicated in laws, it is therefore, possible that the time provided is arguably insufficient for public to be effectively involved, such as for them to express their concerns, their ideas, and any other comments to the EIA report. This is because the elements to be assessed of EIA are quite complicated and mostly use technical terms. To be approved, the EIA report has to, particularly, describe an existing environmental condition, provide detailed information and related photos of non-restorable and restorable physical and biological natural resources and environment, such as the Abiotic resources, the land Geomorphology, aquatic surface and underground water, human use value, drinking/domestic water, and Information on population (occupation, income, language, religion), sickness rate, infectious diseases, endemic sickness. In addition, the report must offer alternatives for consideration, such as, project site selection, alternative method for project implementation which produces less pollution, to help in deciding project implementation. These elements are considerably highly technical. It is, thus, quite difficult for ordinary people, such as communities to understand, otherwise, it could take time to fully understand. So the times provided as indicated in laws, such as within fifteen days or thirty days should be insufficient for public to understand all the elements well enough. As a result, even though they could be able to be engaged in EIA report making, they cannot effectively make their decision about the positive or negative impacts probably occurred from the prospective development projects because they have insufficient time.

Conflict of interest of the role of a key stakeholder in EIA system

To submit the EIA report for approval, there is a key stakeholder playing two different roles at the same time. Such a key stakeholder is the consultant firms registered with ONEP. The firm is responsible to prepare the EIA report to be approved. As the role of the registered firms with ONEP; they are responsible to protect the interest of community and environment as a whole which by conducting this role, they have to be quite strict to assess, particularly, the impacts that may cause to environment and communities. However, in the reality, the firms prepare the EIA report for the prospective project proponent. Therefore, while playing a role as the registered firm to protect the benefit of the community and environment as a whole, the firm are also employed to prepare EIA report by the owner of the proposed development project. As a result, as the role of an employee; the firms have to

protect the benefit of their employer which by conducting this role they would have to be possibly tolerant to assess the harm that may cause to environment and communities, such as ignore or hide the real impact. This is for the EIA report to be easily approved. So, conducting the employee roles could considerably prevent the registered firms from effectively conducting their roles as the registered firms with ONEP to protect the interest of community and environment as a whole. As a consequence of conducting the employee role of the registered firms, even though community can be engaged and express their ideas or concerns about the possible impacts from the proposed projects, their concerns could be able to be ignored or hidden by the registered firms preparing the EIA report as the employee role. This could eventually significantly inhibit the effective social engagement in EIA system.

Lack of clear social engagement process for sub-stages

Public participation in EIA system can be held in the main stage including; screening, scoping, and reviewing. However, public involvement is not required by some stages which are arguably to be the sub-stage such as the constructing or operating stages and the monitoring stages. Compare to the main stages like screening and scoping, the constructing or operating stages and the monitoring stages are the stages ensuring whether concerns or comments proposed by communities are implemented. So it could arguably be the stage proving that if the aims of social engagement in EIA system are being met. Without social engagement in sub-stages like the constructing or operating stages and the monitoring stages could potentially lead to a tendency to hide things, which can eventually lead to corruption and conflicts among stakeholders, especially when hiding things causes to a problems where local communities are adversely impacted.

Lack of clear rationale in case of fail to finish the report review within the identified timeframe could considerably undermine the effective social engagement in EIA system

In addition to the normal process, the *Enhancement and Conservation of the National Environmental Quality Act* indicates section 49 that the EIA can also be approved in case of the ERC does not finish the EIA report review within the indicated period. This could considerably lead to a tendency of easily ignorance the views gained from social engagement process or the social engagement could have no effect. This is because only the ERC just fail to finish the report review within the identified timeframe, then the EIA can be automatically approved.

Non-compliance to avoid doing social consultation as required by the EIA system could significantly undermine the effective social engagement in EIA system

The proposed projects or activities to be under the EIA report process are already identified by laws, such as construction of the hotel or resort with total 80 rooms or more or total utilization area is 4,000 square meters or more. However, the EIA report makers likely to avoid compliance with the provisions of laws. The project proponents have changed the size of the projects or activities that are not required to submit the EIA report. For example,

in case of construction the hotel, the owners of the hotel construction projects will build the hotel only maximum of only 79 rooms or arrange the total utilization area less than 4,000 square meters. Then they are not required to submit the EIA report and eventually they also do not need to follow the process of EIA process including the social engagement process as required by laws. As a result, there is no point having the public participation requirement for EIA process.

Directions for effective social engagement for EIA system in Thailand

The above section discussed the challenges of social engagement for EIA system in Thailand. This section suggests potential reform directions for successful social engagement for EIA system in Thailand. Proposed reforms are detailed below:

1) Rights to be engaged should be reinforced by an effective capacity building process

Having supportive policies and legislative frameworks to advance community's rights to be engaged in EIA process may not guarantee that they will be treated fairly in the process, unless community understand all those policies and laws including the entire context regarding EIA elements. This is necessary, because people cannot make decision effectively, unless they understand the context of what they are going to decide. Therefore, it is important that to enable effective participation, community needs to have a good understanding of the context of, particularly, the nature of the impacts likely to significantly affect their likelihoods.

Involving the next generation in EIA process will help to build capacity and enhance social engagement in long-term.

2) Effective information sharing could be put in place accompanied with capacity building program

Enabling community to have good understanding can be done through effective information sharing, such enhancing dissemination of EIA-related information: Disseminating information enables people to gain access to information on political issues, corruption, and religious issues for dealing with corruption, ensuring that the problems inquired by community are sorted out, and ensuring that everyone hears the same message about EIA management in those countries.

The dissemination could be conducted through effective training. Firstly, it is important for community to be trained to understand the elements of EIA. This includes, particularly, the impacts likely to occur from the proposed projects, the method and the importance of impact assessment or monitoring.

Training can also be enhanced with the development of materials and equipment for EIA or projects or impact monitoring, such as enabling community to simply monitor the impacts likely to occur from the proposed projects by using the application on smart phone.

Make information on forests affordable, easily accessible and accurate could also enhance effective information sharing.

3) *Methods of communication could help enhance effective dissemination*, such as training for effective communication skills, using the technique of communication such as using the clear or local language to communicate, using comfortable forums of exchange of information between community and government, such as informal face-to-face, small group discussions or sessions led by the head of the community. This could be more understandable for communities. Then they can fully understand the EIA process. Using different ways of communicate, such as using the game as the technique to distribute the information instead of the lecturing which is quite academic and difficult to understand, especially for the technical terms.

4) *Enhancing capacity of local government*

In addition to building capacity of communities, building capacity of administrative local organisation is also needed.

Local government plays a key role in supporting community regarding implementation of laws and policies including EIA process. It is potential that policies, laws, and guidelines for community engagement in EIA process have been developed, but implementation of community engagement remains limited, due to a lack of capacity within both local government and project-based communities. Thus, an effective local institution is also important to ensure effective social engagement in EIA process.

5) *Creating partnerships with community and social networks to strengthen social engagement in EIA process*

Foster public involvement, for example, by creating partnerships with community and social networks. Social mobilisation strengthens the power of the community to bargain their EIA-related benefits.

6) *Publish feedback from public consultations to ensure that inputs are acknowledged*

Acknowledgement enhances transparency and provides stakeholders with confidence that their input is being considered.

7) *Providing incentives to enhance social engagement in EIA process*

Even though having right to participate in EIA process, however, it seems insufficient to ensure the effective public participation in such process. Incentive to participate in EIA process help enhance voluntary partnerships and participation to EIA process. Provide incentives, such as providing subsidies for carrying out work and coordination for participation would help enhance the will to effectively participate in EIA process.

8) *Promote strong relationships among communities help enhance effective social engagement in EIA process*

It is likely that if communities are not cohesive and have strong relationship, then they will not care appropriately for the rights to protect environment and society as a whole. As a result, they will not care appropriately to participate in EIA process to protect their rights.

Using multi-stakeholder negotiations to reach consensus could help provide the positive outcomes of conflicts resolution and trust building among stakeholders. This eventually could successfully help strengthen the partnership building and help enhance strong relationship among communities.

9) Having appropriate time-lag for effective social engagement

Even though having right to participate, but still under the time limitation. Therefore, communities could have enough time understand and make the good decision about EIA process. It is necessary that having sufficient time frame provide opportunity for public to adsorb and understand the EIA process, particularly the impacts significantly affected their likelihoods likely to occur from the proposed projects.

10) Focusing on the impacts likely to occur from the proposed projects rather than the size or types of the projects

Many projects proponent avoid to comply with EIA related laws by changing the types or the sizes of then projects, while the impacts possibly occurred these types or sizes are remain the same as the type or sizes of the projects required by the EIA process. This is also the way of avoiding social engagement for EIA implementation.

11) Social engagement should be conducted for the sub- stages as well

Conclusion

This paper has discussed the situation of social engagement in EIA system of Thailand. The country has made a great effort to implement social engagement for its EIA system. However, there are some challenges needing consideration if the country is to ensure the effective social engagement in EIA system. These challenges include: inappropriate time-lag considerably undermines effective social engagement in EIA system; conflict of interest of the role of a key stakeholder in EIA system; lack of clear social engagement process for sub-stages; lack of clear rationale in case of fail to finish the report review within the identified timeframe could considerably undermine the effective social engagement in EIA system; non-compliance to avoid doing social consultation as required by the EIA system could significantly undermine the effective social engagement in EIA system. This paper proposes some reforms direction for ensuring effective social engagement in EIA system.

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