

Is EIA an effective industry greening and public involvement process?
The Pakistan experience

Ahmad Saeed
IUCN – The World Conservation Union
1 – Bath Island Road
Karachi 75530
Pakistan

Tel: (92)(21) 586 1540; 586 1541
Fax: (92)(21) 583 5983; 587 5620
Email: ahmad.saeed@iucnp.org

Abstract

World-over, EIA is being promoted as an effective industry greening process/tool. It is a legal requirement in most countries and without an EIA, no project or activity in the public or private sector can obtain government approval. In addition, EIA has also been used to involve the public in the approval process. However, the EIA process has received considerable criticism for its immense flexibility, which at times has resulted in twisting of facts to mislead the public. In Pakistan, EIA has been a legal requirement for the last 18 years. There are strong arguments both in support and against the process and it has met with mixed success.

EIA can only be effective if the support infrastructures such as Environmental Protection Agencies are strong enough to help implement/enforce the necessary laws. In Pakistan, the existing infrastructure is weak and too insufficient to support the obligatory legislature. EPAs are not properly staffed and do not have the technical capability to evaluate, monitor and enforce the process.

Due to this, the proponents are only using EIA as a legal requirement. Although by law, public participation is an integral part of the process, it is being practiced to a limited extent. The proponents ignore deliberations with the affected communities. Even if consultations are carried out, the affectees are not provided with the necessary information. The enforcement of the EIA has also resulted in corruption in the concerned departments. The oil and gas industry too has used this tool quite effectively to their advantage.

Despite these shortcomings in its implementation and process, EIA has by and large resulted in a positive impact on the industry. Prior to the introduction of EIA, large-scale projects would go ahead without any consideration to the environment and local communities. Now when an EIA is conducted, at least the project is evaluated for its impacts. The project also comes to the notice of the concerned departments and certain measures are taken to minimize the impacts.

Although slow in adopting EIA, Pakistan was quick to adopt the Strategic Environmental Assessment (SEA) in framing its policies, laws, plans, and programs. A masterpiece is the Pakistan National Conservation Strategy, the official Government of Pakistan Policy Document on the environment, which was prepared after extensive consultations with all stakeholders. This was done long before SEA was introduced as a legitimate tool for evaluation of policies, laws, plans and programs. Other examples are the formulation of the Pakistan Environmental Protection Act of 1997, which was prepared after extensive country-wide consultations. Similarly, the revision of the National Environmental Quality Standards, National Water Policy and Resettlement Policy, are other examples of the application of SEA in Pakistan.

Although the current practices are still far from an ideal situation but there is some positive movement in the right direction. EIA has come a long way since its introduction in Pakistan and is still the best tool/process available. It can be made more effective by strengthening the necessary infrastructure, making the process more transparent, increasing accountability, empowering communities and improving the resource base. Better acceptance of SEA as a process will also help in moving towards tackling the problem at source rather than 'end-of-the-pipe-treatment'.

Methodology paper; work-in-progress

Theme: Dialogue and communication for sustainable development

Keywords: Environmental Impact Assessment, EIA, environmental law, Pakistan, Public participation, Strategic Environmental Assessment

Is EIA an effective industry greening and public involvement process? **The Pakistan experience**

1. Introduction

World-over, Environmental Impact Assessment (EIA) is being promoted as an effective industry greening process/tool. It is a legal requirement in most countries including Pakistan, and without an EIA, no project or activity in the public or private sector can obtain government approval. In addition, EIA has also been used effectively to involve relevant stakeholders in the approval process of a proposed development project. However, the process has received considerable criticism for its immense flexibility, which at times has resulted in twisting of facts to mislead the public. There are strong arguments both in support and against the process and it has met with mixed success.

In Pakistan, EIA has been a legal requirement for the last 18 years (since the enforcement of the Pakistan Environmental Protection Act, 1983). However, the implementation of EIA as a legitimate tool for impact assessment did not get the required attention until recently. Although the process has mainly had a positive impact on development in Pakistan, it has also been manipulated by proponents to forward their self-interests. Similarly, public involvement of stakeholders has largely been symbolic.

Pakistan has also experimented with the use of Strategic Environmental Assessment (SEA) in the formulation of different policies, laws, plans and programs in the last two decades. The country can be termed a "trendsetter in SEA". Although the procedure was not carried out under the caption of SEA, it used all the ingredients of the process. There are several success stories and lessons to be learnt from SEA implementation in Pakistan.

This paper will investigate whether EIA has lived up to its mandate of ensuring that the environmental and social concerns of stakeholders are safeguarded in the development process in Pakistan. In addition, this paper would also examine the efficacy of the SEA process in the Pakistani context: how well it has been used, the status of its implementation, drawbacks and also the future of SEA in Pakistan.

2. Background

Examining developmental projects for the impact they are likely to have on the environment is now a standard practice in developmental planning. A useful tool in achieving the goals of sustainable development is Environmental Impact Assessment. Principle 17 of the Rio Declaration on Environment and Development (1992) calls for a universal adoption of the EIA; and additional requirements are introduced by various international agreements (e.g. UN Convention on Biological Diversity).

In the last two decades, international multilateral agencies (The World Bank, Asian Development Bank, etc.) and donors (Canadian International Development Agency, etc.) have implemented EIA processes and procedures to review their lending and assistance proposals. During this time, EIA has evolved into a comprehensive and versatile instrument for development planning and resource management, and the practical contribution that it can make to informed decision-making is widely acknowledged.

EIA has evolved greatly over the years. From the early days, when it was only a technical tool, it has matured into a continuous process, which assesses and evaluates impacts of projects including environmental, social and economic impacts. Initially, the tool used to look only at the

environment in a very narrow sense but now it looks at the entire ecosystem with a very specific focus on biodiversity.

In Pakistan, the Environmental Protection Ordinance 1983 (PEPO), made EIA a legal requirement in Pakistan for all developmental projects. The Pakistan Environmental Protection Act (PEPA) 1997 further strengthened PEPO. By law, all public and private sector projects now need to undertake an EIA to be issued a No Objection Certificate (NoC). Public participation is a mandatory legal requirement under PEPA'97. Its success and failures will be discussed in the later in the paper.

In October 1999, IUCN-Pakistan catalyzed the establishment of Pakistan Environmental Assessment Association (PEAA). PEAA was formed as a member body of South Asian Regional Environmental Assessment Association (SAREAA) which acts as a consortium of all national Environmental Assessment associations in the SAARC (South Asian Association for Regional Cooperation) region. It is an interdisciplinary professional association dedicated to developing national capability to anticipate, plan and manage the consequences of development. It provides a forum for EA practitioners all over the country.

International agreements such as the Convention on Biological Diversity, Framework Convention on Climate Change, etc are making new demands on EIA. Scales and rates of environmental deterioration are much more pressing now than when EIA was first introduced in the 1970's. The EIA process, conventionally applied at a project level, represents a limited response to these issues. It is also increasingly evident that many of the environmental problems associated with development projects arise because insufficient attention is given to environmental issues at higher levels of policy making. SEA represents a promising means of addressing some of these issues.

Although widely promoted, SEA is still an emerging process that aims to integrate environmental considerations into policies, laws, plans and programs. To date, formal provisions and guidelines for undertaking SEA are largely confined to developed countries. Experience with SEA appears to be very limited in developing countries.

However, Pakistan has been a little ahead of others in this regard. SEA principles although not specifically under the title of SEA have been successfully applied to policies, laws, plans and programs for the last fifteen years. The development of the National Conservation Strategy (NACS), PEPA'97, revision of the NEQS etc, are just some examples of SEA application in Pakistan. Public participation was used for all the initiatives taken thus far.

3. Status of EIA in Pakistan

EIA has been a legal requirement in Pakistan for almost 20 years now. It has come a long way since it was first introduced - its acceptability has increased and so has its viability as a useful environmental protection tool. However, the ride has not been very a very smooth one and the way ahead continues to be bumpy.

While the process has been utilized in its true spirit to protect the environment, at the same time, it has also been used to shield the vested interests of several people. At times, the flexibility of EIA has been used for the betterment of the environment, and in other instances, it has been deliberately misinterpreted to twist facts in someone's own interest/favor.

Being a legal requirement was not enough to make EIA an effective shield to protect the environment from the detrimental effects of developmental projects. There are number of reasons why EIA has not produced the desired results despite being widely practiced for over a decade. Some of the key problems are discussed below:

3.1 Misunderstood concept

The basic philosophy of EIA is not well understood among decision-makers, proponents and the persons conducting EIAs. It is widely seen only as a report, which needs to be prepared to be able to undertake some operation – timing is not important. It is deemed to be a one-time activity and not a process. It is often considered a conspiracy of the west to destroy the local industry and is thought to be a major hindrance in the economic development of the country. It is also thought of as only a legal requirement for obtaining a NoC. Thus it is considered to be almost everything which it is not.

3.2 Weak political will

Political will to implement environmental laws in Pakistan has not been very consistent. At times, it has emerged as one of the major priorities of the government resulting in extensive preparation, passage and implementation of laws. At others, it has been sidelined and ignored. Thus far, development and enforcement of environmental law has not been through a properly devised government policy but rather has been largely personality driven.

In mid-nineties, environment got a boost because a very important person in the government hierarchy had interest in it. However, otherwise environment has generally occupied a back seat in the government priorities.

3.3 Weak environmental lobby

A major problem has been that most governments feel that environmental considerations hamper the economic progress of the country. This is a major misunderstanding on part of the decision-makers and a major failure of the environmental lobby and think tanks to effectively link economic growth with environmental and social considerations. As long as environment is put forward as a separate agenda by the environmental lobby and not properly linked/integrated with the economic policies of the country, it will continue to be neglected by the political leadership.

3.4 Weak institutions

Just having good laws is not enough to protect the environment. There has to be enforcement/implementation of those laws by governmental institutions. If the institutions have the required governmental mandate but are weak and do not have the capacity to enforce those laws, it is as good as not having the requisite laws.

The Environmental Protection Agencies (EPA) in Pakistan were created under PEPA'97 to implement the law. However, despite having been in existence for almost a decade, the EPAs continue to be poorly resourced and lack the necessary authority to bring culprits to justice. A five year multimillion dollar World Bank project, Environmental Protection and Resource Conservation (EPRC) project was launched by the Government of Pakistan in the early nineties to strengthen the EPAs through capacity building and necessary infrastructure development. However, the project did not reap the desired benefits due to a lack of long-term planning.

The EPAs' state-of-the-art laboratories are lying idle, resulting in the expiration and wastage of expensive consumables like chemicals, lamps for atomic absorption, spectrophotometer, etc. The laboratories were setup under the EPRC project but never used. The basic reason is that the EPAs have no inspectors who could go out and collect samples from industries and municipalities for analysis. The other hindrance is the hiring of laboratory staff, which would have either to be borrowed from other government laboratories or hired exclusively. Due to long employment procedures, the hiring for these laboratories could not be completed.

The lack of coordination among different government departments and different sectors like government, civil society, academia, research organizations and industry is another major obstacle in the understanding and implementation of environmental concerns such as EIA.

3.5 Weak resource base

Most EIA professionals currently conducting EIAs in Pakistan did not go through any proper training on the subject. They have acquired the skills either through experience by conducting EIAs or have undertaken a short course in EIA. The majority of the professionals do not have the necessary background to be able to identify and evaluate the potential impacts of a development activity and thus fail to suggest proper mitigation measures. The obvious result is an EIA report, which appears to have followed the EIA procedure, but does not have technical merit.

Academic and research institutions have not provided a steady EIA resource base. Training in EIA-related fields provided by the few institutions in the country is not adequate and not in conformity with current international EIA norms.

3.6 Corruption

Corruption has played its role in making EIA ineffective in Pakistan. The blame has to be shared equally by all concerned – relevant institutions, proponents, consultants and civil society organizations. This has largely resulted in reducing EIA to a mere activity with no impact.

3.7 Flexibility in the EIA approach

EIA is an extremely flexible tool/process making it easily exploitable. The consultant can, by playing with words, easily downgrade any potential adverse impact. Similarly, just suggesting mitigation measures for an impact is considered a solution to the problem without giving due consideration to the practicality of the suggested measure. This results in an EIA being approved with mitigation measures that are not practical either technically, economically or socially. The Environmental Management Plans (EMP) developed are extremely generic making them almost non-applicable to a specific situation.

3.8 Role of consultants

In the absence of a Code of Ethics for consultants, a consultant becomes merely a mouthpiece of the proponent. This issue is equally applicable to local as well as international consultants. The practice has flourished because there is no control by government agencies over who should conduct an EIA. The proponent, by law, is free to choose a consultant of its own choice. The issue has become more severe because of the lack of checks and balances in the system and also because of the lack of environmental and social watchdogs.

4. Public participation – a misunderstood concept

Technically and also by law, public participation is a must for all EIAs conducted in Pakistan. IEE/EIA Rules and Regulations prepared under PEPA'97. The Government of Pakistan Environmental Guidelines clearly underline the proper usage of public participation. However, it is still a widely misunderstood and misused concept. Although there are reasons why public participation is not used as recommended and has not produced desired results, there is nothing to excuse the fact that relevant stakeholders are not involved in the process.

Normally, consultants (not proponents) call some of the key governmental departments and leading civil society organizations as a token measure to inform them about the project. Sometimes this is the only public participation undertaken by the consultant. In some other

instances, they hold one or two meetings in the community to tell them how good the project is and how they will greatly benefit from it in the form of jobs and economic activity in the area.

Even if consultations are carried out, the affectees are not provided with the necessary information. Negative impacts are either not discussed or if mentioned, given a very low priority. This raises the expectations of the local community, which are seldom fulfilled later. In a recent episode, a well-reputed multinational oil company undertook exploratory activities for natural gas. At the beginning of the project, the company made promises as to how this would result in the provision of employment for locals. Of late, there have a number of articles in the papers talking of how the locals staged protests against the company, held sit-ins, and went on strike because the consultant employed a few local people in the beginning and later laid them off. This is not the first such incident.

It is mandatory for the EPAs to publish an advertisement in newspapers to inform all concerned about the public consultation meeting, enabling them to attend, once the report has been submitted by the proponent. To avoid any resistance, the advertisement is published in obscure local newspapers with very little circulation. The announcement generally contains very little and vague information.

The public consultation meetings are held not at the project site but at a five-star hotel in the city. The locals are invited, with the knowledge that they would not be able to make it. The meeting usually endorses the EIA and the NoC is issued.

The blame for this should be shared by all concerned. Proponents and consultants world-over have a similar attitude but the balancing force comes from either the government or the civil society. If the other players are serious enough, the practice of public involvement can be easily improved.

5. SEA in Pakistan

Although slow in adopting EIA, Pakistan was quick to adopt Strategic Environmental Assessment (SEA). As mentioned earlier, SEA has an almost fifteen-year history in the country. Although not exactly conducted under the SEA umbrella, the process itself has been in place for sometime now. The first time it was applied was in the preparation of the Pakistan National Conservation Strategy. The process was a joint collaboration of the Government of Pakistan and IUCN – The World Conservation Union. The funding was provided by Canadian International Development Agency (CIDA). Extensive public consultations were held all over Pakistan involving all stakeholders. The process was quite successful and helped in bridging the gap between the government and the other stakeholders. The credit goes to the government for initiating the process and letting it take its due course.

Using the NCS approach, provincial conservation strategies have been developed in NWFP (Sarhad Provincial Conservation Strategy), Balochistan (Balochistan Conservation Strategy) and Northern Areas (Northern Areas Conservation Strategy). All have been developed in collaboration with IUCN. The process for each one has been funded by an international donor agency. The primary theorem of each strategy is conservation through social mobilization and this can only be achieved if the people of the province take ownership of the process.

The basic premise of SEA in Pakistan has been the involvement of stakeholders, which is a key factor in the SEA process. Due to the involvement of relevant stakeholders, areas of concern were addressed and all kinks removed, leading to better acceptability.

A prime example is the formulation of the Pakistan Environmental Protection Act of 1997. The basis of PEPA'97 is the PEPO'83. The government decided to revise the act with the assistance of all concerned. Workshops were held all over Pakistan involving all stakeholders, which included representatives of the concerned government departments/agencies, industrialists, civil

society organizations, environmental activists and academics. The workshops proved to be quite useful in getting the point of view of all concerned and incorporating it in the revised law. Later the draft was shared with all concerned and their inputs incorporated.

The government is using the same approach now in the formulation of the National Water Policy. The process is funded by Asian Development Bank. The draft report is currently being shared with all stakeholders for their input. The National Resettlement Policy also went through the same process and is currently in the process of finalization.

It has been a commendable step to introduce SEA in the evaluation of policies, laws, plans and plans in Pakistan at the inception stage, to assess them for their potential impacts on the environment and social sectors of the country. However, it is also felt that SEA has resulted in derailing the implementation process of the concerned laws to a certain extent. A case in point is of the NEQS.

The NEQS were set to be implemented in 1994, a year after their creation. An effort to involve all stakeholders in the process has only weakened them and the NEQS still await implementation. Several deadlines have been put forth by the government (most recent being July 1, 2001) for the implementation of the NEQS but each time, industries comes up with a new excuse for delay. Just a few days ago, the NEQS Committee has proposed imposition of pollution charge from July 1, 2002 on the industries discharging untreated effluents. It remains to be seen whether this will follow through.

Although industry does have reasons for their attitude such as institutions are weak and would not be able to monitor implementation properly and this may lead to further harassment of the industry but that is more of a concern of the government than of the industry itself. Delays have resulted in taking the pinch out of the process and industry does not take deadlines seriously any more. This would create problems for the implementation of the environmental and other relevant laws in the future.

6. Future of EIA/SEA in Pakistan

Despite all the problems faced in implementing EIA in its true spirit, the future of EIA and SEA in Pakistan is quite bright. A process has started which can not be rolled back. The government realizes that it has to implement EIA more effectively. Awareness has increased tremendously among stakeholders and communities. Media groups and international pressure are an additional factor in forcing compliance with the relevant legislation. However, certain steps will have to be taken to ensure that EIA process stays on track. These are:

6.1 Institutional strengthening

Unless relevant institutions are strong and have the requisite capacity to implement the EIA process, all other efforts would be fruitless. It is therefore extremely important that EPAs and Environment Sections of Planning and Development Departments be strengthened in capacity and through the provision of other necessary infrastructure. The EPAs should be made independent agencies and not report to any other department, to avoid external pressures, which may hinder its work.

The capacity of the EPAs and Environment Sections should be improved through independent hiring and not through inter-departmental transfers to ensure that quality professionals are hired as per job specifications.

Regular trainings of staff should be arranged, particularly for technical staff to enable them to undertake their jobs properly.

Linkages should be developed between academic institutions and EPAs to help train the EPA staff, to encourage information sharing and also to undertake collaborative research projects. Academic institutions should assist EPAs in operationalizing EPA laboratories. PEAA, which serves as a conduit for national capacity building activities, can also help bridge the gap between the public sector and other stakeholders in the development process.

6.2 Checks and balances

Corruption and mediocrity can only be removed if proper checks and balances are introduced to monitor the workings of EPAs. Independent committees consisting of professionals from civil society, industry, and academia may be setup to regularly monitor the progress of the EPAs and report to the Pakistan Environmental Protection Council, the apex environmental body in the country. PEAA, as a body representing EA practitioners all over Pakistan, can also play a major role.

6.3 Accountability

The proponents and consultants should be made accountable for the implementation of the EMP and other mitigation measures. This can only be done if the issuance of NoC is not the end of the responsibility of proponents and consultants. Instead of issuing a blanket NoC, it may be divided into stages and thus help in keeping them involved in the process. Similarly, all consultants should be required to sign a code of ethics to make them morally responsible for their actions.

7. Glass half full

Although the current practices are still far from an ideal situation but there is some positive movement in the right direction. EIA has come a long way since its introduction in Pakistan and is still the best tool/process available.

The Pakistan example shows that despite its weaknesses and shortcomings, EIA is an effective industry greening and public participation tool. EIA has at least made people think about the impacts of developmental projects on the environment and social sectors – a concept that was non-existent couple of decades back.

Communities have started to comprehend the importance of environment in their lives. Similarly the government has realized the importance of public opinion in policy making. There are definitely bottlenecks but not such that can not be removed if all the stakeholders work together.

The spirit is high and the glass half full.