



# Public Participation in EIA and its Indicator from the Asian Perspective

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# International Developments on P10

1998

Aarhus Convention

47 Parties

2010

Bali Guidelines

2018

New regional  
agreement in ECLAC





# Developments in Asia

**No such regional movement in Asia**

**Why not?**

Languages and cultural/social/natural environment are diverse.

Are there no common features?



**Need for international collaborative and comparative study in Asia**

Both internal pressure and external pressure will be required to promote P10



## Purpose of this research

- Developing indicators for PP
- Providing it for use in other countries in Asia
- Sharing good practices
- Contributing to potential regional instrument
- Contributing to achieving Goal 16 of SDGs





## Today's objective

- 1 To clarify what are the characteristics of each country
- 2 To clarify what are the common characteristics
- 3 To clarify what are the common and specific challenges
- 4 To discuss how to overcome them



# Publication of outcome (1)

## Publication in Japanese

- Full paper on day 1
- Deadline for rewrite: 10. Oct. 2018
- Deadline for translation: 10. Nov. 2018
- Publish within this year
- Special issue of Administrative Law Review
- Publisher: Shinzansya



# Publication of outcome (2)

## Publication in English

### 1 Content

- (1) Integrated report based on common indicators
- (2) National report
  - (a) Outline of EIA system
  - (b) Legal system of PP in EIA
  - (c) Practices
  - (d) EIA litigation (to be discussed)
  - (e) Challenges

### 2 Deadline: to be discussed

### 3 Publish in the first half of next fiscal year?

### 4 Publisher: during negotiations



# Outline of Indicator

- 1 Existence of legal scheme for EIA
- 2 Requiring PP
- 3 Object of EIA
- 4 Range of participants
- 5 General principles for PP
- 6 Identification of public concerned
- 7 Adequate notice
- 8 Early participation
- 9 Participation methods and its timing
- 10 Informed participation
- 11 Reasonable timeframe for each phase
- 12 Organizer and rule on public hearing
- 13 Due consideration of the submitted comments
- 14 Publication of decision
- 15 Access to justice



# Range of Participants

Type A Public: Japan, Thailand

Type B Affected people: India, Philippines

Type C Public + affected people/public concerned  
China, Indonesia, Taiwan

1 Wide meaning of public and affected people  
including community, environmentalist and NGOs

2 Three countries distinguish public and affected  
people (different way to participate)

China: Selection of representative for public hearing

Indonesia: Affected community has priority.



# Notification

## 1 Method

- Individual notification: Philippines, Taiwan
- Newspapers, television: China, India, Indonesia etc.
- Websites: China, Indonesia, Japan, Thailand
- Instruments particular to certain region: India

\*Obligation for taking 2 or more methods  
China, India, Indonesia, Japan

## 2 Period

One month: India, Japan

15 days: Thailand

10 days: China (minimum), Indonesia

## 3 language

Local language: India, Indonesia (discretion)



# Opportunities to participate?

- 1 Required in all 7 countries by laws and/or regulations
- 2 Early participation?
  - No PP at screening in 5 countries
  - **Taiwan: 4 times for Phase I EIA**
  - Philippines: Encouraged to be initiated early and in all stages
  - Japan: Primary Environmental Impact Consideration obligation to strive to initiate PP
- \* New developments
  - China: revised in 2017
  - Thailand: new legislation soon in 2018



# How many times? 1~8 times

## 1 One time:

- India
- Thailand: at least one time, more at discretion

## 2 Two times

- Indonesia (scoping + EIS)
- China (construction PJ) (draft EIS + EIS)

## 3 Three times

- Japan (before scoping + scoping + draft EIS)

## 4 4 times for Phase I + II respectively=8: Taiwan

## 5 All stages: Philippines (encourage)





# Methods for PP

## 1 Submission in writing

- 6 countries except for Philippines

## 2 Public hearing: 6 countries

- Japan: only explanation meeting

Public hearing based on ordinance in big cities

- China: exhibition

\*Obligation for minutes/record: 6 countries

Video record: India

## 3 Participation of community as committee member

- Indonesia: EIA Appraisal Committee



# Informed Participation

1 Free charge of access to relevant information

all 7 countries (in principle)

Partially charged: Indonesia

2 Easy understanding

Obligation to deliver information in easily understood manner: China, Indonesia

Summary: China, Japan, Thailand

Use of chart: China

3 explanatory session

India, Japan (only in affected area), Philippines, Thailand



## Due consideration of opinions

1 Publication of submitted opinions  
and/or summary?

China, Japan, Taiwan, Thailand

2 Publication of result of consideration?

China, India, Taiwan, Thailand

\* Japan: feedback only from project operator

3 Publication of decision?

India, Indonesia, Taiwan



## Conclusion 1: Good Aspects

- 1 EIA has been legally established.
- 2 EIA provides with important opportunity to participate.
- 3 Wide range of the public can participate, if.....
- 4 Basically, information is available for free of charge. But...
- 5 Public hearing are held in most countries.



## Conclusion 2: Challenges and Recommendations

Gap between global standard and national standard

Gap between national standard and reality

1 Comprehensive guarantee to participate

Important projects are excluded from obligatory EIA  
ex. railways (India), improper screening (Thailand)

2 PP at early stage

PP at screening stage: few



No EIA = No PP



## Summary 3: Challenges and Recommendations

### 3 Improvement of notification

Public concerned don't know about conducting of EIA and PP in many cases.

### 4 Access to information (full information + easy understanding)

- Public can only get information of the pros of the proposed project in many cases.
- Difficulty to understand technical documents



## Conclusion 4: Challenges and Recommendations

### 5 Effective access to Justice

Japan needs reform to introduce PIL

### 6 Capacity building for all sectors including public officials

What is access right?

How to use it?

### 7 Protection of environmental defender



# What's next?

## Our proposal

### 1 Research topic

Comparative study concerning environmental consideration scheme of several international financial institutions (ex. ADB, EIB), focusing on PP

### 2 Background

International financial institutions have played an important role in how to effectively consider environmental aspects.

Each institution has its own system for environmental consideration. However, there is no comprehensive research on such a mechanism.

### 3 Method

Comparative study of several systems

Refer to similar system of ODA

Case study taking up some common projects such as dam