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THE IMPLEMENTATION OF PUBLIC PARTICIPATION FOR SIA AND EIA IN MALAYSIA

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Abstract

Public participation is an essential element in the decision-making process of social impact assessments (SIA) for proposed developments that are located near to the community. It assists the panel of evaluators in deciding whether to approve the assessment through the information obtained from the affected community. This medium is also applied to other assessments, such as environmental impact assessments (EIA), and its implementation varies according to the nature of the assessment. However, the objective of public participation remains the same: to protect the interests of the public. Thus, this paper will analyse the implementation of public participation between SIA and EIA in Malaysia using qualitative methods, library research, and comparative analysis. The results show that EIA and SIA each have their own implementations in public participation.

Keywords: Public Participation, SIA, EIA, Process, Malaysia.

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INTRODUCTION

Public participation is a fundamental principle that must be adhered to in order to ensure the efficient operation of assessments. According to Stookes, the level of participation can be categorised into six levels: the right to be informed, the right to be consulted, the right to make representations, the right to be heard, the right to appeal, and the right to be in a position of direct control of certain decisions (Mohd. Anuar, 2015). The main concern here is whether citizens' participation in administrative procedures should be allowed or restricted.

In the context of SIA, it involves engaging with the affected community and stakeholders in assessing the feasibility of the proposed project. These groups are eligible to provide input and feedback on the proposed project. Interactivity is crucial in order to produce better outcomes in development planning (Shahwahid et al., 2023). It will also help avoid any negative perception among the public, who might feel that their opinions toward the proposed development project are meaningless (Maisarah et al., 2016). Maisarah also notes that developers often face challenges in fulfilling the element of public participation in their projects, leading them to perceive this element as a nuisance. However, with the relevant justifications, as stated within this article, there is potential for harmonisation and successful adaptation by all parties, including developers.

The requirement for public involvement in environmental legislation commenced in the late 1960s with the enactment of the National Environmental Policy Act of 1969 (NEPA) in the USA. This necessity has also been acknowledged through Principle 10 of the Rio Declaration and is pivotal in the environmental decision-making process. It plays a crucial role, especially in the scoping stage, where emerging issues are highlighted, necessitating public feedback to prepare the Environmental Impact Statement (EIS). The 1994 Draft Declaration and the Aarhus Convention emphasise the significance of providing early opportunities for public participation in decision-making for development planning (Mohd. Anuar, 2015).

Over time, these issues have extended beyond environmental concerns to impact social aspects, emphasising the need for significant public involvement in SIA (Rabert et al., 1990). Many developed and developing countries have implemented public participation as an integral part of the SIA and EIA processes (Momtaz, 2006). It can enhance decision-making and empower communities in resource development; however, its effectiveness varies depending on the specific project and country (C. Cagnon et al., 1993). Despite the challenges of implementation of public participation in Malaysia's planning system (Marlyana et al., 2022), enhanced public participation in the assessments will lead to improved project formulation, resulting in increased social benefits, reduced environmental costs, and greater economic and financial advantages (E. Kanu et al., 2018).

DISCUSSION
PUBLIC PARTICIPATION FOR SIA

The element of public participation has been specifically addressed in the SIA manual since 2018 in the 'Manual Preparation SIA for Development Project 2018.' This has been further updated by referencing the latest guidance, 'Guidance for the Implementation of SIA for Development Projects', found under Chapter 10 (PPSIA, 2023).

The implementation of SIA comprises various processes, from screening to auditing phases. Typically, public participation occurs during the project planning and implementation stages. However, this approach specifically commences during the second stage, known as the scoping level, aimed at identifying the issues and potential impacts of the proposed development. Therefore, it necessitates input from the affected community, experts, and stakeholders. Figure 1 illustrates the flow of the SIA process, highlighting the involvement of public participation (Manual,2023).

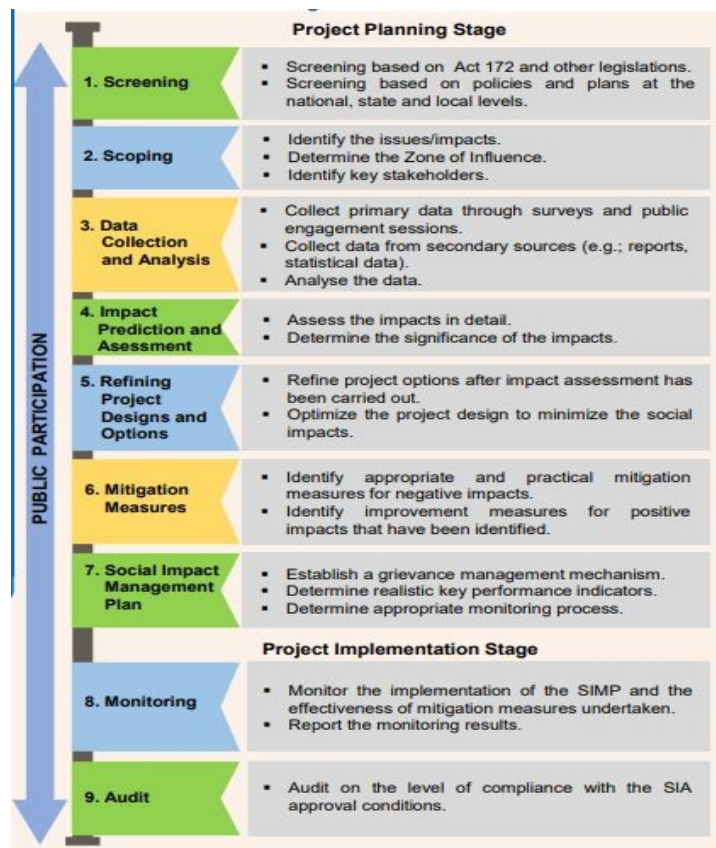


Figure 1: Flow of SIA process in Malaysia

The spectrum of public participation, as outlined in the guidance and adapted from the International Association for Public Participation, serves to bolster public involvement for project proponents and SIA consultants. This spectrum delineates various levels of public influence in decision-making processes for proposed developments, spanning from the informing level to the consulting, involvement, collaboration, and empowerment levels. This engagement will allow the public, particularly affected communities, to access information about the development and offer feedback based on the community's capacity. Effective communication between the project proponent and the community will significantly contribute to identifying relevant solutions for the area. Figure 2 in the guidance illustrates this spectrum of public participation (Manual, 2023).

		Level of Public Influence in Decision Making				
		Inform	Consult	Involve	Collaborate	Empower
Public Participation Goal		To provide the public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities and/or solutions.	To obtain public feedback on analysis, alternatives and/or decisions.	To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.	To partner with the public in each aspect of the decision including the development of the alternatives and the identification of the preferred solution.	To place final decision making in the hands of the public.
	Promise to the Public	We will keep you informed.	We will keep you informed, listen to and acknowledge concerns and aspirations, and provide feedback on how public input influenced the decision.	We will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision.	We will look for you to obtain advice and innovation in formulating solutions and incorporate your advice and recommendations into the decisions to maximum extent possible.	We will implement what you decide.

Figure 2: Spectrum of public participation

Furthermore, participation also engages stakeholders through various qualitative and quantitative methods, including questionnaire surveys, focus group discussions (FGD), interviews, public forums, workshops, public displays, project information kits, and video-calling applications (Manual, 2023). These approaches aid in data collection and contribute to the effective management strategies of development projects.

PUBLIC PARTICIPATION FOR EIA

EIA also incorporates the element of public participation in its assessment. This aligns with its objective, which is to assure the public and other stakeholders that the project's benefits to society outweigh the environmental costs to society (Guideline,2016). However, this requirement is only mandatory for activities listed under the Second Schedule of the Environmental Quality (Prescribed Activities) (Environmental Impact Assessment) (Amendment) Order 2015. There are discussions for potential future amendments to this Order, proposed under the Amendment of Environmental Quality (Prescribed Activities) (Environmental Impact Assessment) Order. Presently, the regulations outlined in the 2015 Order remain in effect (Atheefa et al., 2023).

It is observed in the EIA process that there are two stages incorporating public participation, namely, the pre-submission stage and the submission stage for the prescribed activities under the Second Schedule. In the pre-submission stage, when the Terms of Reference (TOR) is submitted, a TOR Adequacy Check (TORAC) meeting is held to evaluate the TOR. In this meeting, a limited opportunity is given for a selected individual called the 'Appointed Individual' to represent the public in the said meeting. (Maisarah, et. al., 2020)

A week after the submission of the EIA report, it will be displayed for public review and feedback at relevant Department of Environment (DOE) offices, public libraries, and local authority offices. The project proponents will advertise the availability of the report in newspapers for public review, subject to approval by the DOE (Manual, 2016). Additionally, it will be accessible via the DOE website, with notifications provided to the public about the report's availability (DOE, 2023). The report will be displayed for 30 days, during which the public will have 45 days to submit their feedback and comments. Figure 3 illustrates an example of a notification for public display related to a project under the Second Schedule.

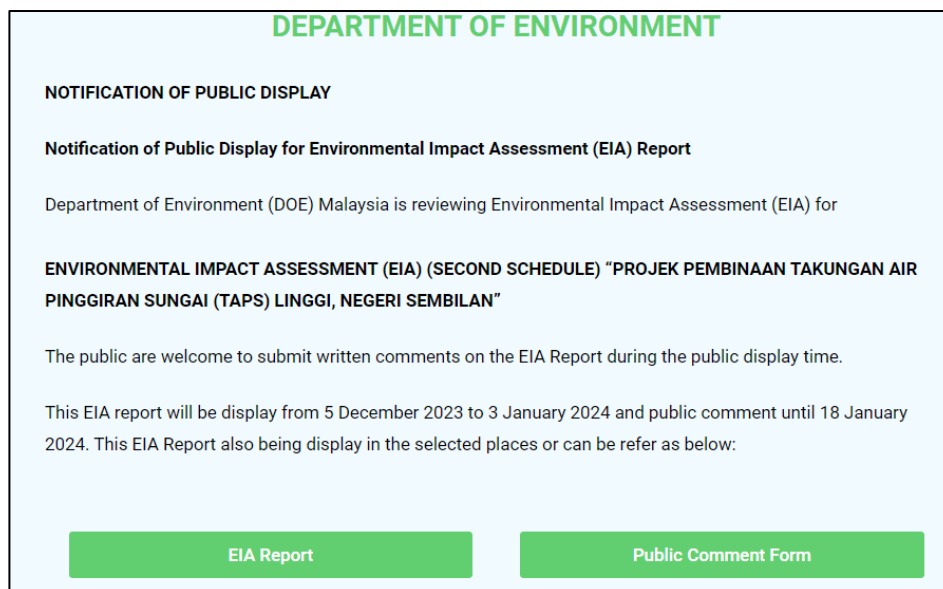


Figure 3: Public display of notification by DOE

The project proponent and the EIA consultant must address all written comments received from the public. Afterwards, the responses need to be submitted to the DOE for review, facilitating the prompt approval of the EIA report. It highlights the crucial role of public involvement in the decision-making process regarding the proposed project, as based on the assessment.

Examples of public participation within EIA have been observed in various countries. For instance, for development projects in Sri Lanka, public involvement is notably low, peaking at a maximum of 42%, with no involvement in scoping, indicating the imperative need for increased and improved public participation in national projects (N. Wijesekera, 2006). Conversely, although progress is evident in EIA legislation in China, more effort is required to overcome constraints and fully realize the benefits of public participation in environmental decision-making (Yuhong Zhao, 2010).

METHODOLOGY

This research utilised qualitative methods, including library research, content analysis, and comparative analysis. George (2008) defines library research as collecting, reviewing, and interpreting data from primary sources. Additionally, Zhang and M. Wildemuth (2009) describe content analysis as a research approach used to analyse and interpret textual data, encompassing written documents, interview transcripts, and various forms of communication. This study scrutinised the content of books, articles, related laws, manuals, and reports relevant to the research focus.

The research employed comparative analysis to explore the fundamental principle of public participation in both SIA and EIA. Norat Roig-Tierno et al. (2017) emphasise that this methodology is crucial for establishing causal relationships through systematic comparisons. It specifically utilised methods of agreement and difference between the two models. The data is presented in a matrix table, offering detailed information on public participation. This presentation facilitates a comparison of the similarities and differences in public participation principles employed by SIA and EIA.

ANALYSIS AND CONCLUSION

The findings indicate objective similarities in implementing public participation between SIA and EIA. The concept of 'public' mentioned within this process not only involves the community but also encompasses relevant associations, stakeholders, bodies, and organisations affected by a proposed development. Both SIA and EIA emphasise that integrating two-way communication in the public participation process effectively contributes to the ideal decision-making mechanism by ensuring continuous feedback throughout the entire process. SIA and EIA also have legal instruments for implementing public participation. The SIA Manual, released in 2023, specifies public participation requirements within the SIA process. Meanwhile, for EIA, the 2015 Order and EIA Guidelines mandate this element within the EIA process.

The primary distinction lies in their governance and the respective departments overseeing the assessments. The Town and Country Planning Department (PLANMalaysia) is responsible for overseeing public involvement in SIA implementation, while the DOE ensures public participation in EIA implementation. PLANMalaysia, whether Federal or State, has responsibilities to coordinate and monitor activities involved in the assessment. For instance, any project falling under SIA Category A will be processed by Federal PLANMalaysia, while projects under SIA Category B will be monitored by State PLANMalaysia. Both levels must involve the element of public participation.

Another notable difference between SIA and EIA is the mechanism for executing public participation. EIA has a longer history, dating back to the 1980s, whereas SIA is a more recent development since 2017. As previously mentioned, the public engagement mechanism in EIA is more efficient, with a systematic notification process for public displays announced on the DOE website. Conversely, SIA initiates its publication process in newspapers. Nowadays, not everyone buys newspapers and is aware of announcements made through them. Over time, technology has developed and has increasingly captured the public's attention. As a result, people's awareness may be influenced and heightened by obtaining information through websites or other more sophisticated mechanisms, as implemented by EIA. The advertisement has also been published on the electronic billboard, making people around it aware of the proposed development.

Moreover, methodologies within SIA are more detailed and diverse compared to EIA. SIA employs questionnaire surveys, FGD, interviews, public forums, workshops, public displays, project information kits, and video-calling applications, while EIA mainly relies on public displays. Various methodologies offer options for participants to express their opinions based on their availability and preferred mechanisms. Some participants may be unable to provide direct feedback, as in an interview session. However, after gathering with stakeholders and experts in a group discussion, they can offer necessary feedback regarding the proposed development project. These mechanisms provide alternatives for them and encourage more public engagement.

Other than that, through the EIA process, which consists of two stages in public participation (the pre-submission stage and the submission stage), differences from the SIA process emerge. In the EIA, certain Appointed Individuals representing the public are already involved in the TORAC meeting. In contrast, for SIA, public involvement commences in the second stage of its process, namely the scoping stage. Table 1 presents a summary of a comparison pertaining to the differences in the implementation of public participation between SIA and EIA.

Table 1: Distinctive features for public participation of SIA and EIA

Element	SIA	EIA	Significance
Requirement of public participation	Yes, for SIA Category A & B	Yes, for activity under the Second Schedule	Ensure the accountability of the project proponent and consultant to involve the public in preparing the report
Legal instrument/ Sources for public participation	Guidance for the Implementation of SIA for Development Projects (SIA Manual, 2023)	Environmental Quality (Prescribed Activities) (EIA) Order 2015, Handbook of Environmental Impact Assessment Guidelines' (EIA Guidelines)	To regulate the requirement of public participation in the assessment
Governance body	Town and Country Planning Department (PLANMalaysia)	Department of Environment (DOE)	Regulate and monitor activities under the assessment, including public participation
Notification system	NA	Yes (through website)	To ensure that the public is informed of the report's availability
Methodology	Survey, FGD, forum, interview, public display, workshop, video-calling application	Public display	Various mediums in collecting data from the public
Commencement	Scoping stage (second stage of the SIA process)	Pre-submission stage (during TORAC meeting)	To determine the commencement of public involvement within the assessments

Source: Policies and Frameworks in Malaysia

While the implementation of SIA is relatively recent compared to EIA, it is evident that it possesses a solid foundation for public involvement, aligning with the spirit of society-based assessment. Nevertheless, there is room for improvement over time to adapt to changes and enhance the overall implementation of SIA. Even though EIA is more comprehensive than SIA in Malaysia, it still lags behind other developed countries like Canada, New Zealand, and Australia in terms of the application of public participation (Maisarah et al., 2016) and thus requires improvement for a more effective application in the future. Furthermore, the power of education is also vital in creating awareness among the public, stakeholders, and others regarding the importance of public participation in assessments.

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