

Papuan Indigenous Participation in the Indonesian EIA Process

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Introduction

Indonesia's involvement in the United Nations Conference on the Human Environment in Stockholm in 1972 triggered the introduction of formal Environmental Impact Assessment (EIA). The EIA process in Indonesia was legislated through Government Regulation No. 29 in 1986 (GR 29/86). The EIA regulation was later amended through Government Regulation No. 51 in 1993 (GR 51/93) to simplify the administrative elements of EIA procedures (Warren & Elston, 1994). The roles of the public in EIA during these periods, however, were minor, as both regulations did not provide any clear mechanism for public involvement (Briffett, 1999). Issues, such as how information should be disseminated to the public, as well as when and where the public is able to respond through feedback, remained unclear (Purnama, 2003).

The promulgation of the Living Environmental Management Act No. 23 in 1997 attempted to address issues relating to the direct involvement of the public. As a consequence Government Regulation No. 27 (GR 27/99) was introduced in 1999 and formally incorporated public participation into Indonesian EIA. The GR 27/99 introduced three main stages for public participation in the EIA process: 1) the formulation of the Environmental Impact Statement - Terms of Reference (EIS-TOR); 2) the review of the EIS-TOR; and, 3) the concurrent review of an Environmental Impact Statement (EIS), Environmental Management Plan (EMaP) and Environmental Monitoring Plan (EMoP). These three stages were legally integrated into the EIA processes through the enactment of the Head of the Environmental Impact Management Agency Decree 08 in 2000 (HEIMAD 08/2000). HEIMAD 08/2000 is a set of guidelines concerning 'Public Involvement and Information Transparency' in Indonesian EIA. According to Purnama (2003), the guidelines changed the role of the public in the Indonesian EIA process from 'non-direct involvement' to 'direct involvement'. People affected by environmental decisions in Indonesia gained opportunities to contribute to, and ideally to influence, the EIA decision-making process. EIA in its various forms is widely considered to be essential for effective environmental decision-making (Biswas & Modak, 1999; Glasson et al, 1999; Thomas 1998; Ebisemiju, 1993).

Though Indonesian people currently have opportunities to contribute to EIA through public consultation mechanisms, the involvement of indigenous communities is rarely considered in the discourse on the effectiveness of Indonesian EIA. Indigenous people could be potentially marginalised or unable to effectively participate under current EIA procedures. This paper investigates the involvement of the West Papua indigenous communities in the Indonesian EIA public participation process, based on the provisions of HEIMAD 08/2000. This study argues that current guidelines do not adequately engage indigenous communities in EIA.

Research Methods

Public participation, as prescribed by the HEIMAD 08/2000 guidelines, was investigated for a 4,954 ha coal mine proposed by the Bukit Utama Sejahtera Company (BUS). The proposed coalmine will be located in the traditional land of the Aifat Community in West Papua and will potentially affect the Aisa, Aikrer, Aitrem, Sawin and Aimau villages. Multiple qualitative methods such as document analysis, in-depth interviews of stakeholders, and direct observation of some public participation activities were undertaken during: 1) the announcement-submission phase; 2) consultations, and, 3)

representations to the EIA Review Commission. Purposive sampling was used to select the informants. NVIVO 10 was used for data management and interpretation.

Brief Description of the Participation Process in Indonesian EIA

Under HEIMAD 08/2000, the EIS-TOR preparation period must be preceded by an announcement of the proposed project and the forthcoming EIA study; the announcement should include a preliminary outline of the project activities and predicted impacts, as well as information on the public participation process. The announcement must be made through the mass media, although direct notification is also encouraged. The public has 30 days after the mass media announcement to make formal written submissions in relation to the proposed project. Formal written submissions can also be made before the EIS-TOR, the EIS, EMaP and EMoP are released for review. Before the EIS-TOR reviews, public consultation is required to exchange information with proponents and the authorized Environmental Impact Management Agencies (EIMA), in order to gather first-hand feedback on issues that might concern the public.

Once the draft EIS-TOR document is completed, the EIA Review Commission members assess the document. After the EIS-TOR are approved, the proponent prepares the EIS, EMaP & EMoP documents. EIA Review Commission members then evaluate the documents and submissions from the public before a project is approved. During both review processes, the affected communities are entitled to send representatives to the EIA Review Commission as sitting members.

Application of the Process in the Aifat Community

Announcement – Submissions

Direct notification, as an announcement method employed in this case study, commenced when the consultant representing the proponent visited the community in the affected villages to conduct surveys for preparation of the EIS-TOR. The survey also included interviews to develop a better understanding about Aifat society and to record their concerns about the project plan.

Based on the requirement of the guidelines, the EIA study should commence when proponents and EIMAs make an official announcement through newspapers. This stage, however, was missed in this case. No public announcement through any mass media was made either by the responsible EIMA or by the proponent. One of the reasons for this omission may be that the site is remote and, therefore, unreachable by any local media coverage. Lack of access to mass media, such as newspapers, radio, and television broadcasts makes the enforcement of the media announcement stage difficult. In order to address this problem, as claimed by the EIA consultant, an EIA survey (in preparation for the EIS-TOR) in the affected villages was used to inform, and at a certain level, to consult the community. According to most of the Aifat Elders of the affected villages, the invitations for the EIA survey were delivered without sufficient time for the community to prepare to engage with the proponent's consultants (Interview results, 2011). Also, without any prior documentation on the proposal, there was no opportunity to assess the project's preliminary proposal before the consultation activities. Invitations for the consultation were distributed almost immediately at the time the consultation commenced. The Elders noted that the arrival of the consultants was unexpected and was the first time they were aware of the proposed project (Interview results, 2011). The survey was conducted over only 3 days during which many community members were unable to participate or cover all of their concerns. Indeed, without any prior information, it was not possible for the community to assess the activities of the proposed project or the predicted impacts and their management.

Consequently, there were very few written submissions made at this stage. Observation of the process and interview data suggest that there are two main interrelated causes for the lack of written submissions. Firstly, the Aifat people do not usually formally communicate in writing. Secondly, they prefer talking directly, or face-to-face. Their lack of formal education perhaps limits their opportunity to voice concerns through written submissions; illiteracy is still high in Maybrat regency and many

parts of West Papua¹. Face-to-face communication is a culturally acceptable means of communicating in this society. There was also an expectation that the consultants should have visited all affected areas to ensure that all Elders and the wider community could engage in discussions (Interview results, 2011).

The affected community members were also unaware of their right to make written submissions (Interview results, 2011). The lack of knowledge of HEIMAD (08/2000), and the fact that the announcement stage did not occur or provide a preliminary report on the proposed project and the participation process, affected the community's ability to participate fully. By omitting this formal stage, the community was not educated about the process and rights.

Consultations

Consultations with the affected community in this case study occurred several times. An initial consultation session occurred during the EIA survey in the affected area before the EIS-TOR were formulated. The next consultation session was conducted jointly with the EIS-TOR review in Teminabuan, a neighbouring city, outside of the affected area. In the final stage of the EIA study, during a concurrent EIS, EMaP and EMoP review, an additional consultation session was added to enable more feedback from the affected community.

At the end of the consultation process, the Elders and the community reiterated their concern that the process was brief, occurred without sufficient warning, lacked information on process and did not fully address their concerns (Interview results, 2011). There was an overall dissatisfaction with the manner in which the proponent handled the consultation process.

Dissatisfaction with the EIA process in the affected area was amplified during the consultation session in Teminabuan. Teminabuan, as a meeting place, was not easily accessible. It is approximately 70-75 km or five hours away, by vehicle, from the affected villages. Additionally, transport was too expensive and access to public transport was too irregular. Travelling over a long distance was a deterrent to participation. As a result, key community Elders and leaders did not attend the meeting (Interview results, 2011). Elders reported the combination of travel costs, hurried and poorly announced consultations, and a lack of information on the consultation process undermined the effectiveness of the meeting at Teminabuan; it was considered a failure.

Elders felt that the consultation process should be conducted, again, at a closer location to increase access for the community (Interview results, 2011). Consequently, another meeting was held in Kumurkek, approximately 15-20 km away from the affected villages. Although this location was still considered to be away from the geographical centre of the affected community, it was nonetheless a better option. However, unbeknown to the community, the EIA process had advanced to the next stage (review of the EIS, EMaP and EMoP) by the time the Kumurkek meeting was held leaving the community with no opportunity to contribute information for the EIS-TOR.

Most of the interviewed participants assumed that they would have a *Sosialisasi*² session again, which is normal practice in this society (Interview results, 2011). However, they remained confused about the stages of the EIA process and presumed they were providing feedback for the EIS-TOR when the consultants had actually instigated the review of the EIS, EMaP and EMoP. The participants were unaware that at the Kumurkek meeting, the EIS, EMaP and EMoP were going to be approved by the EIA Review Commission members and that opportunity to further influence and participate in the process had actually ended. Participants reported that this confusion over the EIA process and the lack of information had triggered further dissatisfaction.

¹ Approximately 1.9 million or 67 % of the Papuan population is illiterate (Ramadhan, 2012).

² The Indonesian term *Sosialisasi* is a formal or informal process of building knowledge, understanding and acceptance of new technology, processes and practices in communities.

The consultation process failed to follow the HEIMAD (08/2000) guidelines and appeared to benefit the proponent and reduce the involvement of the public in the EIA process. Opportunities to fully engage with the community, learn of their concerns and develop meaningful EIS-TOR, were missed. There was an overall impression that the EIA process was hastened at the cost of public participation. Furthermore, the EIA Minutes of Meetings (MoM) show that both the EIA technical team and the EIA Review Commission members concurrently attended the Kumorkek meeting. Usually, the review processes between the technical team and the EIA Review Commission are made separately (Interview results with Papuan Provincial EIMA staff, 2012) with a reasonable gap between them so that the EIA technical team's information can be fully considered by the EIA Review Commission. When a document satisfies the EIA technical team members then their technical assessment will be used to help the EIA Review Commission members to make their recommendations. This experience implied that the decision about the EIA documents had been made at the beginning of the EIA process. Public participation appeared to be a loose formal process that did not adhere to the HEIMAD guidelines or effectively address the purpose of the public participation process.

Community representation on the EIA Review Commission

The attendance of elite indigenous community members, such as Elders and leaders, is crucial to the implementation and acceptance of the EIA process. The absence of some of these figureheads in the EIS-TOR review in Teminabuan led to discontent in the community and disagreement over the EIA process. The attendance of elite community members is important to achieve better EIA outcomes, and should be a consideration for all projects that affect indigenous communities in West Papua. Elders and leaders are considered to be the main voice of the wider community.

The ability of the community to select representatives for EIA Review Commission membership, as required by the participation guidelines, was also stymied by the process. Although the representatives were deliberately invited, their status as EIA Review Commission members was questionable due to a lack of formal appointments made by the Regent of Maybrat. The community representatives were not aware that they had a right to take part in the EIA Review Commission membership and needed to be legally appointed (Interview results, 2011). Whether the Maybrat EIMA was aware of this legal requirement is unclear. There was a tendency to place more attention on the community's cursory attendance at the review meetings, to imply that the consultation process was followed, rather than ensuring that sitting members were informed of their legal responsibilities as commission members. Table 1 summarises the main findings.

Table 1: Summary of stages of the public participation process for the case study

Stages	Method/Media Used	Major Influencing Factors
I. Announcement	Direct notification - Invitation letter - Verbal notification	- No media announcement; no preliminary proposal to inform the community - Sudden - Short process
Community or individual submissions	Written form	- Inadequate announcement stage - Lack of educational background/ illiteracy - Culture and customs not considered
II. Consultation in the affected villages (Aisa, Aikrer, Aitrem, Sawin and Aimau)	Survey	- Sudden - Short process - Excluded many people
Consultation in Teminabuan	Community hearing	- Location was too difficult to access - Insufficient time for EIA study - Lack of community figures' attendance - Short process - Cultural factors not considered
Consultation in Kumorkek	Community hearing	- Short process - Cultural factors not considered
III. Community Representatives on EIS-TOR Review	The nomination of community figures	- No community selection process - No official status as EIA Review Commission members - Short process
Community Representatives on EIS, EMaP & EMoP Review	The nomination of community figures	- No community selection process - No official status as EIA Review Commission members - Short process

Discussion & Conclusion

The experience of the Aifat people in the EIA process of the BUS Company coal mine project shows that the implementation of the HEIMAD 08/2000, enables indigenous communities in Indonesia to be involved directly in Indonesian EIA process. However, the case study findings showed that the public participation process did not strictly follow the HEIMAD 08/2000 guidelines and community dissatisfaction occurred. Similarly, there were missed opportunities to fully capture and address community concerns.

The lack of an initial media announcement and provision of a preliminary proposal and information on the public participation process undermined, from the beginning, the EIA process. This was caused by a lack of a clear mechanism to manage and implement the announcement phase and direct notification procedures in remote areas with limited access. Similarly, the announcement phase and direct notification require clearer guidelines on the rights of the community, and the EIA process and its various stages. No compliance process was apparent. In this case study, the community was not fully aware of its rights and clearly confused over the EIA stages.

Written submissions are not a suitable means for communicating concerns from indigenous communities. Indeed, providing written submissions was not a popular way for the Aifat people in the affected area. Many studies identify illiteracy as an impediment to public participation, particularly if written submissions are required (Appiah-Opoku, 2001; Craig & Ehrlich Australia, 1996; Marara et al, 2011; Palerm & Aceves, 2004). Presenting feedback by using such an approach may not suit indigenous communities in West Papua. Talking directly, face-to-face, is traditionally the best way to communicate in the Aifat community. This issue needs to be addressed by the HEIMAD 08/2000 guidelines in an effort to give indigenous communities a greater opportunity to voice concerns and to overcome the obstacles of geographic isolation and illiteracy.

The review of the HEIMAD 08/2000 demonstrates that the consultation process and when and where the community can participate are confusing. Besides the selection of an inaccessible location for the consultation meeting, the concurrent running of the EIA-TOR, EIS, EMaP and EMoP meetings left no gap for information to be gathered, processed and then utilised in the EIA review process. Geographical isolation is the most important issue that needs to be considered (Palerm & Aceves, 2004; Bynoe, 2006) if indigenous people are to be fully involved in the decision-making process. Most indigenous people live in scattered remote areas with limited access to urban areas, thereby complicating the participation process (Hughes, 1998). This study has shown that the indigenous people of West Papua cannot fully participate in the EIA process unless meeting locations are within their activity area. If communities are scattered, multiple consultation would be necessary.

This investigation into the status of affected indigenous community's participation as EIA Review Commission members indicated that they had a dual role during the EIA review process: 1) as participants in the consultation events, and, 2) as reviewers in the review processes. Nevertheless, they were not sitting as legal members of the EIA Review Commission. The mechanism wherein the affected community members could select their representatives to sit on the EIA Review Commission membership was never executed. A lack of awareness of the Elders' role in the EIA Review Commission implies that EIMA did not adhere to the HEIMAD 08/2000 guidelines and, as a consequence, the community was not legally involved in the EIA Review Commission's decisions. Whether the EIMA was aware of this compliance issue is unclear.

Based on the findings of this study it can be concluded that the implementation of HEIMAD 08/2000, in relation to the indigenous community in Eastern Aifat, fell short of the formal process of public participation. There are inadequacies in the guidelines for public announcements, consultation processes, and EIA document reviews, which considerably affected the involvement of indigenous communities. A new mechanism for better indigenous participation is urgently needed to ensure that that indigenous people have a voice in decisions that may impact on their environment, culture and livelihoods.

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