

Promises and Pitfalls of Simplified EIA

Alberto Fonseca

Interdisciplinary Laboratory of Environmental Management (LiGA), Federal University of Ouro Preto (UFOP), albertof@em.ufop.br

Abstract

Pressures are mounting for the simplification of Environmental Impact Assessment (EIA). This phenomenon is drawing increasing scholarly attention, but studies have not gone far beyond the examination of recent regulatory changes. This paper takes a more longitudinal look at the simplification of EIA. The main objective is to analyze the outcomes of a number of simplified EIA process implemented in the past decade in Brazil's southeastern states. Data was collected through literature reviews and 18 face-to-face interviews. While simplification is often framed as regulatory and procedural changes that can reduce administrative burden, speed up the process and, at the same time, provide better environmental protection, the realization of the latter is contested. Some interviewees revealed concerns about the effects of simplification on the ground. One of the main concerns is that, without appropriate audits and inspections, simplified EIAs can further reduce environmental control.

Introduction

While the concept of simplicity has been studied in research fields such as cognitive sciences (Chater and Vitányi, 2003), it rests marginally explored in the field environmental impact assessment (EIA). However, recent regulatory changes in EIA policies are highlighting the importance of better comprehending the nature and effects of simplicity.

Much has evolved since 1969, when EIA was first regulated in the United States. EIA is now present in virtually every country on Earth (Morgan, 2012). Regulations have become more complicated; stakeholders and institutions, more diverse. And, despite decades of practical experiences and scholarly research, the benefits of EIA are not always clear (Morrison-Saunders et al. , 2015). Not surprisingly, the perceived shortcomings of EIA are being increasingly framed as a matter of excessive bureaucracy, cumbersome regulations, and unnecessary administrative burden. In reaction, policy-makers have begun to simplify EIA policies and procedures (e.g. Gibson, 2012; Middle et al, 2013, Sandham et al. 2013).

The revision of European Union EIA Directive (2014/52/EU) epitomizes this trend. During the review of the directive, the Commission concluded that it had the potential "for a future simplification exercise, the aim being to identify overlaps, gaps and potential for reducing regulatory and administrative burdens, in particular regarding transboundary projects" (CEC, 2009). As a result, the 2014 amended directive mandated Member States to simplify their various environmental assessment procedures, introduce shorter timeframes for

different stages of the EIA process, and much more (European Commission, 2014). Similar simplification-driven EIA review processes have taken place, for example, in Canada (Gibson, 2012), Australia (Middle et al. , 2013), South Africa (Sandham et al. , 2013) and Brazil (Oliveira et al. , 2016). In the latter, simplification has been underpinning changes in EIA regulations since at least the mid-1990s. The quest for simplification is likely to continue. Simplicity is a very attractive concept. As Gibson points out, “in a world that is complex, difficult, ambiguous and uncertain, simplicity offers a soothing never-never land of uncomplicated truth and easy fixes” (Gibson, 2010, p. 40).

The simplification phenomenon is drawing increasing scholarly attention, but studies have not gone far beyond the examination of recent regulatory changes. For example, Bond et al. (2014), in their review of recent EIA streamlining in Australia, acknowledged that “(...) no conclusion can be reached on whether such streamlining can be seen as cost effective or not”, and thus called researchers to revisit the effects of streamlining in the future. This paper takes a more longitudinal look at the nature and effects of EIA simplification using Brazil as the empirical context. The main objective was to analyze the perceived outcomes of a number simplified EIA process implemented in the past decade in Brazil’s southeastern states. Brazil has a unique EIA system that should be carefully compared to Australia’s, Canada’s or any other international system. In Brazil, as Oliveira *et al* (2016), the simplification of EIA can take various forms. However, by shedding some light on Brazil’s diversity, this study hopes to add more content to an increasingly relevant debate in the EIA research community.

The paper proceeds in four sections, besides this introduction. The following explains the methodology. The third section presents a conceptual review of simplified EIA, with a particular focus on the Brazilian context. The fourth section presents the results of the interviews with representatives of four Brazilian environmental agencies. Section five finally draws concluding remarks.

Methodology

This article has a geographical and temporal focus on southeastern Brazil in 2014-2015, and based its findings mostly on data collected through literature reviews and interviews. The interviews (all confidential, face-to-face and audio-recorded) were undertaken, between 2014 and 2016, in the premises of the four state environmental agencies of southeastern Brazil, as follows: CETESB (state of São Paulo); INEA (state of Rio de Janeiro); IEMA (state of Espírito Santo); SEMAD (state of Minas Gerais). Table 1 presents the codes and profiles of the 10 mains interviewees. The author also conducted 8 short, targeted interviews (through telephone calls) with analysts from those agencies to confirm specific information found on the academic and grey literatures.

Table 1- Main Interviewees` profiles and codes

Agency	Profile	Code
CETESB (SP)	High administration position with more than 20 years of experience in the agency	SP-1
	High administration position with more than 10 years of experience in the agency	SP-2
	Leading technical position with more than 10 years of experience in the agency	SP-3
INEA (RJ)	High administration position with more than 30-year experience in the agency	RJ-1
	Leading technical position with more than 10 years of experience in the agency	RJ-2
IEMA (ES)	High administration position with more than 10 years of experience in the agency	ES-1
	High administration position with more than 5 years of experience in the agency	ES-2
	Leading technical position with more than 10 years of experience in the agency	ES-3
SEMAD (MG)	High administration position with more than 30-year experience in the agency	MG-1
	Leading technical position with more than 10 years of experience in the agency	MG-2

It should be noted that this paper synthesized the main findings of a research project. The complete findings of the interviews are expected to be published later in a scientific journal.

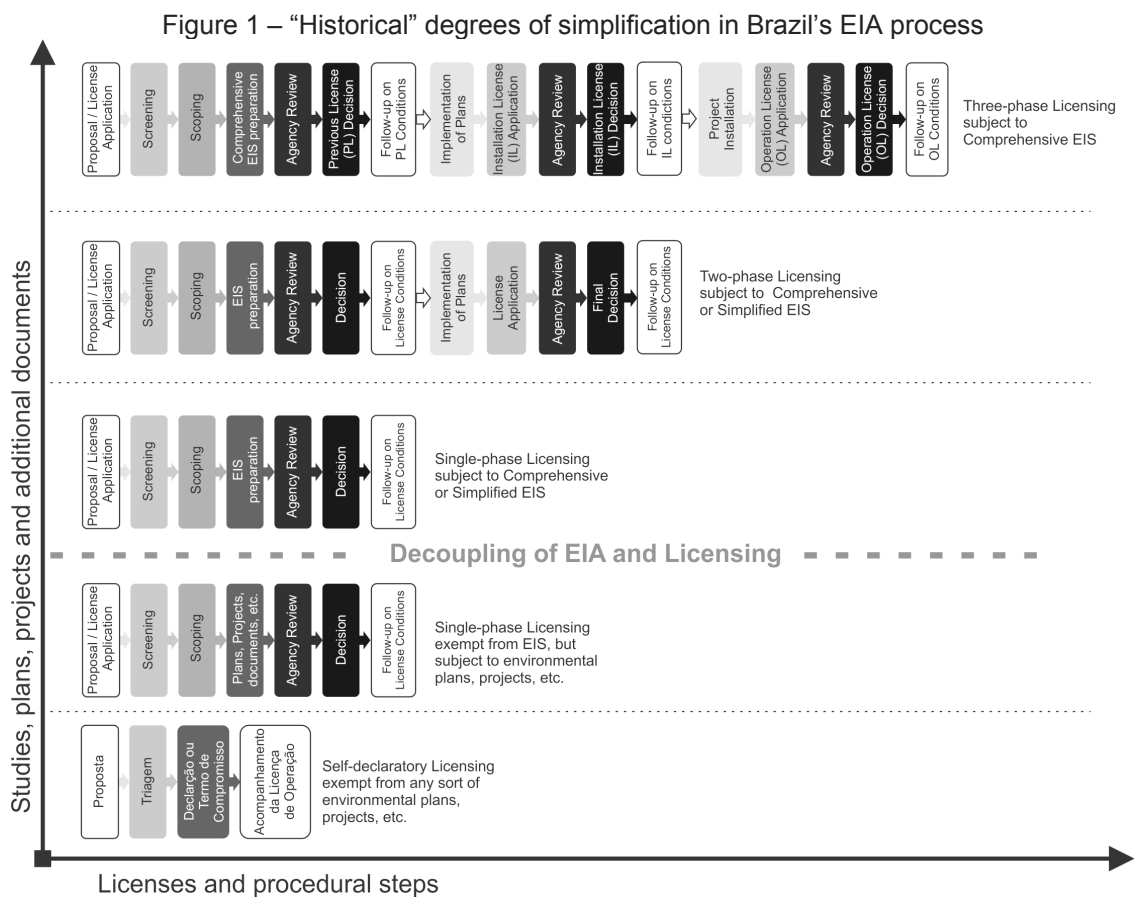
Results

The Various Ways to Conceptualize and Implement Simplified EIAs

Policy makers are increasingly trying to simplify EIA, that is, trying to reduce its complexity, but this is often carried out without any direct mention to the concept of simplicity. Systematic searches conducted in November 2016 in Scopus and Science Direct revealed less than a couple dozen of articles that explicitly use the term “simplification”, “simple”, “simplify” to describe procedural and regulatory changes in EIA systems. The term “streamlining” (one of the potential effects of simplification) is arguably most often used to describe attempts to simplify EIA, particularly in countries like Canada and Australia. In Europe, grey literature suggests that the verbs “streamline” and “simplify” have been used interchangeably, as if they were synonymous. Arguably, the literature suggests that there is no consensus over what a simple EIA or a simplified EIA means - our should mean. The simplification of EIAs is, therefore, likely to reflect the various political and institutional contexts in which EIA is carried out.

In Brazil, the simplification of EIA has been explicitly addressed by policy makers. This is to a great extent a result of one of the country’s most important federal-level EIA regulations, CONAMA Resolution 237/97 (CONAMA, 1997), which states that those projects that are “potentially low impact” or that include some sort of “voluntary program of environmental management” can be subject to simplified procedures of environmental licensing and impact assessment. This resolution provided explicit incentives for the simplification of EIA procedures, but in specific situations. Between 2001 and 2010, the Brazilian government published at least 8 federal-level resolutions creating alternative, simplified EIA procedures for potentially low-impact projects. The simplification, during this period, was clearly reflecting an attempt to reduce the number of licensing phases as well as the volume of information in environmental studies and other documents required in the process.

At the state level in southeastern Brazil, numerous simplified EIA procedures were created between 2004 and 2015, also targeting potentially low-impact projects. The degree of simplification varies significantly. As shown in Figure 1, it ranges from the complete exemption of Environmental Impact Statements (EIS) through self-declaratory permits (as in the case of the AAF permit system in Minas Gerais), to narrower scopes in EISs. Various federal-level and state-level approaches to EIA simplification, in Brazil, suggest that simplification is most frequently implemented through the reduction of licensing and procedural steps, as well as through the reduction in the quantity of information required in the approval process, as illustrates Figure 1. Interestingly, in Brazil the simplification can reach degrees in which the EIA process is decoupled from the licensing process through the complete exemption of impact assessment studies.



Source: Designed by the author. The white/grey/black was used to indicate progress on specific licensing phases.

The simplified approaches to the traditional three-phase licensing with comprehensive EIS are, increasingly, being applied to large projects with a clear potential for significant negative impacts. For example, mining projects and small, but potentially impactful hydropower plants, are being increasingly exempted from more complex licensing processes. In the year 2011, the Brazilian federal government issued a number of regulations targeting mainly large infrastructure projects (e.g. oil and gas, railroads, ports, etc.). In these

cases, simplicity is sought after not only through reduction of procedures and information in the process, but also through harmonization and institutional changes. In these cases, instead of reduction of something, simplification takes the form of process and institutional optimization and integration. Simplification, in any case, is often “sold” as a win-win situation, where administrative burden is reduced and process sped up while maintaining the quality of decision-making. Such claims, however, are rarely evaluated.

The Perceived Effects of Simplification on the Ground

The effects of EIA simplification are beginning to draw scholarly attention. In Brazil; however, very few studies addressed this problem. The interviews conducted here were fundamental to overcome this knowledge gap. All four southeastern states have been adopting some sort of simplification measures in their EIA processes, but the states of Minas Gerais, Espírito Santos and São Paulo seem to be more explicitly trying to simplify their procedures in the past decade. According to the interviewees, the main driver for simplifying EIAs has been the states’ low institutional capacity, a fact corroborated recently by Fonseca et al (2017). The interviewees, in all four states, recognized that their analysts are not capable of reviewing all EIA processes that are filed in the agencies. As one of them pointed out: “piles of EISs are waiting for our review, but we simply do not have enough staff” (MG-2). In São Paulo, thousands of EIA processes were accumulating the agency’s archives (SP-1). The interviews suggest that those who manage EIA in environmental agencies do not perceive simplification as an option, but as a necessity. Developers’ pressure to streamline the process, according to a couple of interviewees (MG-2, ES-3), can also play a role in driving simplification, but not as great as the internal factors.

The state governments, unfortunately, have not yet developed geographical and environmental information systems to effectively monitor changes in their territories, let alone to monitor changes that resulted from their policy changes. While many interviewees (e.g. SP-1, MG-1, ES-3, RJ-1) highlighted their efforts in this area, their statements suggest that it would be extremely difficult to establish a cause-and-effect relationship between EIA policy change and environmental quality on the ground.

Several interviewees were hesitant to comment on the actual effects of EIA simplification on the ground, particularly in São Paulo and Rio de Janeiro. But in Minas Gerais, one of the interviewees stated that their 2004 self-declaratory permitting system had failed, as it had very questionable outcomes on the ground. As a result, the Minas Gerais agency decided to phase out that system, in favor of a “less simplified” one. In Espírito Santo, one of the interviewees (ES-1) acknowledged that their simplified permitting system, while having clear internal benefits, could be translating into worse environmental performance.

Concluding Remarks

EIA has been increasingly simplified worldwide, but few studies have analyzed its effects and conceptual aspects. This study addressed this problem in the context of Brazil's southeastern states. Through literature reviews and interviews, it was found the simplifying of EIAs, most often, takes the form of reduction of procedures and information in the process. It was also identified a more recent trend to simplify EIA through harmonization and institutional changes. While simplification is often framed as regulatory and procedural changes that can reduce administrative burden, speed up the process and, at the same time, provide better environmental protection, the realization of the latter is contested. The interviews, particularly in Minas Gerais State and Espírito Santo, revealed concerns about the effects of simplification on the ground.

References

- Bond A, Pope J, Morrison-Saunders A, Retief F, Gunn JAE. Impact assessment: Eroding benefits through streamlining? *Environmental Impact Assessment Review*. 2014;45:46-53.
- CEC. Report on the application and effectiveness of the EIA Directive (Directive 85/337/EEC, as amended by Directives 97/11/EC and 2003/35/EC) Brussels: Commission of the European Communities (CEC); 2009.
- Chater N, Vitányi P. Simplicity: a unifying principle in cognitive science? *TRENDS in Cognitive Sciences*. 2003;7:19-22.
- CONAMA. Resolução CONAMA Nº 237/1997 - Regulamenta os aspectos de licenciamento ambiental estabelecidos na Política Nacional do Meio Ambiente. Brasília: Conselho Nacional do Meio Ambiente (CONAMA); 1997.
- European Commission. Press Release: Impact assessment of projects now simplified. Brussels: European Commission; 2014.
- Fonseca A, Sánchez LE, Ribeiro JCJ. Reforming EIA systems: A critical review of proposals in Brazil. *Environmental Impact Assessment Review*, 2017;62, 90-97.
- Gibson R. Simplicity. Sounds good, if you don't mind a dollop of ignorance with your bliss. *Alternatives Journal*. 2010;36:40-40.
- Gibson RB. In full retreat: the Canadian government's new environmental assessment law undoes decades of progress. *Impact Assessment and Project Appraisal*. 2012;30:179-88.
- Middle G, Clarke B, Franks D, Brown L, Kellett J, Lockie S, et al. Reducing Green Tape or Rolling back IA in Australia: What are four jurisdictions up to? 2013 Conference of the International Association for Impact Assessment. Calgary, Canada 2013.
- Morgan RK. Environmental impact assessment: the state of the art. *Impact Assessment and Project Appraisal*. 2012;30:5-14.
- Morrison-Saunders A, Bond A, Pope J, Retief F. Demonstrating the benefits of impact assessment for proponents. *Impact Assessment and Project Appraisal*. 2015;33:108-15.

Oliveira FSD, Prado Filho JFd, Rocha CPF, Fonseca A. Licenciamento ambiental simplificado na região sudeste Brasileira: conceitos, procedimentos e implicações. *Desenvolvimento e Meio Ambiente*. 2016;38:461-79.

Sandham LA, van Heerden AJ, Jones CE, Retief FP, Morrison-Saunders AN. Does enhanced regulation improve EIA report quality? Lessons from South Africa. *Environmental Impact Assessment Review*. 2013;38:155-62.