

EIA AND DECISION MAKING

Golden Mean

- Aristotle- difference between recklessness, bravery and cowardice.
 - Recklessness- going into action without any planning or analysis of the risk, benefits and alternatives
 - Bravery is going into action after proper consideration of the alternatives, resources needed, consequences of failures and success, etc or in short a good plan
 - Cowardice- is taking no action for fear of failure even if there is a high probability of success

- Hardheadedness or inflexibility - similar to recklessness. The plan is no longer useful but the person continues to implement it.
- Flexibility- golden mean to adapt and revise the plan to suit the ground condition or as the events unfold.
- Fickle mindedness –too much flexibility, keeps on changing the plan at the slightest unforeseen event.

While the golden mean is ideal

- There is an infinite number of points between 0.1 and 0.11
- In a similar manner there are almost infinite variations in human traits between the golden mean and any of the extreme case--- i.e. bravery and recklessness, or bravery and cowardice
- The difference is often based on personal experience, media exposure, training etc.
- Golden mean - could have different meaning to different individuals

While It Is Difficult To Clearly Define The Ideal Golden Mean

- The elements of a golden mean may include the following:
 - Course of action that is well thought i.e., there is a practical and doable plan on how to achieve the goal –note: this element is absent in recklessness, gambler, bahala na.
 - Will to execute the plan knowing that it possibly fail as nobody could predict the future – note: this is absent in a coward

- Planning and execution are main elements of the golden mean.
- However, the plan and the execution may have as many variations as the number of organizations or persons involved.

- WHILE RECKLESSNESS OR THE GAMBLER ATTITUDE IS MORE VISIBLE
- HESITANCE, RELUCTANCE TO TAKE ACTION, OR PRESERVATION OF THE STATUS QUO IS REALLY MORE COMMON
 - LEADERS INCLUDING RELIGIOUS LEADERS URGES THEIR FOLLOWERS TO TAKE ACTION ESPECIALLY IF THE RISKS ARE CALCULATED RISKS i.e. MATT 25: 14-30, LUKE 19: 12-28

QUOTATIONS FROM LEADERS AND THINKERS

- “An optimist sees an opportunity in every calamity; a pessimist sees a calamity in every opportunity”—Winston Churchill
- “Only Thing We Have to Fear Is Fear Itself” Franklin Roosevelt
- “Security is mostly a superstition. It does not exist in nature, nor do the children of men as a whole experience it. Avoiding danger is no safer in the long run than outright exposure. Life is either a daring adventure or nothing.” — Helen Keller
- “Fear is the main source of superstition, and one of the main sources of cruelty. To conquer fear is the beginning of wisdom.” -Bertrand Russell

- One of the greatest discoveries a man makes, one of his great surprises, is to find he can do what he was afraid he couldn't do." – Henry Ford
- "A nation that is afraid to let its people judge the truth and falsehood in an open market is a nation that is afraid of its people." - John F. Kennedy
- "Don't be afraid to see what you see." - Ronald Reagan
- "True nobility is exempt from fear." – Cicero
- "A person's fears are lighter when the danger is at hand." – Seneca
- "Prosperity is not without many fears and distastes; adversity not without many comforts and hopes." - Francis Bacon
- "Inaction breeds doubt and fear. Action breeds confidence and courage. If you want to conquer fear, do not sit home and think about it. Go out and get busy." - Dale Carnegie
- "There is no illusion greater than fear." — Lao Tzu

- Golden Mean is very difficult to attain.
- To remove individual biases and preferences, a large sample size could be taken.
- However, public preferences often swing from one side to the other.
- For example, if current experience on implementation of plans is to keep on changing the plans so that the country is operating as if there is no plan or "puro plano", the public may clamour for an implementer with qualities called political will or inflexibility.

- Then when there is too much political will to implement plans , the public will clamour for more flexibility--- humane or liberal application of the plan, i.e., people's houses are demolished to give way for a project after notices and compensation have been ignored.

- As nobody could predict the future with certainty so the best plan must
 - be **reviewed** from time to time especially its relevance to the existing conditions
 - be **flexible** to easily accommodate modifications or transition to the alternative
 - be **abandoned** if it is no longer appropriate because the planning assumptions or basis is very much different from existing REALITY. -

- Plans have to be reviewed and revised to reflect the actual conditions on the ground. Plans are always approximations and tentative. (The advent of high speed computers and modeling have given plans an erroneous aura of accuracy and authority.)
 - The frequency of plan reviews depends on urgency and changes of the conditions on the ground
 - Periodic review which could be quarterly, semi-annually or annually- mostly problems in implementation
 - Major periodic review or updating could be every three years, five years and this could mean major changes in the plans- or smooth transition to new plans
 - Emergency reviews, revisions or abandonment- emergencies or unusual conditions in the field may necessitate review and changes i.e. floods, forest fires, financial crisis –maybe hourly, daily, weekly or monthly---Mr RP has to abandon his plan to drive along C-5
- Contingency plans are important in the event the original plan could not be executed as expected

- Plans are GUIDES to attain an objective. Plans are not the end by themselves.
- While contingency plans are important it should be kept to the minimum otherwise the time and resources spent are wasted as most of the contingency plans will have no use.

THE EIA IS A PLAN FOR BALANCING THE THREE PILLARS OF SUSTAINABLE DEVELOPMENT

- FOR THIS REASON THE EIA IS NOT LIMITED TO THE BIOLOGICAL AND PHYSICAL ENVIRONMENT BUT ALSO INCLUDE SOCIAL, CULTURAL, HEALTH AND ECONOMIC ASPECTS
- AS STATED IN PRINCIPLE 25 OF THE RIO DECLARATION “PEACE, ENVIRONMENTAL PROTECTION AND DEVELOPMENT ARE INTERDEPENDENT AND INDIVISIBLE”

Common Problems in EIA

- Layman's perception is a "Black and White World", that is, if "it is not good it, must be bad".
 - Sulfur dioxide causes acid rain and destruction of forest--- it is bad.
 - Hence, the presence of sulfur dioxide in the environment- even one molecule - is bad
 - News is almost about something BAD-public is saturated with all the bad things about sulfur dioxide
 - The essential functions or GOOD aspects of sulfur dioxide are not news. Those are bland old facts in ecology, biochemistry and agricultural textbooks.
-
- Golden mean also applies to the nature of pollutants especially pollutants or impurities found in nature.
 - Almost all life forms need micro-nutrients such as copper, iron, zinc or practically the minerals listed in supplementary diets such as centrum.
 - Micro-nutrients are essential elements for biochemical reactions such as in enzymes.

- Most micro nutrients in forms that could be used by living organisms are also very rare in nature i.e. nitrogen is very common in the atmosphere but plants could not use it directly.
 - Tendency of most living organism is to hoard or store the micro-nutrients for future use.
 - While the micro-nutrients are essential, they could be poisonous in high concentration, e.g., fluoride in dilute concentration is important for strong teeth and in preventing tooth decay. In high concentration it could result to moulting teeth and brittle bones.
-
- Plans or EIA do not guarantee success, they only minimize the chances or probability of failures as the decision makers are made aware and have given serious thoughts (informed decision making) of the resources needed, timing, and possible ground conditions affecting the action. Aside from natural factors, there are factors outside the control of the decision maker especially in the global economy

- Since plans or EIA are based on future conditions that nobody could predict with certainty
 - Anybody could have his own perception and prediction of what the future will look like.
 - Anybody could have his opinion of the quality or appropriateness of the a plan or simply how the plan looks like.
 - The opinions could be based on gut feel, gossips, quick google in the internet, computer modeling, past experience of similar action, political belief, or simply “what I think”.

- IN THE SELECTION OF ALTERNATIVES, THE OPTIONS MAY NOT BE BETWEEN THE BEST AND THE SECOND BEST OPTION BUT RATHER BETWEEN THE LESSER EVIL.
- IN THE EVOLUTION OF ENVIRONMENTAL LAW A NUMBER OF DEFINITIONS HAVE BEEN PROPOSED AND USED IN TEXTBOOKS AND REFERENCE MATERIALS. THE RIO DECLARATION IS AN ATTEMPT TO COME UP WITH ONE COMMON AGREEMENT ON THE DEFINITION OF ENVIRONMENTAL PRINCIPLES SUCH THAT NEGOTIATIONS AND IN INTERPRETATION WILL NOT WASTE PRECIOUS TIME IN REDEFINING THE PRINCIPLES
- ONE OF THE PECULIARITIES IN THE PHILIPPINES IS THE ORIENTATION OF THE MASS TO WESTERN MEDIA THAT OFTEN THE DECISION MAKERS AND THE PUBLIC THINKS AND BEHAVE LIKE IN DEVELOPED COUNTRIES OFTEN FOREGOING THE REALITIES ON THE GROUND

- FOR EXAMPLE, IN THE WRIT OF KALIKASAN THE SUPREME COURT ADOPTED A DEFINITION OF THE PRECAUTIONARY PRINCIPLE VERY MUCH DIFFERENT THAN WHAT THE PHILIPPINE GOVERNMENT HAS SIGNED IN THE RIO DECLARATION
 - NOTE THE RIO DECLARATION IS A SOFT LAW AND SOME COUNTRIES LIKE CANADA HAVE PASSED DOMESTIC LEGISLATION ADOPTING THE DEFINITIONS OF THE ENVIRONMENTAL PRINCIPLES IN THE RIO DECLARATION
-
- EIA REVIEW AND ECC ARE WITHELD. THE MORE CONTROVERSIAL THE PROJECT THE MORE IMPORTANT IT IS THAT THE ECC IS ISSUED AS EARLY AS POSSIBLE IN THE PROJECT CYCLE SO THAT DECISION MAKERS ESPECIALLY DECISION MAKERS OUTSIDE OF EMB COULD USE THE FINDINGS AND RECOMMENDATIONS OF THE ECC . IT IS LIKE PUTTING THE CART BEFORE THE HORSE AS THE CURRENT PRACTICE STANDS.

- For this reason, planning or EIA preparation is often considered an **ART** rather than a science. A good planner or EIA preparer has a good common sense, past experience of similar projects, good intuition or gut feel and he must be able to balance the details in his plan with generalities to make it more flexible.(SEE SEC 102 NEPA)
- While planning or EIA preparation is an ART, a good planner must be able to incorporate sound scientific knowledge and facts into his plan or EIA
- Aside from science, a good planner must be able to incorporate financial, economic, social and cultural concerns into his EIA.
- EIA must comply with planning regulations, existing laws, technical standards ESPECIALLY REQUIRED PROCEDURES.

- AS AN **ART** THE EIA AND THE ECC ARE HIGHLY VARIABLE AND SUBJECT TO PERSONAL BIASES, ATTITUDES. WHILE THE EIA IS A GOOD PLANNING TOOL FOR DECISION MAKERS, IT COULD NOT BE USED AS A REGULATORY TOOL.
- TO USE THE EIA AND THE ECC AS REGULATORY TOOL IS TO BESTOW ON THE REVIEW COMMITTEE, EMB AND DENR MARTIAL LAW AUTHORITY

As Prof Ferrey noted on NEPA-the US law requiring EIA for actions with significant impacts on the environment and is the model for the Philippine EIA laws

- “NEPA is not interpreted by the courts to impose any substantive requirements on the agency decision making; it is instead interpreted as a procedural stature. Some courts observe that NEPA does not necessarily protect against environmental harm but against uninformed decision making, by requiring agencies to take environmental factors into account. In other words, once a federal agency has complied with NEPA procedurally and fully informed itself of the environmental consequences of its proposed actions, it has the full discretion on the final substantive decision”

RECLAMATION POLICY

- THE EIA SHOULD BE DONE AS EARLY AS POSSIBLE IN THE PROHECT CYCLE (SEE AO 42 AND PRINCIPLE 17 OF THE RIO DECLARATION)
- THE EIA AND ECC SHOULD BE ISSUED AS EARLIEST DATE FOR THE DECISION MAKERS IN THE GOVERNMENT AND PRIVATE SECTOR TO INTEGRATE THE THREE PILLARS OF SUSTAINABLE DEVELOPMENT IN THEIR DECISIONS. THE CURRENT PRACTICE BY DENR AND EMB MAKES THE EIA AND THE ECC USELESS
- THE SUPREME COURT SHOULD ADHERE TO THE DEFINITION OF THE PRECAUTIONARY IN PRINCIPLE 15 OF THE RIO DECLARATION AND WITH IT THE REQUIREMENTS FOR ITS APPLICATION IN THE WRIT OF KALIKASAN. THE RIO DECLARATION DEFINITION OF THE PRECAUTIONARY PRINCIPLE HAS BEEN INTEGRATED IN DOMESTIC LEGISLATION IN A NUMBER OF COUNTRIES AND CUSTOMARY INTERNATIONAL LAW.

- THE PHILIPPINES WITH THE 190 SIGNATORY COUNTRIES HAVE PROMISED IN GOOD FAITH AND PARTNERSHIP TO FULFILL THE PRINCIPLES OF THE RIO DECLARATION