

Unofficial Translation

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HIA System and Mechanism in Thai Society

1. Background

1.1 Health Impact Assessment in Thai Society

In the past health impact assessment in Thailand was considered part of the environmental impact assessment designed for various kinds of development projects. It was only in 2000 when HIA evolved into a social learning process for healthy public policy development

The movement was initiated by the National Health System Reform Committee (NHSRC) when it assigned the Health Systems Research Institute (HSRI) to study ways and means to develop healthy public policy and health impact assessment for Thai society. In 2001, a long-term research plan was created entitled "Research and Development Plan for Health Impact Assessment" which was subsequently changed to "Research and Development Plan for Healthy Public Policy and Health Impact Assessment (HPP-HIA)". The plan spelled out directions for researches to be undertaken for possible health impacts caused by the policy, plans of action and projects in the non-public health sector.

As a result of the public sector reform in 2002, the Ministry of Public Health created a Division of Community Sanitation and Health Impact Assessment, under the Department of Health, responsible for developing health impact assessment systems to ensure that the public health laws were observed as well as conducting research and development activities to monitor community health impacts that might occur.

A number of sectors in Thailand have made use of HIA in several cases and at various levels, including small community projects and such big development projects as contract farming and mining industry. The National Economic and Social Advisory Council eventually recommended that the government undertake health impact assessments on a regular basis. Subsequently by the cabinet resolution on 31 May 2005, the Ministry of Public Health was assigned to report the progress of HIA development to the cabinet and National Economic and Social Advisory Council.

In the 10th National Economic and Social Development Plan (2007-2011) under the Strategies for Development based on biodiversity and for Security Building based on Natural Resources and Environment, mention is made about developing management efficiency to reduce pollution and control activities likely to impact quality of life. A system, a set of mechanisms and indicators are to be developed for health impact assessment (HIA). HIA and other social impact assessments henceforward are to be included into the environmental impact assessment reports. At the same time, the National Health Act, B.E. 2550 (2007), effective since 19 March 2007, is the first Thai law with clear provisions on health impact assessment.

Article 67 of the Constitution of the Kingdom of Thailand, B.E. 2550 (2007) stipulates that no project or activity shall be undertaken that may cause harmful effects to the community regarding quality of environment and natural resources as well as health unless environmental and health impact assessments on the people in the community have been made, including public hearing involving parties likely to be affected, stakeholders, and independent environmental and health organizations.

At the 6th Global Conference on Health Promotion, Thailand announced its adoption of the Bangkok Charter to the effect that health promotion would be a major function of every public sector. All policies and plans of actions must take into account health dimensions based on HIA. Similarly, the 10th National Health Development Plan proposed the creation of mechanisms and the process of healthy public policy alongside HIA.

At present, Thailand has applied HIA at various project and policy levels, including HIA in EIA, HIA for local communities, HIA for healthy public policy, and HIA for international policy and agreement.

1.2 HIA practices in other countries

As its originator, the WHO has played an important role in the study, development and dissemination of HIA. It advocates and recommends guidelines for the member states and international monetary institutes, urging them to take more responsibilities for HIA. As a result, HIA has been widely adopted. In summary, HIA development has seen two major approaches. On the one hand, it branched out from the environmental impact assessment and is considered part of EIA. On the other hand, it evolved from the healthy public policy approach where HIA forms part of the screening of public policy through a common learning process. The latter approach can be applied extensively from the State policy level to local level and includes health impacts on individuals as well as environmental factors.

In other countries HIA has been developed to suit their social, economic and political contexts. Interestingly, differences exist in HIA applications at local, project and policy levels as follows:

No.	level of HIA application	Country/salient features
1	Community/local	1. Canada: Ministry of Health encourages NGOs to develop community HIA and to seek input from the community regarding health factors and the way community HIA should be taken. 2. United Kingdom carries out HIA for public policy at local level, focusing on economic issues, reviewing and reorganizing HIA on a regular basis. 3. Australia undertakes HIA for community development mainly to redress health inequality. 4. New Zealand undertakes HIA from local to policy levels to seek a more comprehensive alternative to decision-making.
2	Project	1. Canada has integrated HIA into EIA. The public sector has developed an HIA handbook using various health determinants in its approach with a wider health perspective.
3	Policy	1. Wales, UK, conducts HIA at a public policy by the Welsh Assembly.. 2. The Netherlands: Before a law is passed, HIA will be undertaken by the ministry concerned on its possible impacts. 3. The WHO Regional Office in Europe has conducted policy-level HIA in several EU member countries.

Compared to other countries, Thai HIA is institutionalized by the Constitution and the National Health Act and undertaken in various guises from the community/local, project to policy levels. However, it lacks a lead agency that can effectively advocate and coordinate the practice. It also lacks a review system, a collection of necessary documents, systematic documentation, and a good EIA system.

2. Current Situation

2.1 Thailand lacks a lead agency in coordinating and advocating the HIA process in a systematic manner.

Health impact assessment (HIA) is one of many tools in the development of healthy public policy. In the scheme of health system reform, it is designed to be a common social learning process that allows all sectors concerned to consider together possible and ongoing health impacts on a group of people caused by development policy or activities. The process is expected to lead to the best possible decision making regarding health promotion and protection for all the people in society.

Nevertheless, HIA in Thai healthy public policy development must take into account at least three relevant laws, i.e. Article 67 of the Constitution of the Kingdom of Thailand, B.E. 2550 (2007), Sections 10, 11 and 25(5) of the National Health Act, and the Enhancement and Conservation of National Environmental Quality Act, B.E. 2535 (1992). The last act is now being revised. One of the important proposed amendments is concerned with Environmental Impact Assessment (EIA) in at least four areas:

- (1) The exercise of the people's right: According to Section 11 of the National Health Act, an individual or a group of people shall have the right to request for an assessment and participate in the assessment of health impacts resulting from a public policy. They shall also have the right to acquire information, explanation, and underlying reasons from State agencies before a project or activity which may affect their health or the health of the community is permitted or launched. They shall have the right to express their opinions on such matter.
- (2) With regard to the HIA process, Article 67 of the Constitution B.E. 2550 (2007) stipulates that a person shall have the right to collaborate with the State and the community in the conservation, maintenance and utilization of natural resources and biodiversity and to protect, promote, and maintain the quality of the environment so that normal life can carry on in an environment in a way not hazardous to health, wellbeing, security or quality of life.
It is prohibited to undertake a project or activity that causes serious damage to the environment, natural resources and health unless a study is carried out to assess the environmental and health impact of the people in the community concerned and a public hearing is organized to obtain the opinions and interested parties. Opinions must also be sought from independent organizations consisting of representatives of private environmental and health organizations, institutions of higher education with environmental, natural resources, and health programmes,
The rights of the community shall be protected to sue public agencies, State agencies enterprises, local authorities or any other State agency with a juristic person status into taking action in compliance with the provisions of this Act.
- (3) HIA is to be used as a tool for healthy public policy development in the health assembly process.

- (4) HIA is to be used as a tool for assessment of impacts caused by public policy with a view to revising and developing such policy in the interest of the health of the people at community/local, national, and cross-border levels.

At present there are several agencies that have undertaken the task seriously. For instance, the Office of Natural Resources and Environmental Policy and Planning has developed general HIA guidelines in EIA as prescribed in Article 67. Meanwhile, the Bureau of Occupational and Environmental Diseases, Department of Disease Control, Ministry of Public Health, is in the process of developing specific guidelines for HIA in EIA in mining cases. In addition, the Department of Environmental Quality Promotion, Ministry of Natural Resources and Environment, has drafted a law on independent environmental and health organizations. These organizations will be responsible for making comments on projects as prescribed in Article 67. The Division of Community Sanitation and Health Impact Assessment, Department of Health, has supported HIA activities at local/community levels and organized a number of capacity-building workshops on HIA for the personnel of the Department of Health.

However, the HIA advocacy at present tended to be fragmented depending on the responsibilities of the agencies concerned. Existing networks are loosely connected. As a result, Thai society does not have a central coordinating body advocating and conducting HIA activities in a systematic manner.

2.2 Challenges of environment impact assessment

Environment impact assessment first started in Thailand in 1981 under the Enhancement of National Environment Quality Act (1975) in which ten types of projects were required to undergo EIA. The number was increased to 22 under the revised Enhancement of National Environment Quality Act (1992). At present, it is the responsibility of the Office of Natural Resources and Environmental Policy and Planning to determine the types and sizes of projects that need EIA reports.

The Thai EIA system was beset, however, with several problems. For instance, the parties concerned, especially people who were affected, cannot participate in the assessment in a meaningful way. The assessment issues did not include health in a wider sense of the term, and health impacts were not considered significant issues. The concerns of the affected parties and local wisdom were not incorporated as part of the assessment process. Besides, the owner or operator of the project did the hiring of the EIA study. It did not come as a surprise, therefore, that the company preparing the EIA report would be viewed as biased in favour of the project concerned. The type of project that requires the assessment was beset with loopholes, allowing the project owner to avoid the study rather easily. Some projects, despite their possible environmental and health impacts, did not come under the EIA requirements, e.g. a large-scale orange plantation using a lot of agricultural chemicals. In addition, with regard to the scope of the study, approval of the report and monitoring, the people were not given opportunity to participate in voicing their comments before the report was submitted to the expert committee for approval.

About 2003 several EIA-related sectors tried to revamp the EIA process but to no avail. Those problems, therefore, still remain. On several occasions, they even gave rise to conflicts within the community and undermine the confidence of the system as a whole.

3. Past activities

The Office of National Health Commission set up a working group to develop a system, mechanisms, criteria and methods of assessment of health impacts caused by public policy. Based on the literature review and consultations with those concerned, the conceptual framework could be summarized as follows:

3.1 Principles

- (1) Adherence to the rights framework: Good health is considered a basic human right of every individual. The Constitution of the Kingdom of Thailand, B.E. 2550 (2007) lays down a framework of rights and freedoms of the Thai citizen. Article 28 stipulates that in exercising State powers all State agencies shall have regard for human dignity, rights and freedoms as provided in this Constitution. These rights include the rights to the process of justice, rights of property, rights and freedoms of occupation, rights and freedoms of education, rights to receive public health services and welfare from the State, rights to information and complaints, community rights, and rights to protect the Constitution. On community rights, Article 67 stipulates that before undertaking a project with possible serious environmental and health damages, a study must be carried out to assess its environmental and health impacts, and a public hearing organized to obtain the opinions of the interested parties, including independent environmental and health organizations. In addition, the National Health Act deals with the right to live in a healthy environment (Section 5), the right to be informed of health impacts and protection thereof (Section 10), and the right to request for an assessment and participate in the assessment of health impacts (Section 11).
- (2) Adherence to governance: In the past Thai society based its view of governance on the Buddhist concept, believing that a person was governed by moral conscience. For example, a ruler or monarch must practice the ten virtues, while a civil servant would observe a set of service-minded principles, and an ordinary person follows rules incumbent to laymen. One's way of life was based on moral conducts and compassion. However, the present Thai society has seen much change. It has been exposed to considerable materialistic influence, while moral conducts have declined. It is important, therefore, to develop some kind of public mechanism to govern the people's conduct and motivate them to act not contrary to the public good. In general, good governance could be defined as "a system of structures and processes governing the relationships between economic, political and social aspects of the country that enable the public, private and civil society sectors to develop and co-exist in peace". Good governance consists of six elements: accountability, transparency, public participation, predictability, efficiency and effectiveness, and political correctness and ethics.
- (3) Link with existing agencies: At present there are already a number of agencies responsible for public policy, development projects, and health impact assessment as defined by law. For instance, the Office of Natural Resources and Environmental Policy and Planning is responsible for the EIA reporting process according to the Enhancement of National Environment Quality Act (1992) and Article 67 of the 2007 Constitution. Local government organizations have certain duty under the Public Health Act (1992), the Decentralization Act, the 2007 Constitution, and such other laws as Pollution Control Act and Minerals Act. The Ministry of Public Health discharges its

duty in this matter through the Division of Community Sanitation and Health Impact Assessment, Department of Health. Therefore, it is not necessary to set up a new organization responsible for HIA. Rather, support should be given to existing agencies to enhance their efficiency.

- (4) Capacity and opportunity building should be promoted to ensure operation with due regard for rights as provided by law.
- (5) The role, duties and responsibilities of the National Health Commission Office are primarily to support the development of HIA systems, format, criteria and methods on a continual basis, knowledge generation and management, potential development, HIA database development, and networking.

3.2 HIA development guidelines in Thai society should take into account the exercise of rights pursuant to Section 11 of the National Health Act and Article 67 of the Constitution.

3.3 Work will be undertaken using existing mechanisms as mentioned in 3.2.

4. Overall picture of the HIA system and mechanisms in Thai society

4.1 Thai HIA system consists of three elements:

- (1) Integration of HIA into EIA: EIA is a process leading to a decision to approve or permit a development project under Article 67 of the 2007 Constitution and the Enhancement of National Environment Quality Act (1992). The integration consists of two parts. First, EIA guidelines must include health issues as provided in the National Health Act. Second, there shall be a group of HIA readers working with experts and providing comments on the HIA parts of the EIA report.
- (2) HIA at the community/local level is a supplementary process designed to empower and advocate the use of HIA as a tool for healthy public policy development. This can be done in two ways:
 1. HIA conducted by the community: The objectives of HIA by the community are to provide an input on the projects or development activities undertaken by the community or to prepare the community with information for their participation in the public policy or other development projects that will affect the community.
 2. HIA conducted by local government organizations: Local government organizations are directly responsible for implementing HIA in various ways. For example, HIA is used in the preparation of their policy and plans of action to prevent health threats in pursuance of the Public Health Act, including announcing activities hazardous to health, setting criteria/conditions of a business operation, issuance of business licenses, consideration of “nuisances”, decision by the locality on other matters other than those prescribed in the Public Health Act, such as matters pertaining to Articles 67 and 287 (public hearing) of the Constitution and Section 11 of the National health Act. In the cases where the community owns and approves/permits its own project, Article 67 must be observed.

- (3) HIA in the health assembly: The health assembly is a process whereby healthy public policy is developed through participation of three main sectors, i.e. the people/civil society sector, academic/professional sector, and the public/political sector. HIA in the health assembly is, consequently, part of the HIA system with the power base derived from the National Health Act.

4.2 Mechanisms to be developed for HIA implementation

- (1) **HIA Commission**, under the National Health Commission, will have a core team and an HIA coordinating unit small and flexible enough to handle secretarial work. The HIA Commission shall have the following duties:
- To support the work of HIA groups/networks
 - To support continual development of HIA system, format, criteria and methods
 - To promote knowledge generation management, potential development and HIA database system
 - To promote the use of HIA as a tool for healthy public policy development through the health assembly and other channels
 - To advocate the implementation of healthy public policy through various means
 - To coordinate and support HIA development as appropriate.
- (2) **A group of HIA Readers** act as commentators on the HIA component of the EIA report, working closely with a panel of experts of the EIA reporting process and in line with the Act on Independent Environmental and Health Organizations (as an organic law of Article 67 but still in its draft form) when it is adopted. They may be asked to provide other comments on HIA issues that are not contained in the EIA report. HIA readers should be independent and flexible in their work. They should work as a network and with other networks, especially the academia in regional education institutes. They should attach great importance to the public hearing/review before reaching their conclusion.
- (3) **HIA networking** is a linkage of loosely structured networks of various sectors that have something to do with HIA in Thai society, e.g. local government organizations, independent organizations, Office of Natural Resources and Environmental Policy and Planning, Division of Community Sanitation and Health Impact Assessment, Department of Health, Ministry of Industry, academia, chambers of commerce, Federation of Thai Industry, non-governmental developers, trade associations, associations of consultant companies, networks of the people sector, and civil societies. The networking is intended to facilitate an exchange of learning and mutual support for HIA activities in Thai society.

The HIA system and mechanisms in Thai society could be summarized in the diagram below:

Diagram illustrating the linkage, system and mechanisms of HIA in Thai society

