

OTAKA: A Recent Trend in Canada's Environmental Assessment System with Reference to Japan's System

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Abstract:

Canada is a country that used to be successful in keeping the environment unpolluted by enforcing laws designed to conserve the environment. Environmental Assessment (EA) is one of them. It is a process used to predict and mitigate the adverse environmental effects of a project before it is carried out, which is now part of public decision making at all levels of government in Canada. In 2012, the current ruling conservative party, led by Prime Minister Stephen Harper, has replaced the original Canadian Environmental Assessment Act (CEAA 1992) with the new act (CEAA 2012). Harper's policy is for "growth, development, and jobs", and his party is trying to promote the oil industry by planning pipeline projects for expanding oil and gas exports. It is controversial because the pipeline projects may cause more environmental issues such as oil spills, and higher greenhouse emission.

The purpose of this research is to compare the current EA law of Canada with the EA law in Japan. Although the effectiveness of the CEAA has been weakened, there are still things that Japan can learn from it. Canada, which is planning to extend its market to Asia, has a big influence on other countries in the world because of its natural resource exports.

Four methods are used in this research. The first method is to compare the CEAA 1992 with the CEAA 2012 to see how it has been revised. The second method is to review previous research. Online search engines such as "CiNii" and "Google scholar" were used to find related studies. The third method is to review CEAA related information that the author collected at Ottawa University in Canada in the summer of 2013 to examine how the policy change of the CEAA has influenced the environment and affected society. Hearings were conducted at environmental NGOs, Institute of Environment, University of Ottawa, and the Environment and Land Tribunals Ontario. The final method is to compare CEAA 2012 to Japan's current EA laws to make a proposal based on the comparison, hoping to lead Japan in the right direction to legislate new EA law policies.

In Canada, the concept of EA was first introduced by a cabinet decision made in 1973. In 1984, Environmental Assessment and Review Process Guidelines Order (EARPGO) were established by the Cabinet. Lawyers and scientists began to specialize in environmental enforcement and started to prosecute and give administrative orders. CEAA was enacted in 1992

and began to be formally enforced in 1995, and it was revised several times until being replaced in 2012.

The main changes are as follows: (1) Timeline was set, (2) Omission of the EA process, (3) Narrowed in the scope of who can participate in the EA, (4) The projects subjected to EA are restricted, (5) The responsibility for conducting an EA rests with Canadian Nuclear Safety Commission, National Energy Board, or Canadian Environmental Assessment Agency, (6) State's EA can be substituted for the federal EA.

EA system in Canada has changed significantly due to CEAA 2012, and it is already affecting society. The positive effects of the amendment are that the new law prevents duplication of assessments, makes it timelier, and enforce it. The negative effects are that the number of EAs conducted are much less, and less people can become involved in the decision making process. Currently the oil pipeline projects are going through assessment and many groups who wished to speak at the hearings have been prevented. Panel review is not in use anymore, and major environmental research and services were closed down. Environmental NGOs, lawyers, and experts claim that CEAA 2012 is a major step backward for reducing the federal role in EA, and making the system less effective over all, and the way the government changed the law was neither democratic nor fair.

Canada and Japan both changed the EA system recently. Japan's EA system is said to be not trustworthy, and there is a joke that EA stands for "Environmental Adjustment" instead of "Environmental Assessment". EAs in Japan are conducted by project proponent that plans to conduct the project. Often rare or endangered species that live in the designated area are removed or deported due to the poor and low priority policy of environmental conservation. That is a serious problem, because EA is introduced to prevent environmental damage; so it is pointless if it is only conducted as a mandatory procedure for starting a new project. None the less, there were major amendments in 2011, introducing important procedures, such as plan evaluation and follow-up assessment. Japan is trying to improve the EA system to focus more on environmental protection, instead of development. There are still many weaknesses, such as the late start of the assessment, not enough chance for public participation, weak reviewing process, and no administrative orders and criminal penalties for enforcement. With respect to those defective points, Japan can learn from Canada's unique system, such as (1) Funding for public participation, (2) Review panel, and (3) Enforcement of EA.

The trend in Canada is not only happening in Canada. Recently, "Job, economy, development" seems to be a priority policy in most countries. It is necessary to compare this trend and find a way to improve the EA system. Environment is the source of our life, health, and happiness. When nature disappears, contamination will harm our body, and the economy would stop growing as well. Therefore, both environmental protection and economic development need to be considered when developing policy.