

Strengths and weaknesses of SEA in Brazil

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Abstract

Despite the growing expansion of Strategic Environmental Assessment in international scenario since the 90's, only in recent years this tool has been acquiring substantial relevance in Brazil. This paper analyzes the current situation of SEA in Brazil, the strengths and challenges in relation to its main aspects: formal/legal, institutional, conceptual and applied. From an overview at the Brazilian's main aspects can be observed that, even without regulations, SEA has been applied in various states by environmental agencies and institutions. On the one hand, these initiatives are shown to be positive in the sense that reinforces the need to address structural deficiencies of the current environmental planning system. On the other hand, the anticipation and encouraging the practice of SEA can be related to serious problems such as poor theoretical interpretation of the instrument, the use of their environmental value to promote a false image of sustainability and misapplications of SEA. Brazil is currently passing through a decisive moment to define its legal/institutional basis for SEA, now embedded in a framework of strengths and weaknesses. The guarantee of consistent principles and guidelines aligned to a solid theoretical basis is essential to explore the entire potentiality of SEA in Brazil.

1. Introduction

The increase in social concern about environmental issues has brought sustainable development to the main focus of world governments, thus modifying the *status quo* of decision-making processes. As a result, different instruments have come to surface in the last decades playing an important role to support and to inform decisions.

This is the case of Strategic Environmental Assessment (SEA); a proactive instrument of environmental policy that aims to anticipate the consideration of environmental issues in strategic decisions. The recognition of the advantages of SEA contributes to spread and consolidate its practice in the international arena.

In many emerging countries SEA is under implementation, but there are still many challenges to be overcome. In countries like Brazil, although not supported by legal requirements, there is a growing interest of academic and governmental institutions about the implementation of SEA, and also a strong demand from financial institutions like the World Bank, the Interamerican Development Bank (KJÖRVEN & LINDHJEM, 2002; ALSHUWAIKHAT, 2005).

On the other hand, it can also be observed some aspects that restrict SEA implementation, as the lack of a planning culture and structure, low level of public participation in decision-making, and low level of transparency and accountability in governmental decisions, as well as structural weaknesses of SEA systems at all.

The processes by which SEA has been introduced in many developing countries describe a scenario of strengths and weaknesses. The strengths are related to improvements in PPP (Plans, Policies and Programs) formulation, remarkably the introduction of sustainability as a principle to

development in these countries, while the weaknesses in general are related with a lack of definition and expertise about SEA procedures and how to properly incorporate best practices.

In this sense, this paper introduces a discussion about the current status of SEA system in Brazil, briefly described according to what is considered to be its major aspects: formal/legal, institutional, conceptual, and applied.

Legal and Institutional aspects

Strategic Environmental Assessment has only gotten some relevance in the Brazilian framework in mid 90's, when it became to be applied as a requirement for funding approvals. Since then this type of decision got more frequent and had assumed the main role in SEAs in the country. However, Brazil remains without a legal framework to guide the criteria and procedures of SEA.

In following years, some legislative and institutional initiatives at federal and state levels (Table 1) had pointed to the formal implementation of SEA as an environmental policy instrument. Despite the fact that most of them showed to some limitation in terms of exploring the whole potential of SEA to PPPs decision-making, it is seen that the initiatives presented in Table 1 state clearly that SEA must be applied to assess the environmental effects of a plan or program.

Table 1- Legal and Institutional initiatives for SEA implementation in Brazil.

Year	Level	Institution	Initiative description
1994	State – São Paulo	State Council of Environment of São Paulo	Attempt to formalize the use of SEA to address cumulative effects of large projects
2002	Federal	Ministry of Environment	Promoted a study on SEA recommending its adoption by legislation
2003	Federal	Deputies Chamber	Project of Law N° 2.072 - Introduce mandatory SEA of PPPs making
2004	Federal	Brazilian Court of Audit	Court Decision N° 464 - Adoption of SEA in developing the Multi-Year Plan and planning policies, plans and sectoral programs
2008	State - Bahia	State Government	Decree N°11.235 – Provides for the use of SEA in assessing environmental impacts of plans, programs, projects and sectoral public policies on environmental policy and to protect biodiversity in the state of Bahia
2009	Municipal – São Paulo (State Capital)	Municipal Government	Law N°14.933/2009 – Provides for the use of SEA to integrate the climate dimension in plans, programs and public and private projects
2010	State – São Paulo	State Government	Decree N°55.947/2010 – Provides for the use of SEA to integrate environmental and social consequences of human activities, to be systematic applied to policies, plans and public and private programs, considering the challenges of climate change
2010	Federal	Ministry of Environment	Public consultation - Aims to establish the principles, conditions and basic criteria for the use of SEA as a tool to advance environmental policy processes of formulating strategies for action that occur at different levels of decision of the Federal Government
2010	Federal	Federal Secretary of Strategic Affairs	Public call – to hire a consultant to deliver guidelines for SEA contracted through public announcements

Source: Authors, complemented from Teixeira (2008), Sánchez (2008).

At the end of 2010 the Brazilian Ministry of Environment (MMA) launched a public consultation to define the guidelines for SEA in decisions of the federal government. According to the MMA, the objective of this guideline is to "*set the principles, conditions and basic criteria to apply SEA as an advanced instrument of environmental policy in formulating strategies for action that occur in different levels of decision of the Federal Government*" (MMA 2010).

This initiative brought some questions about what kind of decisions were to be supported by SEA in Brazil. The biggest question remains with no answer: how this instrument will be integrated at legal, institutional and political context in the country? It is necessary to advance with a little caution towards a consistent proposal to implement SEA in Brazil, to ensure an effective integration within Brazilian environmental policy framework.

SEA in Brazil: strengths and weaknesses

A critical look at the current situation of SEA in Brazil was applied to analyse the national academic production, the documentation produced by environmental agencies and the practical aspects of SEAs already held in the country. The main object of this analysis was to identify formal/legal, academic/conceptual, institutional and practical features that represented adequately the characteristics of SEA in Brazil, in order to identify strengths and weaknesses around the implementation of this instrument.

To guide this analysis it was necessary to establish a theoretical model of SEA to reflect about the strengths and weaknesses as defined in this paper. The European SEA Directive (2001/42/EC) was chosen to guide this study due to the wide acceptance of this document in the international scenario and its prevalence as a model for delimitation of SEA guidelines in several countries (CHAKER et al, 2006). Thus, strengths, adopted in this work, are related to the characteristics of the SEA system that help the process to develop and consolidate itself as an effective tool and with a solid conceptual basis. On the other hand, the weaknesses are characteristics that delay and/or mischaracterize the development of SEA system in Brazil. **Table 2** shows a summary of main aspects identified.

Table 2 – Strengths and weaknesses of SEA in Brazil

	Strengths	Weaknesses
Prospects		
Formal/legal	<ul style="list-style-type: none"> • There are many initiatives to implement SEA in Brazil; • There is a very clear delineation for EIA in Brazilian legislation, which can be a starting point to integrate SEA; 	<ul style="list-style-type: none"> • The process of implementation of SEA in the law seems very confusing; • The initiatives in national scale only come from some governmental institutions, with deficiencies to the involvement of other sectors; • Fragmented and isolated initiatives - there are no answers to the processes (listed in Table 1) for implementation of SEA until now.
Academic/conceptual	<ul style="list-style-type: none"> • Strong conceptual and methodological basis; • Can contribute to the implementation of the instrument; • Expertise in training of people; • Monitoring the efficiency of the instrument. 	<ul style="list-style-type: none"> • Difficulty of accessing information like official data and SEA performed; • Low access to decision making; • Few discussions and publications about the reality of SEA in Brazil.

Institutional	<ul style="list-style-type: none"> • In some states, SEA is already instigated and implemented by agencies and institutions of environment and planning. 	<ul style="list-style-type: none"> • Misinterpretation of concepts applied to the instrument; • Promotes an "environmental label" for large enterprises.
Practical	<ul style="list-style-type: none"> • SEA is not a novelty; Brazil has almost 15 years of experience with SEA now. 	<ul style="list-style-type: none"> • Misapplications; • Lack of planning; • SEA is often applied to projects.

Source: authors.

Although not formally regulated in Brazil, SEA has been supported by environmental agencies and institutions in various states and in federal scale. These initiatives are in part positive in the sense that reinforce the need to address structural deficiencies of the current system of environmental assessment and demonstrate capacity of institutional articulation. On the other hand, initiatives to create guidelines to SEA in Brazil are not getting results. The withdrawal of the Project of Law N° 2.072 in January 2011 and the absence of feedback for the federal consultations in 2010 are evidences of the fragmentation of the initiatives, what leads to an ineffective process.

Moreover, the practice of SEA under governmental auspices without proper legal basis can lead to divergent visions and conceptualizations of the instrument, thus contributing to misapplications of SEA.

It should be noted that a common misconception is to deal with SEA as a tool to assess environmental impacts of large projects of development, highly influenced by project-EIA systems. In conceptual terms, there is an agreement that SEA must focus on the environmental effects of strategic actions, what means Policies, Plans and Programs. This shows a deficiency of SEA in Brazil, is much more an EIA on larger scale than properly an instrument to support and to inform strategic decisions.

A fundamental issue laid by Sánchez (2008) points out that the cases of SEA in Brazil have shown to be "voluntary" initiatives of planning, less than a response to legal requirements. This "common feature" of SEAs in Brazil suggests that it is recognized that SEA can somehow benefit the decisions.

In fact, it is common to find the name "SEA" in assessments of large projects but without clear references about the way that SEA had influenced strategic decisions. As pointed by Sánchez (2008), it is unclear whether SEA has little or no genuine influence in decision making – neither in terms of project enhancement nor as an instrument to support lower levels of tiered decisions (reflected, for instance, in licensing procedures).

To counterbalance this situation, aligning SEA to the objectives that it was originally shaped, the scientific community must play a leading role, so it was (and still is) in different countries, where scientific community has been contributing to the advancement and consolidation of SEA.

It is true that the academic interest about SEA in Brazil has been increasing in recent years, and nowadays there are several academic groups that deals with SEA under a scientific perspective, based in different regions of the country (**Figure 1**).

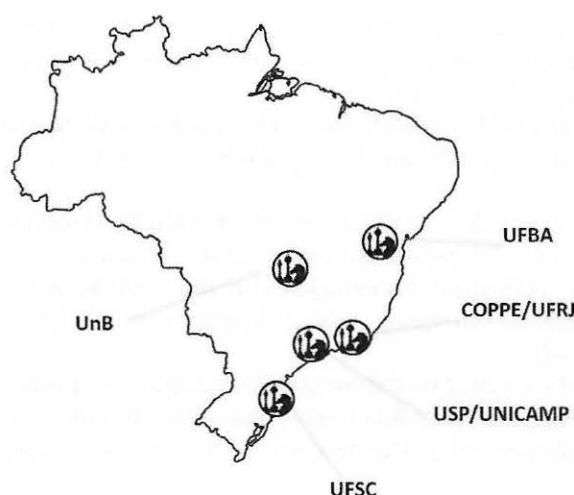


Figure 1 - Academic research groups devoted to the SEA in Brazil.

Brazil is currently facing a decisive moment to define legal and institutional basis for SEA, since many regulatory initiatives are already occurring, and is already a frequent user of the instrument. However, as reported by Sanchez (2008), unlike the implementation of environmental impact assessment of projects in Brazil through mandatory regulations since 1986, there are in universities and research institutes specialists in environmental assessment that can contribute to the substantive implementation of SEA, based not only on theoretical reflections but also in empirical studies.

Final Considerations

SEA has been implemented in Brazil without a clear delimitation of scope and guidelines that define the procedures to be followed, what is a factor of concern in terms of the limitations to achieve the full potential of this instrument. The gaps in this process make SEA vulnerable to antagonisms in reference models and, therefore, keep SEA far from the most favourable conditions to its application. To this respect, it is seen SEA is called mainly after decisions were already taken, normally to assess the impacts of large projects, and not to evaluate alternatives to strategic actions.

Thus, it is necessary to be careful about the way that SEA will be formalized in Brazil, in order to guarantee the conditions for its effective application, especially in terms of its integration to other environmental policy instruments and to strategic levels of decision. SEA Researchers in Brazil surely have important contributions to this process as there are many points to be clarified. It is therefore essential a convergence of efforts to ensure solid theoretical foundation with emphasis on effectiveness of SEA, to reach the full potential of this instrument.

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