ADDIS ABABA UNIVERSITY
SCHOOL OF GRADUATE STUDIES
INSTITUTE FOR ENVIRONMENT, WATER AND DEVELOPMENT

Implementation of Environmental Impact Assessment Proclamation: Challenges and Constraints

By

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ACRONYMS

APAP-Action Professional Association for the People
Art-Article
BPR-Business Process and Re-engineering
CLEIAA-Capacity development and Linkages for Environmental Impact Assessment in Africa
ECA-Economic Commission for Africa
EC-Environmental Council
EIA-environmental impact assessment
EIC-environmental information center
EISR-environmental impact study report
EMP-environmental management plan
EPA-environmental protection authority
EPE-Environmental Policy of Ethiopia
EPO-Environmental Protection Organ
ERA-Ethiopian Road Authority
ESs-Environmental Standards
EU-European Union
FDRE-Federal Democratic Republic of Ethiopia
FGD-Focused Group Discussion
MA-Ministry of Agriculture
MELCA-Movement for Ecological Learning and Community Action
MOM-Ministry of Mine
MWE-Ministry of Water and Energy
NGO-Non-Governmental Organization
NO.-Number
OECD-Organization for Economic Co-operation and Development
PCP-Pollution Control Proclamation
PIL-public interest litigation
Pro-proclamation
REA-Regional Environmental Agencies
SEA-Strategic Environment Assessment
UN-United Nations
UNDP-United Nations Development Program
UNEP-United Nations Environmental Program
VAT-Value Added Tax
WTO-World Trade Organization

ABSTRACT

The EIA proclamation No 299/2002 is among the most important environmental legislations adopted by the country with a view to realize the constitutional rights of the people to live in healthy environment and to achieve sustainable development. However, there have been frequent instances of non compliance of projects with the relevant EIA law. Thus, the objective of this study is to indicate the challenges for the effective implementation of the EIA proclamation.

In order to achieve the objective of the study, apart from reviewing the relevant documentary literatures, questionnaire, key informant interview, and focus group discussions were used as the major sources of data. Qualitative analyses were employed, and the analyses were multifaceted and iterative which eventually mirror out implementation challenges related with EIA regulatory regime, institutional capacity, judicial support and incentive packages.

The findings of the study revealed that, lack of adequate EIA supportive legislations and lack of institutional capacity on the side of relevant sectoral agencies were identified as major hindrance for the implementation of EIA law. Moreover, it is learned that the judicial support towards the enforcement of EIA has been totally neglected. EIA related violations were never reported to the police for prosecution leaving the EIA enforcement ineffective. Finally, the study indicates the absence of incentive packages towards EIA promotion. There is no incentive mechanisms provided by the government and other stake holders for the development projects and programs which have excellent EIA performance.

Therefore, strengthening the legal foundation of EIA, improving the institutional capacity of relevant environmental units, establishing PIL and improving the involvements of federal prosecution offices towards the enforcement of EIA related violations, and linking the provisions of investment incentives with EIA performance are recommended to improve the implementation of the EIA legislation.

CHAPTER ONE

Introduction

1.1. Background

Environment belongs to all and thus important for all. Whatever be the occupation or age of a person, he or she will be affected by environment also affect the environment by his or her deeds (Kaushik, 2006).

Clearly, without key ecosystem services such as providing clean air, clean water, food and a hospitable climate, life (human and others) can't exist. And it is noted that ecosystem health is a critical prerequisite of human health and well-being (Rashimi, 2004).

Despite these facts, humans are altering the earth's environment in dramatic and increasingly pervasive ways. Man, who has acquired the power and ability to transform his environment in countless ways, has unending desire for better quality of life and materialistic comforts. The state, which claims sovereignty over its natural resources, has also been excessively exploiting and indiscriminately using natural resources at its command to meet its endless desire for development (Vibhute, 2008).

The excessive exploitation of natural resources and their imprudent use, rather misuse, by man and state have been posing serious threats to the fragile ecosystem. For instance, through a variety of enterprises (e.g., industry, agriculture, recreation, and international commerce), humans are transforming fundamental natural processes, such as climate, biogeochemical cycling, and even the biological diversity up on which evolutionary change depend (Smith, 1993).

The main reason behind the unnecessary degradation of natural resource is the failure of integrating environmental, cultural, and social considerations in to a decision making process in a manner that promotes sustainable development (EPA, 2003).That means, for a long time whether or not to proceed with a project was decided solely based on economic and technical feasibility, regardless of the costs to society and the environment (Yonnas, 2008). Thus development projects increased pressure on the environment due to their lack of concern for the environment.

However, at time passed, people began to realize that a human activity has caused negative impacts on the environment. And different laws and policies aimed at protecting the environment began to emerge in different countries including Ethiopia. One of those laws was the EIA law (Mellesse et al, 2008).

To protect and mitigate the adverse environmental impacts of development activities, the Ethiopian government has enacted different environmental management tools and established different institutional arrangements. Among all these tools, environmental impact assessment proclamation No. 299/2002 is the focus of this research. EIA is one of the environmental management tools used for predicting the impacts of a proposed action on the environment and suggests mitigation measures before the implementation of major development project. By doing so, EIA helps to reduce costs of resources for clean up, proactively avoid irreversible environmental hazards and it also provides a forum for public involvement in the decision making process (UNEP, 1989).

Art 3(1) of the EIA proclamation state that "no investment project that requires environmental impact assessment be implemented without authorization from relevant environmental authority". Moreover, Art 18(2) of the same proclamation states that any person who commences the projects without obtaining authorization from the authority or the relevant regional environment agency commits an offence and shall be liable thereof.

In spite of the existence of the EIA law, however, failure to comply with the requirements of the law is apparently fatal. As studies confirm, many development practices have not anticipated, eliminated or mitigated potential environmental problems early in the planning process (Mellese et al, 2008).Moreover, implementation of the environmental management plans (EMPs) and follow ups, are more often than, not neglected and grossly in effective. As a consequence, most implemented projects have caused damage to the environment (Yonnas, 2008). From all these it is possible to understand that neither the EIA requirement is effectively implemented nor environmental degradation is halted.

1.2 Statement of the Problem

The EIA proclamation requires the project proponents not to commence their project without priorly getting environmental clearance certificate from the responsible environmental agency (See Art 3(3) of the EIA proclamation No. 299/2002). Despite this, there have been frequent instances of non-compliance practice of projects with the relevant EIA law. A number of proponents still commence the implementation of their respective projects without obtaining environmental clearance while no action was taken on those proponents who violate the requirements of the law. Competent environmental agencies and certain non-state actors are of the view that full compliance with EIA law can not be achieved under the current state of affairs.

Since EIA is a complex process involving a large number of actors, this non-compliance has been attributed to have different sources. Some studies have been conducted on identifying the challenges that hinder to have effective EIA system in the country focusing on different factors such as public involvement, political commitment and the like. However, very little is known about how far the issues of legal, institutional capacity, judicial support and incentive packages are contributing to the ineffective implementation of the EIA proclamation at federal level.

Therefore, it is the ineffectiveness of the EIA implementation which mainly initiates this study. The study is aimed at exploring the exact sources of the ineffectiveness with a view to generate perspective to address the challenges.

1.3 Objectives of the Study

The general objective of the study is to assess the effectiveness of implementation of environmental impact assessment proclamation.

The specific objectives of the study are:

1. To identify the legal gaps that probably affects the effectiveness of EIA.
2. To assess the institutional capacity of federal sectoral environmental units in relation to their independency, human, material and financial resources for the implementation of EIA.
3. To assess the adequacy of judicial support against EIA related environmental crimes.
4. To assess the adequacy of incentive packages towards the promotion of EIA.

1.4 Research Questions

The following are the research questions:

1. Are there legal gaps that hinder the effectiveness of EIA implementation?
2. Are sectoral institutions independent enough to administer EIA? And are they equipped with adequate human, financial, and material resources necessary to enable them to enforce the implementation of EIA?
3. Is there sufficient judicial support to enhance the enforcement of EIA related environmental crimes?
4. Are there any EIA incentive packages towards promoting EIA practice?

1.5 Significance of the Study

As causal observation suggests and studies confirm, currently, many development practices have not anticipated, eliminated or mitigated potential environmental problems early in the planning process. This has resulted in a seriously degraded natural environment. For instance, a survey conducted by EPA revealed that most factories located in Addis Ababa do not have any way of treating waste. Evident environmental illnesses in urban centers, especially in Addis Ababa, are the manifestation of the growing challenges (EPA, 2005). Thus, there is a clear need for action to remove constraints faced by the stakeholders to design and implement environmentally sound development initiative.

Moreover, it is important to note that effective implementation of EIA requires adequate legal bases, institutional capacity, judicial support, incentive packages and all other factors necessary for the implementation of the EIA process (UNEP, 1989). Otherwise the impacts of environmental degradation on development initiative could cause incalculable harm.

Therefore, doing this research is significant for different reasons. Firstly, this study is relevant and timely to suggest solutions to remove the barriers that hinder effective implementation of EIA law. Moreover, it will contribute to fill knowledge gap on the issue as there are few studies that have looked in to various aspects of environmental impact assessment in Ethiopia.

1.6 Scope of the Study

There are many variables that can affect the proper implementation of EIA law. However, with constraints of time and resource it is not possible to assess those all variables. Thus, the study exclusively focused on the assessment of the adequacy of the national EIA regulatory system, institutional capacity of the selected federal sectoral institutions, the sufficiency of judicial support against environmental crime, and the adequacy of incentives packages on EIA.

Moreover, the study is partially limited to the federal level; therefore, the finding of the study may not represent the implementation process of the country as a whole.

CHAPTER TWO

Literature Review

2.1. Definition of EIA

Environmental impact assessment can be broadly defined as the systematic identification and evaluation of the potential impacts (effects) of proposed projects, plans, programs or legislative actions relative to the physical, chemical, biological, cultural and socio-economic components of the total environment (Govini,2007). EIA is a "show-cause" procedure that tries to balance economic, technical and environmental factors and associated costs. It is a planning tool that is now generally accepted as an integral component of sound-decision-making. It systematically examines both beneficial and adverse consequences of the project and ensures that these effects are taken into account during project design. To this effect, it is said to be a proactive tool for promoting sustainable development by harmonizing and integrating environmental, economic, cultural, and social considerations into a decision making process (Ecaat, 2004).

EIA may also be a process which provides a forum for public involvement in the decision making process. Thus, since it serves to bring about administrative transparency and accountability, it is said to be a tool of democratization of decision making process in matters of environmental governance and natural resource allocation and use (Wood, 2003).

According to the EIA proclamation No. 299/2002, EIA is define as the methodology of identifying and evaluating in advance any effect, be it positive or negative, which results from the implementation of a proposed project or public instrument (Art 2(3) of EIA pro.No. 299/ 2002). As we understand from the above provision, the Ethiopian law prefers to follow the broad definition of EIA. It has defined EIA to include both project-level as well as strategic assessments. Just as EIA investigates the possible environmental impacts of a project, strategic level assessment is used to identify the potential impacts of the proposed public instruments namely government programs, strategies and laws, and the design of their containment (EPA, 2003). Assessments such as these that look at more than one project are often termed strategic environment assessment (SEA).

2.2. Purpose of EIA

Usually, the purpose and objectives of the EIA process will be contained in legislation. This statement of aims varies from country to country, but generally includes instrumental ends relating to sound decision-making, and substantive ends relating to protection of the environment (Abaza et al, 2004).

Moreover, since EIA has been considered as a central management tool for achieving sustainable development supporting the notions of the *Brundtland commission* (1987), which defined sustainable development as "development, which meets the needs of the present generation without compromising the ability of future generations to fulfill their needs'', Sadler (2000) classify the aims and objectives of EIA in to two categories: the immediate and ultimate aim.

- The immediate aim of EIA is to inform the process of decision-making by identifying the potentially significant environmental effects and risks of development proposals.
- The ultimate (long term) aim of EIA is to promote sustainable development by ensuring that development proposals do not undermine critical resources and ecological functions or the well being, lifestyle and livelihood of the communities and peoples who depend on them.

Generally, the main reasons for conducting EIA are:

- To identify possible environmental effects of the proposed project, proposes measures to mitigate adverse effects and predicts whether there will be significant adverse environmental effects, even after the mitigation is implemented (Wood, 2003).
- To enhance the social aspects of the proposal by allowing popular participation in planning and decision making (UNEP, 1989).
- To avoid irreversible changes and serious damages to the environment (UNEP, 2006).
- To bring about administrative transparency and accountability.
- To ensure the respect of the constitutionally guaranteed right of the people to live in a clean and healthy environment (EIA Pro.No 299/ 2002)
- To safeguard valued resources, natural areas and ecosystem components (Wood, 2003).
- To prevent future liabilities or expensive alternations in project design (Sadler, 1996).

2.3. Nature of EIA

a) EIA is both an art and a science

EIA is a systematic analysis of potential environmental impacts of the proposed development projects. Thus, the process requires the application of different scientific impact identification, prediction and evaluation methods.

However, having technical and scientific knowledge alone does not enable experts to do a successful EIA. Beyond the scientific knowledge, EIA requires artistic people who have good communication skills (Abaza et al, 2004). For instance, in the stage of public involvement, which is the fundamental principle of EIA, experts may face with "*wait and see*" groups in the society that want to preserve the *status quo*. Therefore, in order to get the heart of the majority of the community about the proposed project, and to get constructive local knowledge and alternatives, one needs to have good communication skills. Here it should be noted that, an EIA that do not involve interested and affected parties through effective communication cannot achieve its purpose.

Even so, it is not always possible to satisfy all of the parties all of the time, conducting effective public participation in the process of EIA depends up on the negotiation skills of experts starting from the use of appropriate language, having respect to people's view up to the use of key influential persons of the community. And this requires knowledge as to the community's custom, educational status and the like which are often differed from place to place. So in such kind of cases EIA involves an art (Govini, 2007). Generally, we can say that management aspect in EIA is an art, whereas the technical analysis is based on the scientific principles.

b) EIA is a team work

Most proposals have a number of potential impacts, notably including physical, chemical, biological, social, cultural and economic impacts. Thus to identify and predict those potential impacts, to provide alternatives and mitigation measures EIA requires a group of experts. That is why it is said to be a team work where the team of specialists is composed with regard to the character of the project or program. And this EIA team will need to bring together multiple viewpoints and expertise in order to produce a reasoned statement of the overall impact (Kakong

J, 1999). Therefore, consultant firms are expected not to be a one person firm since he/she can't be an expert in all fields that involves.

c) EIA has Political Nature

While EIA has been viewed as a technical process, it is inherently a political process. Every EIA system is said to be distinctive to some degree reflecting the political system of a country (Sadler, 1996). This is because, from the very beginning, project lists which require EIA are drawn up with reference to the developmental and physical characteristics that are particular to a country or jurisdiction, and it is unlikely they will to be directly transferable to other country without alternation. Thus, firstly, EIA is political in terms of the way in which governments legislate for EIA. That means during the preparation of project lists that requires EIA (Sadler, 2000).

Actually, once exclusive or inclusive project lists are established for screening purpose, EIA become dominated by technocratic approaches, which may lead to people ignoring social, political and economic conditions. Because, usually listed proposals that fall within the predetermined thresholds will be subjected automatically to full and comprehensive EIA.

However, it is less likely to have a comprehensive project lists with threshold level and project types. In such a case, countries may use discretionary approach or case by case screening. In this regard, EIA is political in terms of the way in which the value judgments and political decisions, at the level of the individual, permeate virtually every elements of EIA. For instance, in the screening stage a significant political issue is the choice of proposals to which EIA is applied. This is a value judgment where one type of project requires an EIA, while others do not. Similarly, other value judgment come in to decisions in scoping and reporting stages respectively about what environmental issues should be covered, and which piece of information should be included in the EIA report.

Moreover, political element is involved in the decision making stage where the decision makers decided on whether the proposed project to proceed or not. This is happened because any ruling government has its own political priority, and the decision makers are the representatives of the government who are represented to implement the wishes of the same (Wood, 1999).

Thus, it is difficult to expect the decision to be solely based on technical facts provided in the EISR. Beyond the provided technical facts, the decision is expected to take in to consider the development agenda of the government like that of the alleviation of poverty. Environmental consideration may, therefore, be set aside in favor of what are felt to be more important considerations (Sadler, 1998). But this does not mean that, the political element of decision making always overweight the technical element.

Generally, EIA cannot be regarded as a means of introducing an environmental "*Veto*" power in to administrative decision making processes. Decisions that are unsatisfactory from an environmental point of view can still be made, but with full knowledge of the environmental consequences. The final decision about the proposal depends up on the likely severity of the adverse effect, balanced against other expected benefits (Sadler, 1996).

This means, the outcome of the EIA process provides advice to the decision-makers; it does not provide a final decision. So, by it, the EIA procedures cannot be expected to stop a proposal although this is an outcome that some members of the general community and environment groups may expect.

2.4. EIA: Misconceptions and Counter Arguments

When the concept of EIA has first made a legal obligation it had encountered resistance on the part of many planners and engineers throughout the world (Govini, 2007). Such resistance saw EIA as an unneeded change to traditional practices and was often ignorant of its intended role in improving the project planning process. EIA is still severely criticized in some parts of the developing world as being in appropriate for application there. Following are some of these fears and misconceptions pertaining to EIA.

a) "EIA is anti-development"

There have been cases where EIA has been misused to stop development. However, this does not invalidate the use of EIA; it indicates a problem with how it is being coordinated. A properly carried out EIA process is much more likely to generate support for development. In addition,

there is little evidence that EIA related costs have stopped projects or prevented proponents from implementing them (UNEP, 2006).

b) "EIA is too expensive"

There is no doubt that carrying out an EIA and preparing a report costs money. But it is not as such too expensive. Experience has shown that the cost of preparing EIA reports falls within the range of 0.01 percent to 1 percent of capital cost (Depending on the type of project and its location). Once a development action is authorized, the cost of implementing an impact management plan may add from 1 to 15 percent to the capital cost (Abaza et.al, 2004). On the other hand, EIA often results in cost saving through reduced changes to the project at later stage or through identification of easier and more efficient ways to meet project goals (Govini, 2007).

Therefore, although it is important to be realistic about EIA costs, the benefits should not be overlooked. The benefits of EIA tend to be long term and generalized, whereas the costs tend to be immediate or short-term and are borne by specific proponents and organizations which are acceptable for them in accordance with the "*polluter pay principle*".

c) "We are too poor to afford EIA"

This is never true. No country is "too poor" to do its planning properly. Bad planning means lack of sustainability. Bad planning means extra cost to society. Poor countries can't afford such costs. May be wealthy, developed countries can arguably afford to waste and destroy resources, but poor ones definitely cannot. EIA is therefore even more important for developing countries than for developed ones (Sadler, 1996).

d) "EIA is just an add-on and occurs too late to do any good"

EIA certainly has less value if done too late in the project cycle; it must be done early enough so that results can be incorporated in to the detailed design. If EIA is done too late, costs for redesign of the project can be high, and /or the EIA is ignored.

2.5 Concepts Framing Effectiveness of EIA

In order to save environment from the threats of pollution, there is need to bring change in state approach from corrective to preventive i.e. successfully applying the precautionary principle as laid down in Reo Declaration 1992 (UN,1992).The purpose here is not to understate the usefulness of the corrective measures but the preventive measures certainly serve the purpose better because in case of the former the damage has already occurred whereas, in case of the latter the action is sought before the damage occurs. Another serious problem with corrective measures is that when problem comes for remedy, it is always argued that a lot of money has already been invested in the project and if the project is winded up because of the violation of environmental norms, it will be the wastage of public money. In such cases, if some relief is to be given, it is always given in the form of compensation. But the fact of the matter is that how can the damage, which has already occurred to the environment by such development projects, can be corrected by providing monetary compensation. In particular, when ecological deterioration may be reversible, the impacts on human well-beings may not be compensated (Rashimi, 2004).

What is important in environmental management is thus managing risks. In other words, where there is uncertainty of damage or possibility of substitution is impossible, there is a need to proceed with the side of caution (Dessalegn, 2007). And this requires skill and tools like that of EIA.

When an EIA functions well it helps major stakeholders to work with each other and plan for a sustainable future. But establishing well functioned EIA system requires the fulfillment of important elements that can be thought of as "*foundations or enabling conditions*" for EIA good practice and effective performance. However, an EIA system with those elements will not necessarily or always achieve those ends, but certainly little will be achieved unless they are in place (UNEP, 2006).

Even though, there are different models that have been developed to evaluate the effectiveness of EIA, we can conclude, among other things, that EIA legislation implemented well when there is specific, consistent and comprehensive legal requirement, where responsible institutions have adequate capacity, where there is judicial support, and where there is provisions of incentives towards EIA (Aslam, 2006). Each concept is briefly explained or elaborated up on.

2.5.1. National Legislative Regime

One of the main factors determining the effectiveness of EIA is the existence of clear, specific and comprehensive legal provisions (Sadler, 2000). Without a clear legal framework, EIA is ad hoc and the benefits are lost or reduced. But here we have to note that the term "law" is meant to include proclamations, and other specific regulations, administrative directives, guidelines, procedures and the like. Because without those specific legislations the regulatory regimes cannot be completed and nothing guarantees that the intent of the legislators will be implemented in practice. Effective implementations of the law require promulgation of executor regulations, decrees or guidelines (Bhatt and Khanal, 2010).

Environmental law and the practice of environmental protection in developing countries is often described as rule-oriented and poorly implemented and enforced. One of the reasons for this is the fragmentation of the legal basis for action and the existence of loopholes or omissions in their legislation (CLEIAA, ECA, 2007). To reverse the situation, the provisions for EIA, as one tools of environmental protection, should be based on legislation which is clear and explicit as to the nature and scope of application and the type of approach to be taken. And it needs to identify the responsibilities of the various participants. To this effect, EIA agencies and administrative bodies must provide formal procedural and technical guidance to proponents and EIA practitioners (Wood, 1999).And these practical guidance and administrative procedures for EIA force project proponents to comply with procedures in a meaningful way. But on the other hand, if the provisions are unclear or ambiguous, and if there is discrepancy as to the requirements of EIA between different laws, some project proponents may take advantages of those loopholes and resist taking EIA seriously because it may increase project cost, it reduce their autonomy and it provides information to potential project opponents (Abaza et al, 2004). Therefore, in order to close the door for such kinds of proponents, EIA legislations needs to be clear, specific, consistent and comprehensive and it should contain provisions of sanctions for non-compliance.

Moreover, the EIA legislation should be supported by directives which provide environmental quality standards. Because they are necessary to provide a scale against which the environmental changes (positive or negative) associated with a project may be measured. And the EIA process is more objective where the assessment of significance of impacts may be defined by comparing the

expected changes in environmental parameters with the desired quality standards (Bhatt and Khanal, 2010).

However, since the legal and institutional adequacy of EIA system cannot be divorced from wider issues of governance and the influence of cultural traditions, it may not be feasible to have a universally applicable model of legislation for environmental impact assessment. But it is possible to identify certain crucial elements of the EIA process that may be regulated through legislative means. Consequently, UNEP has developed certain elements of a national regulatory regime for EIA (UNEP, 1989, Sadler, 1998). Accordingly, at a minimum EIA legislation, together with any supplementary regulations, should specify the following:

- Areas and aspects to be covered-which proposed actions and impacts shall be assessed?
- Requirements and procedures-how shall EIA process be administered and applied?
- Responsibilities and duties-what must or may be done by proponents, component authorities, decision making bodies?
- Relationship to decision making-how shall the EIA process be used in approval of proposed actions subject to review?
- Compliance and enforcement-what steps and measures are to be taken in the event that due procedure is not followed in carrying out the EIA or implementing terms and conditions of approval?

However, if it is felt that the requirement for EIA would change with time, the legislations needs to be framed specifically to achieve the goals or outcomes that have been identified and incorporate provisions for review. This is to allow for the lessons of experience, changing societal expectations and new demands (Sadler, 2000).

2.5.2. Institutional Capacity

Even where EIA legislation and procedures are well found, it does not ensure effective implementation. In order to realize the intent of EIA legislations in to the ground, EIA responsible institutions should be the one having the capability to carry out the key functions and activities. Inadequate capacities (human, maternal and financial resources) at the EIA authorities

is often a restricting factor to quality review system and follow through. This is particularly true in developing countries where EIA institutional and technical capabilities are limited (Osman , 2003).

According to Sadler, the effective EIA implementation depends on the availability of people with necessary expertise to administer the EIA system, to prepare, review EIA reports and to monitor project compliance with environmental management plans. It is desirable, at a minimum that, agency staffs collectively have expertise in physical sciences, environmental engineering, ecological science and social science (Sadler, 2000).This show, highly trained, technically competent people are required to operate and manage an EIA process. Even ideal institutional arrangements will be ineffective if human resources are in adequate.

Therefore, by recognizing the above fact, countries with limited number of environmental professionals are required to do more in their human resource development. Without such measures, the intent of EIA legislation will remain largely ineffective (Abaza et al, 2004). In the countries where the quality and quantity of environmental professionals is adequate, the proponent can get quick decision within the defined time frame which in turn avoids project delliance. Moreover, in such countries we can observe tight time schedule for EIA review. For instance, in Thailand failure to review the EIA report within the defined time frame is treated as a *defacto* authorization to the permitting agency to issue a permit (UNEP, 2006). This confidence is emanated from the existence of people with the necessary skills and experiences to effectively carryout the review.

While skilled people are a crucial part of an effective EIA process, the quality of EIA studies and reports is also highly influenced by the resource available to the EIA practitioners and decision making institutions (Wood, 2003). For instance, without adequate monitoring equipments and allocation of budget for public involvement and reviewing, the concerned environmental protection organ cannot achieve the intended goal. Thus, the provision of adequate funds to administer the process and carryout required activities should be considered as part of the political commitment to the EIA process.

Moreover, some developing countries' experience shows how the low structural portfolio of organs responsible for EIA constrains the implementation of EIA. Many EIA agencies in developing countries are subsidiary units of an environmental ministry or agency. The relatively low status of these agencies in the bureaucracy makes it difficult for them to have sufficient influence to ensure effective implementation of the EIA process (ECA, 2005).Moreover, in order to prevent conflict of interests it is important to assure that the EIA administration agency itself is not to be the proponent, the police man and the judge (CLEIAA, 2003).

2.5.3. Judicial Support

Before the development of Public Interest Litigation (PIL) in the environmental jurisprudence, public interest groups or citizens had no statutory remedy against a polluter who discharges the pollutants beyond the permissible limit. It was only the aggrieved party that could personally knock the doors of justice (Kirpal, 2000). This shows how the issue of locus standi was the major obstacle faced by lawyers in prosecuting PILs.

India is known by developing its environmental Jurisprudence through the instrument of PIL. Under the PIL, the Indian judiciary liberalized the concept of locus standi and thereby empowered the people to approach the judiciary when the public interest is harmed by either the action of the state organization or individual. This activism of the judiciary in India has acquired the name of "*judicial activism*" especially in environmental cases.

Principle 10 of the Rio-Declaration of 1992 specifically provides for effective access to judicial and administrative proceedings including redress and remedy (UN, 1992). To this effect, the environmental legislations of different countries provide clear provision for the right to standing in the PIL (Cuming ham D., 1987).

PIL means a legal action initiated in a court of law for the enforcement of public interest or general interest in which the public or the class of the community have pecuniary interest, or some interest by which their legal right or liberties are affected (Sathe, 2002). And among the areas in which PIL's contribution has been significant is environmental law, which enables everyone to institute a case against the actual or potential polluters without the need to show

vested interest. Moreover, since PIL is considered as one tool to bring administrative accountability, the right to standing also includes the right to sue the agency responsible for environmental protection (Rose et al, 2009).

Effective PIL involves a unique bundle of procedures and substantive guarantees of rights. These include procedural flexibility, relaxed rules of standing, a broader interpretation of fundamental freedoms enshrined in the constitution, remedial flexibility and ongoing judicial participation and supervision (Kirpal, 2000).

This means in PIL the flexibility and a liberal approach of courts are of great importance in bringing to life the substantive laws enshrined in the constitution and other pollution control legislations. However, individuals who move to court in case of this kind must be acting bona fide. To this effect it is advisable to have certain procedural mechanisms to curb the abuse of PIL (Rashmi, 2004).

It is important to note that in addition to the inherent power vested in the state to prosecute environmental crimes, member of the public are also empowered to prosecute environmental crimes through PIL. However, the successfulness of PIL is depends on the existing awareness level of the public and enforcement agencies about environmental crimes and their available right to bring environmental violations to light so that environmental crimes can be reported to the police for prosecution (Pranay, 1999). This requires the development of adequate information management systems that allows regular and consistent co-ordination (information sharing) among government agencies responsible for enforcing environmental legislations (New man, 2008).

Moreover, unless there is a law that obliged the concerned environmental protection organs and the project owner to disclose internal results (records) to citizens seeking to prosecute a polluter, it is less likely to conduct successful PIL (Vibhute, 2008).Furthermore, the existence of NGO's and professional associations that can strongly advocate for EIA are also important to a robust EIA process (Rose et al, 2009). For instance, in Tanzania there is Lawyers' environmental action team that carries out policy research and advocacy on selected PIL (CLEIAA, 2003).

However, even though the law enforcement agencies could not effectively do their job without public support, merely waiting cases through PIL alone is not sufficient unless a corresponding effort is made to raise public awareness (Aslam, 2006). Therefore, the law enforcement agencies including the police, the judiciary and environmental agencies should be actively participated in the implementation of environmental laws in general and EIA law in particular beyond the efforts made by the public through PIL.

2.5.4. Incentives: A strategy for Preventing Environmental Pollution

For decades, economists have been extolling the virtues of market based or economic-incentives approaches to environmental protection and they recognized incentives as potential means of achieving environmental policy objectives. These incentive based environmental mechanisms are used to promote effective implementation of the law in one hand and discourage activities contrary to the law in the other hand. For instance, corrective taxes have been used in different western countries for decades to discourage activities that generate externalities (Stavins, 1991).

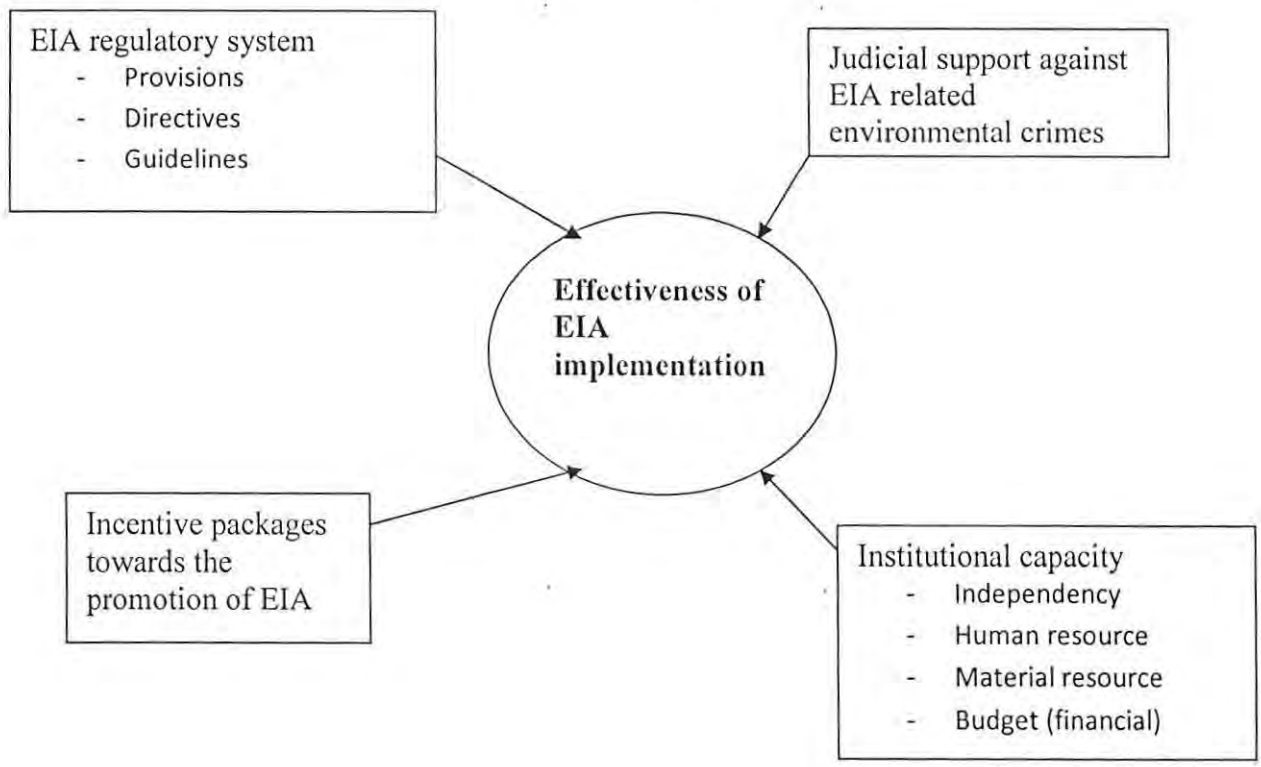
By the same token, in order to use EIA effectively as a tool of environmental protection, the development of incentive packages by the concerned organs of the government is crucial. Accordingly, different EIA legislations have provided incentive rights to different actors involved in the EIA process (ECA, 2005). Especially developing incentive packages to project owners has been recognized in different EIA systems (Khan, 2006).

Therefore, the concerned government organ or environmental agency shall prepare as much as possible, incentive packages and support the implementation of mitigation measures. In the mitigation of adverse impacts, an industrial enterprise, for instance, may need the installment of green technologies and equipments that help either to avoid the generation or to recycle pollutants (Sadler, 1996).

In this regard, the incentive can be in the form of tax incentives by which the proponent, who imports clear technologies and other construction materials, exempted from payment of custom duties or other taxes. To this effect it is advisable to integrate the provisions of investment incentives with EIA performance (Mellese et al, 2008).

Moreover, certain mechanisms may also be developed for the recognition and promotion of products, services or achievements made in environmentally sound manner. And this may create a wider market for the products produced in environmentally sound manner. This is just considered as a reward offered for doing EIA right which in return makes potential proponents to migrate in to the track of EIA.

Concepts framing effectiveness of EIA



Note: The above diagram shows the conceptual frame work of the study

2.6 Back ground and History of the National EIA system

One of the most ominous of all problems facing Ethiopia is environmental crisis which threatens to precipitate and deepen the country's precarious economic and social state. Among other things, this environmental crisis is due to unwise use of natural resources and unplanned development projects prompted by rapid population growth (Yonas, 2008).

For instance, in the recent past excessive exploitation of nature resources brought about by such an intensification of development activities carried out in various parts of the country, led to environmental degradation and thus affected the quality of soil and water table, to mention but a few. The events that have happened in the Awash River Basin can be taken as one example. Experience in the past has shown that irrigation development schemes in the basin have caused massive environmental problems such as pollution, water logging, Salinity, which are aggravated by improper water management (Yonnas,2008).

However, through time, the need to take environmental considerations in to account to ensure successful economic development was recognized and applied in certain international donors assisted projects. For instance, the practice of contemplating environmental and health impacts was introduced as early as 1980 in to water resources development projects assisted by UNDP/WHO, though the main focus was limited to water-related and water-based problems. This practice then evolved in to a formal requirement in international donor assisted and financed projects in various sectors (Solomon, 2005).

The former Ethiopian Valleys Development Authority was the first national institution to incorporate EIA in to its activities. The authority developed its own specific guideline for the application of EIA in pre-feasibility and feasibility studies of potential medium-scale irrigation projects (Mellese et al, 2008). However, one to note that these efforts were limited to the irrigation sector and narrow in scope since they were donor-driven.

The development of EIA system specifically aimed at environmental management of the effect of projects and programs did not begin in Ethiopia until the mid-1990. Perhaps the most significant driving force behind this development was the establishment of EPA by proclamation No.

9/1995. According to this proclamation one of the powers and duties of EPA is to *"prepare directives and systems necessary for evaluating the impact of social and economic development projects on the environment, follow up and supervise their implementation"* (See Art 6(2) of EPA establishment pro.No. 9/1995). As a consequence of this mandate, EPA in the year 1996-1997 E.C. prepared procedural guidelines, which is used for all types of development projects in any sector (e.g. Agriculture, Industry, and Transport).For making these guidelines more effective and practical they are contained in one document titled "Environmental *Impact Assessment Guideline, May 2000 (EIA system)*". The main purpose of this procedure is that it is to be used as a tool for both planning and decision making, with the objective of ensuring that potential problems with projects and other development activities are for seen and addressed at an early stage in the project cycle or other planning process (Solomon, 2005).

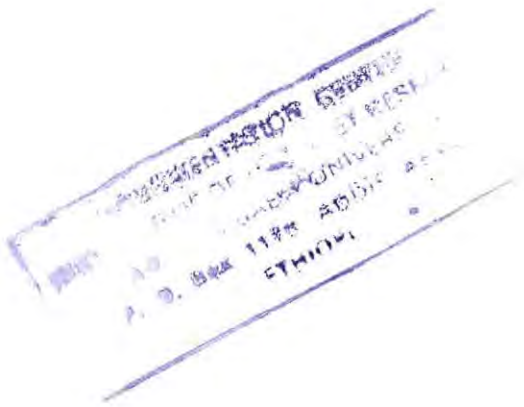
However, the Federal legislature, except enacting the above proclamation No. 9/1995 establishing the EPA and assigning to it the task of formulating environmental policy, did not until 2002 show much enthusiasm in using law in the environmental governance. In the absence of sound environmental policy until 1997, the legislative inaction can understandably be appreciated. However, not a single proclamation, dealing with environment, emanated from the parliament between 1997 and 2002 even though the EPE was ready to translate itself in to law. Only in October 2002; it, through the Environmental protection organ establishment proclamation (EPO) No. 295/2002 has "re-established" the EPA and repealed the proclamation No. 9/1995.

The Environmental policy of the 1997 in its section 4.9 stipulates the country's policies regarding EIA (EPA, 1997). And the above EPO proclamation further consolidate the foundation of EIA system in EPE by specifically requiring EPA to establish a system for environmental impact assessment of public and private projects, as well as social and economic development policies, strategies, laws, and programs (See Art 6(4) of EPO Proclamation).

Then later, in pursuance of the EPE, the environmental Impact Assessment Proclamation No 299/2002 dealing with EIA followed in December 2002 the EPO proclamation. Thus this Pro No. 299/2002, realizing that adverse impacts of a development activity on the environment can be

predicted and assessed in advance and accordingly apt measures can be taken to arrest these effects or risks, provides for a mechanism of EIA as a legally required procedure.

Therefore, we can say that EIA is a recent phenomenon in Ethiopia. It become a legally required procedure towards the end of year 2002, though emerged *defacto* before 2002 when a few land developers, including state owned agencies, approached the EPA to have their environmental impact studies reviewed (Mellese et al, 2008).



CHAPTER THREE

Research Data and Methodology

3.1 Research Design and Approach

After the research problem and both the general and the specific objectives are specified relevant literatures were reviewed to gather information related with the concept of EIA system. Then concerned stakeholders were identified. Accordingly agents of the federal Environmental Protection Authority (EPA), Ethiopian Road Authority (ERA), Ministry of Mine (MOM), Ministry of Water and Energy (MWE), Ministry of Agriculture (MA), Ethiopian Investment Agency, Ethiopian Revenue and Custom Authority, Ethiopian Police Training University College (EPTUC), Federal police Commission, federal public prosecution offices, EIA consulting firms, Movement for Ecological Learning and Community Action (MELCA), Action Professional Association for the People(APAP) and individual proponents were the potential audience of the study. Five EISRs that had obtained clearance or ago ahead for implementation of their respective projects were also chosen by taking in to account the need to ensure diversity of EISRs.

Before the data collection stage, questionnaires were constructed by bearing the research objectives in mind. Based on the responses, series of interviews were conducted with key informants. To strengthen the factual base of the study and to triangulate the information obtained, focus group discussion was also undertaken with a group of agents of relevant institutions.

The obtained data is expected to be qualitative in nature thus; it was analyzed critically.

3.2 Data Source

Both primary and secondary data were used in this study. The primary data were collected from key informants working at the above said institutions.

Secondary data were collected from national and international legal instruments, draft laws, letters, books, articles, journals, and reports to supplement the primary data.

3.3 Formulating Evaluation Packages and Questions

Evaluation packages were prepared, to measure the status of judicial support, and incentive packages; based on the relevant requirements stipulated under the national EIA law and on the bases of the requirements contained under binding and non-binding directives and guidelines. Quality parameters were also formulated based on international and national policy and regulatory requirements. Moreover, the requirement issued by UNEP for African countries was adopted as a review package and applied in order to shed light regarding the adequacy of the national EIA regulatory system and the level of institutional capacity of the selected sectoral institutions, towards the full application of EIA law and its enforcement at federal level. The value ranges from '0' to '3'. '0' represents nothing is done on the issue '1' represents there is some initiative to work on the issue, ':2' represents the issue is addressed but has some gap, '3' represents the issue is adequately addressed.

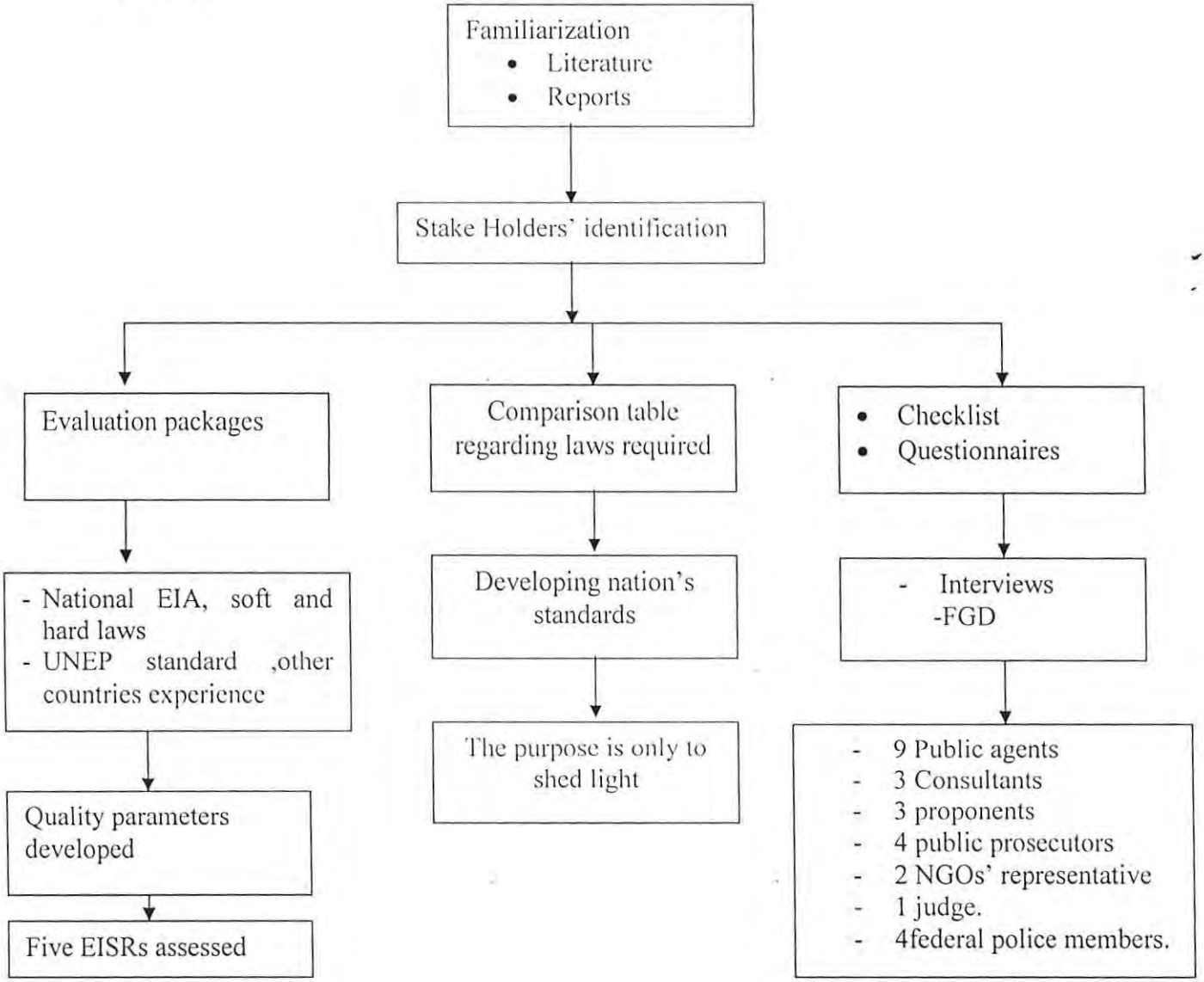
3.4 Data Collection Instrument

The instruments and strategies for collecting data include questionnaires, semi-structured interviews, and focus group discussions. The questions were designed to meet the general and specific objectives of the study. Accordingly, discussion was undertaken with 9 intentionally selected agents working at the said institutions,3 proponents,3 consultants,3public prosecutors ,4 federal police members ,one federal judge ,and 2 NGO's representatives from MELCA Mahiber and APAP. The interviewees were selected based on the relevant of their position with the questions, availability and willingness.

3.5 Data Analysis

The qualitative responses obtained from questionnaires. interview and focus group discussions were critically analyzed and internalized

Method


Familiarization
• Literature
• Reports
Stake Holders' identification
Evaluation packages
- National EIA, soft and hard laws
- UNEP standard ,other countries experience
Quality parameters developed
Five EISRs assessed
Comparison table regarding laws required
Developing nation's standards
The purpose is only to shed light
• Checklist
• Questionnaires
- Interviews
-FGD
- 9 Public agents
- 3 Consultants
- 3 proponents
- 4 public prosecutors
- 2 NGOs' representative
- 1 judge.
- 4federal police members.

CHAPTER FOUR

Results and Discussions

4.1. Assessment of the adequacy of national EIA Regulatory System

It is now well established fact that legislation is the essential pre-cursor to an effective EIA system. With this understanding, the adequacy of the Ethiopian EIA regulatory system is assessed (see table 1).

Table 1: Assessment of the Adequacy of the Ethiopian Regulatory System

No	Necessary legislations (Provisions, standards, directives, guidelines)	Evaluation result
1	Requirement of EIA in respect of projects likely to have a significant impact on the environment	3
2	Criteria and procedure for determining which projects required EIA	2
3	Legislation establishing institutions responsible for EIA administration	3
4	Standards for identifying experts qualified to prepare EIA reports	0
5	Format and requirements of EIA report (Review guideline)	2
6	Guideline for public participation	0
7	Regulation for appeals from decisions of EIA competent authority	0
8	Procedures on monitoring and auditing the implementation of terms of approval	0
9	Directives for environmental quality standards	3
10	Provision for the right to standing and access to environmental information	0
11	Regulation for incentive packages	0
12	Procedural guideline for SEA	0
13	Provisions providing penalties for non-compliance	3
14	Integration of EIA requirements in to financial institutions	0
15	Guideline on EIA decision making	0
16	Regulation for financing of EIA system	0

'0' represents no legislation is on the issue

'1' represents there is some initiative

'2' represents there is draft legislation

'3' represents there is adequate legislation on the issue

Source: Questionnaire February, 2011

During the past 10 years, only two proclamations (the EIA proclamation and the Environmental organ establishment proclamation) and environmental quality standards (ESs) were officially declared. Since 2002 no specific regulations, directives, guidelines or other subordinate rules have been issued for the purpose of implementing the EIA proclamation, although 2 guidelines (directive that determine projects subject to EIA and review guidelines) have been drafted by the Federal EPA (See table 1).Except the above draft directives and guidelines, the other subsidiary EIA legislations, which are necessary for the implementation of EIA, are found completely absent from the Ethiopian EIA regulatory system (See table 1).This shows the existing EIA regulatory system of Ethiopia is incomplete. The discussion undertaken with a group of experts working in the Federal EPA and the judiciary also confirmed the same.

Now, the issue that should be addressed here is as to how the absence of those specific laws contributes for low level of EIA process. The EIA proclamation is an umbrella proclamation, which has the nature of a framework legislation intended to outline principles in a very general manner. Thus, it requires many specific rules for its implementation. That is why the EIA proclamation gives a power to issue regulations and directives, necessary for the effective implementation of EIA, to the council of ministers and the EPA respectively (See Art 19 and 20 of EIA proclamation No. 299/2002). From the above provisions and from the overall reading of the proclamation, one can recognize the need for extra EIA supplementary legislations even other than those explicitly required under Art 5, Art 7(2), Art 8(3) and Art 13(1) of the same proclamation.

However, to start from those provisions that explicitly demands supportive legislation, Art 5 of the EIA proclamation requires the enactment of a specific directive for EIA screening purpose. However, no official directive specifying which projects should be subjected to EIA or otherwise is still enacted; though the draft directive which was completed in 2003 is redrafted in 2008 (see table 1). Legally speaking this draft legislation does not have a binding effect until approved by the responsible body (Environmental council (EC) in this case). Thus, it will be possible for an investor to say no for EIA. Similarly it will be legally groundless for EPA, sectoral institutions and licensing agencies to force investors undertake EIA as long as EIA requiring projects are not

legally prescribed. In other words the absence of this directive affects the prosecution of EIA related environmental crimes through public Interest Litigation (PIL).

The absence of legally binding project lists for EIA screening purpose further put the decision making process in question since it creates loopholes for discrimination and favoritism. Because in the absence of clear bases for decisions, the inclusion or exclusion of a project may be at the discretion of senior government officials with the degree of extended flexibility that in turn affects the transparency and fairness of the decision making process. Moreover, even though the draft directive is practically utilized with consensus, there is no base for decision to those projects which are not covered under the draft directive. For instance, the redrafted directive (2008) provides the list of only 22 types of projects requiring EIA and it does not provide list of projects that do not require EIA. But it should be noted that the project lists by their nature requires revision over time to incorporate new events and projects. This means, the practicality of the draft directive for the time being does not guarantee for its future use unless it approved by the environmental council with the necessary amendment (revision).Otherwise, the absence of legally binding and comprehensive directives (through continues revision) for screening purpose, will create legal loophole for responsible institutions to actively play their roles with in the EIA process.

The second EIA provision which demands the enactment of supportive directive for the effective implementation of EIA is Art 7(2). The article demands that a formal directive, specifying requirements to identify qualified experts for preparing EISR, shall be issued so that it will be clear to both sectoral institutions and investors to identify qualified experts.

Here, it is important to note that the quality of EIA reports is in part dependent on the existence of qualified and experienced consultants. But, proponents in order to come up with quality EISRs, there should be a system where experts and consulting firms are accredited and expected to deliver services in accordance with minimum standards (ECA, 2005). Therefore, the existence of this directive is necessary for the effective implementation of EIA since it allows decision makers to control as to whether qualified and multi-disciplinary team are involved in the preparation of EISR. However, there have never been such directives or guideline in the legal

sense (See table 1). We don't have rules as to how such consulting firms should be registered and licensed so that it is not possible to identify those consulting firms which are qualified for this task. In other words, administrative agencies do not have a mechanism to monitor unethical behavior of EIA practitioners.

According to key information from EPA, under the current setting any person can prepare such a report and hence the quality of EIA report is still in doubt. Most of EISRs prepared are too mechanistic, academic and voluminous that have little or no effect on decision. He further indicated that as there is no code of conduct or criteria governing how such a multidisciplinary task should be handled, consultants risk being highly influenced by their clients. This is also confirmed in the discussion undertaken with some consultants. And this brings to the fore the issue of whether it is good to leave to the market or allow government intervention in the transactions related to EIA practitioners and proponents.

Art 8 (3) of the EIA proclamation is the other provision that demands the enactment of guidelines for the purpose of determining the elements necessary to prepare as well as evaluate EISRs. This practical guidance for conducting EIA can help to promote better procedural compliance and effective process implementation. By doing so, the existence of these guidelines avoid delays caused by requests from the reviewers requiring additional information and re-doing of EISR. Generally, the guidelines will assist both EIA consultants and sectoral institutions in their respective task of preparing and reviewing EISRs. These guidelines, however, have not been yet issued, though the draft procedural guidelines are waiting the approval of EC (See table 1).

Last but not least, Art 13(2) of the EIA proclamation requires EPA to issue guidelines to determine the category of public instruments which are likely to entail significant environmental impact and the procedure of their impact assessment. However, these subsidiary instruments and set of tools necessary to direct application of Strategic Environmental Assessment (SEA) are not yet prepared (see table 1). Thus, subjecting public instruments to SEA process prior to their approval is yet started in Ethiopia. According to a key informant from MELCA mahiber, one of the main reasons, for the enactment of economically oriented legislations, like that of the investment proclamation No. 375/2003(amendment) is the inapplicability of SEA. And it should

be noted that the use of advanced tools such as SEA is important to create a better framework within which EIA can be applied (Abaza et al, 2004). This shows how the absence of the above guidelines indirectly affects the project level EIA.

However, beyond the task of fulfilling the necessary EIA supplementary legislations, there should be a system where environmental and other related laws are monitored, and if necessary amended to incorporate feedback from experience (Wood, 2003).Because this system allows the legislature to identify and reconsider (re-look) loopholes, ambiguities, or omissions within the EIA regulatory system which in turn contributes for the effective implementation of EIA.

In this regard, we can observe different loopholes or omissions within the existing EIA proclamation (See table 1). For instance, the absence of clear definition about the responsibilities of financial institutions, the exclusion of judicial review from the decisions of EPA and the absence of clear provision for the right to standing in EIA cases are among the most important issues that should be addressed here.

i) The absence of clear definition of roles and responsibility of financial institutions

Financial institutions have a great role to play in the task of developing functional EIA system. By incorporating EIA authorization in to their loan policies, financial institutions can help to ensure that development projects comply with the EIA requirement. But this needs a legal requirement that binds financial institutions to incorporate EIA in to their procedures. However, the EIA proclamation provides nothing in respect to the roles and responsibilities of national and international financial institutions. As a result, according to a key informant from MELCA mahiber. the Ethiopian EIA system is losing a mechanism that help to enforce development proponents to submit their EISRs to the relevant environmental Agency. He further indicated that at this time when many proponents are commencing their project without getting environmental clearance by one or other reason, making EIA as a precondition for grant of loan is the need of the time.

In this regard even if there is no binding law to that effect, the Development Bank of Ethiopia sets EIA as a precondition for the grant of loan. And this requirement of the Bank has been

pushing its clients to conduct EIA. For instance, according to the discussion undertaken with some proponents that have received loan from the above mentioned bank, it was the requirements of the bank that mainly compel them to conduct EIA for their respective projects.

Even though other banks also have shown interest to follow the footsteps of the development Bank, the absence of uniformly applicable legal requirement to that effect is hindering them to take action. This is because their voluntary action may affect their business by reducing the number of their clients. Therefore, they claimed that this to be a legal requirement so that all banks can compete equally. This is also confirmed in the discussion undertaken with a group of individuals working in different private banks.

ii) Gaps in redress of grievance under EIA proclamation

The EIA proclamation empowers the EPA or the relevant REA (currently to the sectoral institutions), after evaluating an EISR, to approve or refuse or allow with certain conditions the implementation of a development project, and in the latter case to monitor their compliance. But it also, under its Art 17, provides a grievance procedure for a person who is dissatisfied with certain decisions of EPA or the relevant REA (currently decisions of sectoral institutions). Accordingly, the dissatisfied person may submit a grievance notice to the head of EPA or the relevant REA as may be appropriate.

However, the proclamation unlike the EPC proclamation, does not provide for any judicial remedy to a proponent who is dissatisfied with any decision, including decision about the authorization or monitoring thereof, of the EPA or the relevant REA.
Here it should be noted that even though currently EIA review power is delegated to sectoral institutions, the content of Art 17 of the EIA proclamation is remained the same. The only change is the dissatisfied person is first required to submit his grievance notice to the minister of the concerned ministry, then to the head of EPA. Therefore, the power of the head of EPA and REA is still there (EPA, 2009, Letter of Delegation).

The absence of a provision in the proclamation for seeking judicial redress against any decision of the head of EPA and REA leaves scope for two conflicting views. According to a key

informant from EPA, the exclusion of judicial review under Art 17 of the EIA proclamation is in tune with the legislative policy of keeping decisions of EPA and of the REA beyond Judicial purview. This view gets support from the fact that the EPC proclamation contains in it an explicit provision enabling a person dissatisfied with the decision to seek judicial remedy. Thus, the absence of a similar provision in the EIA proclamation exhibits the legislative intent of keeping these decisions away from judicial scrutiny.

However, on the other hand, a key informant from the judiciary take a position that the absence of explicit provisions for judicial redress in the EIA proclamation does not give finality to the decisions of the EPA or of the REA. Such an argument finds its base in, and seeks support from art 37 of the FDRE constitution. It says that "*every one*" has the right to bring a justifiable matter to, and to obtain a decision or judgment by, a court of law or any other competent body with judicial power. In no way EIA proclamation take away the constitutional right of access to justice. He further indicated that, there is no justifiable reason for the legislature to keep these decisions away from judicial scrutiny. The present researcher is also inclined to the second view for the simple reason that an ordinary legislative instrument cannot vitiate a constitutional right. However, since there is still confusion in this regard, the mechanisms for grievance redress designed under EIA proclamation needs reconsideration.

iii) The absence of provision for 'right to standing'

The absence of clear and explicitly provided provision for the right to standing is another gap in the EIA proclamation No. 299/2002. In the case of the EPC proclamation No. 300/2002, there is the right to standing. According to this rule, any person (individual, NGO, association, government organ, etc) has without the need to show any vested interest, the right to lodge a complaint at the EPA or the relevant REA against any person allegedly causing actual or potential damage to the environment. Moreover, it bestows the right on such person or organization to take the case to a court of law if not satisfied by the decision of EPA or the relevant REA (see Art 11 of EPC proclamation No. 300/2002). This role obviously provides a mechanism to control those persons who pollute the environment. There is, however, no such mechanism to hold accountable those who had an obligation to carry out an EIA process. And it seems the legislature has escaped "*the right to standing*" unknowingly (accidently).

However, according to the present researcher, people should not be remained silent due to the absence of clear provision for standing. And still there is a room that allows an individual to bring a complaint against EIA related violations. The argument is the one which is based on Art 11 of EPC proclamation. It says:

Art-11 Right to Standing

1) Any person shall have, without the need to show any vested interest, the right to lodge a complaint at the authority or the relevant regional environmental agency against any allegedly causing actual or "**potential damage**" to the environment.

It is important to note that, EIA and EPC proclamations are the two inter-related anit-pollution proclamations which have many things in common in the application of "*Precautionary*" and "*polluter pay*" principles. The cumulative reading of the two proclamations also reveals the same fact.

Moreover, if the proponent fail to integrate EIA in his project planning, environmental pollution will be inevitable. Therefore, making reference to the EPC proclamation is justifiable. Thus, one can argue that the right to standing provided under Art 11 of the EPC proclamation can also be applicable for EIA related violations. This argument is persuasive, because, the article allows any person to lodge a complaint against any person allegedly causing actual or "potential damage" to the environment. And here the term "**potential damage**" definitely allows the right to standing against the proponent who commence his project implementation without getting authorization. Because, the main purpose of conducting EIA is to prevent "potential damage". Moreover, if the actual damage is already evidenced, there will be a possibility where this proponent is liable under both proclamations. Firstly, he will be liable for his project commencement without conducting EIA under EIA proclamation, and secondly, for the actual damage under the EPC proclamation. This is also confirmed by a key informant from the judiciary.

Moreover, Art 37 of the FDRE constitution also recognized the right of public standing. Thus, even though there is no clear provision for standing under EIA proclamation, one can use the above provision of the constitution. However, it is obvious that the absence of clear provision for standing in EIA case will affect the involvement of the public in PIL. The effects of the absence

of clear provision for standing and other sort of ambivalence that should be done away by the legislature are discussed in length under section 4.3 (i.e. when the judicial support is assessed).

After discussing the existing gaps of the Ethiopian EIA regulatory system, it is important to address the reason behind and the solution thereof. As said before, in the first place almost all of the existing EIA guidelines and directives till the writing of this brief, have the status of draft legislation waiting the approval of EC. Here a question may arise as to why the ratification of such important subsidiary legislations has been delayed.

The discussion undertaken with a group of responsible personalities working in the federal EPA concluded that, the delay is because of the inaccessibility of individual members of the EC which is in charge of approving the draft legislations. The council is composed of the prime minister or his/her designate, a representative designed by each regional states and other members (See Art 9(4) of EPO establishment proel No. 295/2002). And these high government officials are very busy who have found it difficult to meet regularly or even at the same time to undertake their responsibility with in the council.

However, contrary to the above reason, according to a key informant from MELCA mahiber, the meeting of the council does not demand the presence of all members. There shall be a quorum when a simple majority of the members are present (See Art 10(2) of EPO establishment Pro. No 295/2002). Moreover, Art 8 of the same proclamation does not necessarily require the presence of high government officials in person since they can participate through their respective representatives. Therefore, blaming a shortage of time cannot be a justifiable reason for not conducting a meeting. Rather, it should be blamed on insufficient good will on the part of the government. He further, indicated that, this need real (rather than a "*lip-service*") commitment on the part of the members of the council in particular and the government in general. The present researcher is also agreed with the above assertion.

In the second place, there are still many important subsidiary legislations missing from the country's EIA regulatory system. There is even no initiation to prepare draft legislations on many important areas (See table 1). This is because, the relevant functional unit of EPA (the department of environmental policy and legislation) has been under staffed and in need of skill enhancement.

The department which runs only with one staff has been unable to draft all the necessary environmental legislations, including the missed subsidiary EIA legislations.

4.2. Assessment of Institutional Capacity

The adequacy of institutional capacity of institutions responsible for EIA administrations are assessed based on the UNEP's standard developed for African countries (See Table 2).

Table 2: Assessment of the Institutional Capacity

No	Quality parameters	MOM	ERA	MWE	MA
1	Institutional independency (absence of conflict of interest).	0	0	0	0
2	Status of establishing environmental units	3	3	1	1
3	Allocation of adequate and qualified staff	2	2	1	1
4	Allocation of adequate material resource	1	1	1	0
5	Allocation of adequate budgetary resource	1	1	0	0

'0' represents nothing is done on the issue

'1' represents there is some initiative to work on the issue

'2' represents, the issue is addressed but has some gap

'3' represents the issue is adequately addressed

Source: Questionnaire, February. 2011

For the institutions to perform their functions effectively, they must be endowed with the appropriate capacities. However, as it can be seen in table 2, the institutional capacity of concerned agencies is incomplete. The assessment especially disclosed limitations of capacity on the area of institutional independency, adequacy of budgetary and material resources and of human resource both in quantity and quality (See table 2).

Currently, the EPA has delegated the power to review EISR to sectoral environmental units of competent agencies including MOM, ERA, MWE and MA, on the basis of the decision of the council of minister of the FDRE (EPA, 2009, Letter of Delegation).

However, it is important to note that the delegation places the sectoral institutions in control of two contradictory tasks namely promoting their sectoral development projects in one hand and reviewing their EISRs on the other hand. This is because, those environmental units as part and parcel of sectoral institutions have vested interest which makes conflict of interest inevitable.

According to one official of EPA, under the current institutional structure, the parent ministry itself is the proponent, the police man and the judge in contrary with the fundamental principle of neutrality. He further indicated that this conflict of interest makes enforcement of EIA difficult especially for public owned projects where the concerned sectoral institutions usually do not allocate funds to carry out an EIA unless they are required to do so by their respective donors.

Moreover, sectoral environmental units do not have a political power to say no if project implementation is order by the highest officials of the concerned ministry. For instance, according to my interview with the head of the environmental unit at ERA, there were instances where road construction projects were commenced without doing EIA, the reason mainly being that they are urgently required to be accomplished within a short period of time. This shows how the lack of independency affects the institutional capacity to enforce the EIA requirement effectively.

The assessment further disclosed that the delegation of EISR review power have been made without the necessary preparation, to that effect, on the side of sectoral institutions. It is observed that except MOM and ERA, other sectoral institutions have not yet established their own independent environmental units, and allocate adequate and qualified staffs to act in line with the delegation. Moreover, it is observed that all the relevant institutions are running out of adequate financial and material resources necessary to implement their legal duties (see table 2).

Above all, sectoral agencies are primarily expected to establish functional institutional set-up. However, as said before independent environmental units are not yet established in MWE and MA although there are now efforts being made to that effect (see table 2). In the MA, the Agricultural Investment Support Directorate is mandated to handle all environmental related issues in addition to its main duty of promoting Agricultural investment activities. Hence, the

mentioned ministry has established neither an independent unit nor has it assigned staffs with the purpose of reviewing EISRs of the sector's development projects.

Similarly, even though a single person has been assigned to establish the environmental unit at MWE, until the writing of this brief, the unit has not yet established independently for the purpose of reviewing EISRs of water and energy related development projects. However, currently, the environmental team has been trying to assess the social and economic feasibility of permit applications on ad hoc basis. But the purpose of this assessment is not to approve or deny project implementation, which reveals the fact that the mentioned ministry has not yet started to review EISRs.

Therefore, even though more than one year has lapsed following the issuance of the letter of delegation, the MA and MWE are still referring the EISRs to be reviewed by EPA which reveals the absence of preparation to that effect. Accordingly, until the writing of this brief, the environmental units establishment department at EPA has been reviewing different EISRs.

However, encouragingly, the MOM and ERA have established environmental units and employed permanent staffs for the purpose of reviewing sectoral EISRs and in the latter case to follow their implementation. This is a positive measure which indicates that the ERA and MOM have strengthened their institutional structure in assuring the implementation of EIA proclamation.

Despite these efforts, however, the units have not a sufficient number and quality of experts to adequately review the EISRs and to conduct continues monitoring activities. The MOM Environmental and Community Development Unit (ECDU) which is in charge of reviewing the EISRs and in the latter case monitoring environmental and social impact management plan implementation of all mining and petroleum development projects is running with four permanent staffs (2 environmentalists, one sociologist and one biologist).

Since EIA is a multidisciplinary activity, those experts responsible to conduct reviews should be at the cutting edge of different disciplines. Accordingly, the EIA team arrangement is expected to

be composed of geologists, sociologists, health experts, biologists, chemists, environmentalists, and mining experts. Currently, however no geologist, has yet assigned, and the positions of mining expert, chemist and health expert, at the moment are, vacant. According to the head of the unit, owing to the increasing number of sector's development projects on the one hand and the additional task of field monitoring on the other hand, the existing number and qualifications of staffs in the unit is insufficient to adequately finish the review on the deadline with the expected quality.

It is also observed that there have been almost no training programs for the persons responsible for the evaluation of EISRs. For instance, following the issuance of the letter of delegation, the unit at MOM has repeatedly asked EPA seeking special training on EIA review process which reveals the fact that the experts are in need of skill enhancement (Ministry of Mine, 2010 Letter of request).

When we come to ERA, the unit is running with seven permanent staffs which are composed of economist, sociologist, public health expert, geologist and civil engineers. However, it is observed that the existing number of staffs is insufficient particularly to conduct monitoring of projects in the implementation and operation stage. As it is also confirmed by the head of the unit, currently there are more than 200 sector projects throughout the country that needs monitoring which reveals the fact that the mentioned authority is in a great problem to effectively monitor their implementation with the existing number of experts.

The other aspect of capacity problem observed is material resources, meaning monitoring equipments, internet service, environmental laboratories, organized library service and source of baseline data on ecological and socio-economic environment.

The environmental units are expected to communicate with different stakeholders such as NGOs, project owners, consulting firms, government offices, international organizations etc. Unless they are equipped with the necessary communication facilities, it will be difficult to strength partnership and function properly. In addition to this, well equipped environmental laboratories are required to conduct quality review and follow up activities. However, all of the above sectoral

intuitions including MOM and ERA, do not have environmental laboratories, libraries, and even adequate number of computers. For instance, according to the head of the unit at MOM, the experts are using the EPA's laboratories. And the unit doesn't have even a single car for field monitoring work.

EIA is not a desk work which can be done while sitting in air-conditioned office. The preparation of EIA reports should depend on actual and reliable information that may requires for instance proper study visits to the project site (Kakong, 1999). However, the majority of consultants interviewed under the course of the study ignored the importance of proper site visit; the reason mainly being that the study visit may increase the cost of undertaking EIA. Furthermore, they also complained that proponents are always in hurry and do not give sufficient time required to conduct a good quality EIA. According to the head of the unit at ERA, many consulting firms write their assumptions instead of describing the actual situation. This is particularly true with the baseline information. Moreover, facts often appear in the EISR that are not contextualized to the project at hand.

Despite this fact, however, environmental units, which are in charge of reviewing EISRs, do not have a mechanism to detect false presentations. It is observed that they neither visit project sites nor take samples and getting tested by testing laboratories for review purpose mainly due to lack of material and financial resources. Moreover, there is no on line environmental information center (EIC) that would serve as one-stop source for obtaining reliable and validated base line environmental data.

It should be noted that even though the importance of proper study visit to the project site cannot be undermined, the EIC can be a very useful tool for EIA review process, where the concerned authority can check the data (mainly on the description of local environment) provided by the proponent with that from the EIC (ELEIAA, ECA, 2007). Unfortunately, in Ethiopia, this fact seems to have been overlooked. In this regard, even though a document that provides the country's environmental information has published by the environmental information center at EPA, they are of generic in nature and failed to be site specific. Therefore, the absence of EIC, as it is also confirmed by the concerned environmental units, has been identified as one of the major challenges in EIA review process.

The other aspect of institutional capacity is financial resources. Adequate budget is critical for proper implementation of the legislation. However, as it can be seen in table 2, the concerned sectoral environmental units are not financially strong. The budget allocated to the respective environmental units is not commensurate with their vast regulatory tasks. For instance, in the 2003 Ethiopian budget year the total money allocated to the environmental unit at MOM is 390, 579.75 birr. According to the head of the unit, this amount is so far insufficient to run the EIA process and fulfill the unit's other duties relating with community development and climate change. Moreover, the unit is required by EPA to monitor all of the sector's development projects including those projects whose implementation have already been started before the delegation. To this effect, the EPA send lists of sector's projects which in turn increased the number of projects that have to be monitored by the mentioned environmental unit.

As a result of these, according to the head of the unit at MOM, the implementation of the approved management plans of most of the sector's development projects has not been checked. Thus, under such situation, preparing of EIA report will be a mere formality requirement to obtain project approval than being a tool for sustainable development.

It is also observed that, the concerned sectoral environmental units do not have additional financial resources to support EIA review and follow up activities. However, in some other countries, EIA fee systems have been established with a clear basis in statute or regulation with a view to sustainably finance the EIA system. For instance in Ghana, certificate fees assist in funding for follow up to ensure that mitigation measures are been implemented (ECA, 2005). Similarly, in Pakistan, review fees are allocated and utilized to support those experts engaged in the review process as a sitting allowance (Aslam, 2006).

However, in Ethiopia, this fact has been overlooked. The proponents are not legally required to pay a certain amount as a review fee or license fee leaving the EIA financing system ineffective (see table 1). This is also reiterated in the discussion undertaken with a group of experts working in MOM and EPA.

4.3. Assessment of Judicial Support against EIA Related Environmental Crimes

One of the prominent strategies employed for combating environmental pollution is the creation of environmental crimes and subjecting their perpetrators to serve punitive sanction. The EIA proclamation has resorted to this strategy.

EIA is a legal requirement devised to implement the rights granted by the constitution and protected against the violation of there by any person, particularly if such rights are violated in the guise of development.

To ensure enforcement of EIA, therefore, the EIA proclamation defines a set of environmental crimes. It provides for criminal liability for operating a development activity without obtaining the requisite authorization from EPA or the relevant REA (but under the current setting from the sectoral environmental units). Making a false presentation in the EISR, failing to keep the required records and failing to fulfill conditions attached to the authorization are all offenses punishable by a fine of between 10,000 birr and 100,000 birr. It is also provides for an additional fine of not less than 5000 birr and not more than 10,000 birr for failure to exercise due diligence (See Art 18 of the EIA pro No. 299/2002).

The revised criminal code (CC) also labels certain acts contrary to EIA as offences. It provides for simple imprisonment for a term of up to one year for a person who implements a development project requiring EIA without obtaining the requisite authorization or makes a false statement concerning EIA (See Art 521 of the Criminal Code of the FDRE, Pro. No. 414/2004).

However, On the other hand, investors still manage to get the green light to commence their projects regardless of EIA. According to my interview undertaken with the former head of the EIA department at EPA, on average less than 2% of developers appear with their EISRs out of the total number of projects which have to pass through the EIA process. Moreover, as it has been observed in EPA documents, out of 11,092 licensed investment projects from 2007 to 2009, only 48 (less than 1%) of them prepared their respective EISR. But here, it must be noted that not

all of these projects must go through the EIA process. Despite this fact, however, there is no prosecution made by EPA against those proponents. This shows, something is wrong or somebody is in default in prosecuting and enforcing EIA related environmental crimes before the court of the law. The problems with the system are discussed below:

a) Problems related with public interest litigation (PIL): the right to standing and access to environmental information

In many countries, in addition to the inherent powers vested in the state to prosecute environmental crimes, members of the public are by law also empowered to prosecute environmental crime through PIL (Rose et al, 2009). However, in Ethiopia neither the EIA nor the EPC proclamations clearly put as to whether a private individual has "standing" in initiating criminal action against an actual or a potential polluter. Particularly, the issue of locus standi and PIL is completely absent in the EIA proclamation. Art 18 of the EIA proclamation, except providing the EIA related crimes and the possibility of prosecuting the offender before the court, it does not make clear by whom such a criminal actions could be initiated.

Similarly, according to a key informal from APAP the phraseology of art 11 of the EPC proclamation also does not make it clear as to whether a private individual has "standing" in initiating criminal as well as civil action against an actual or a potential polluter. Some of the terms (like "vested interest" and "complaint") used in the article give indication that he has "standing" in initiating only a civil action, while others (like 'instituting a court case' and 'damage to the environment') rule out such a restriction. However, the researcher believed that the right to standing provided under Art 11 of EPC proclamation, which can also be applicable for EIA related complaints, (see the discussion under section 4.1) allows a person to initiate only a civil action. This is because, EPA does not have the power to see and give decision on criminal matters (See Art 11 (2) of EPC proclamation). As one can understand from the jurisprudence of Administrative law, it is only the power to adjudicate civil matter that can be delegated to an Administrative agency (Leyland, P. et al, 2002). This means, it is only the regular criminal courts that have the jurisdiction to see criminal matters, including environmental crimes. This is also confirmed by key informants from the judiciary, and the legal and policy department of EPA.

However, it is important to note that, EPA has a power to prosecute environmental crimes, including the EIA related ones. But here the question may arise as to whether EPA is the only body that can initiate a criminal action against environmental crimes or not.

Even though the individual's right of '*standing*' in initiating criminal action against an actual or potential pollutes is not clear under the above anti-pollution proclamations, Art 37 of the FDRE constitution (which is the supreme law of the land) gives "*every one*" the right to bring any justifiable maters to '*a court of law*' or to any other competent body with judicial power, for the purpose of seeking to obtain judgment (See Art 37(1) of FDRE constitution). It furthers provides that such decisions may also be sought by any group or person who is a member of or represents a group with similar interests (See Art 37 (2) (b) of FDRE constitution).

The article [37 (2) (b)] is construed to mean the door is wide open for the public to satisfy its needs of access to justice. This means, the above constitutional provision enable environmentalists, NGO's and even individuals to institute PIL, which also includes a standing to institute EIA related crimes. This is also confirmed by a key informant from the judiciary.

However, according to key informants from APAP and MELCA mahiber, they have still a fear as to the practical applicability of the constitutional recognition of public standing in the enforcement of the law pertaining to environmental crime. This is because, the practicability of the right given by the constitution and Art 11 of the EPC Proclamation are being tested in court, and the outcome does not look particularly encouraging at this point of time. In PIL the flexibility and a liberal approach of courts are of greatest importance in bringing to life the substantive laws enshrined in the constitution and other anti-pollution proclamations.

Unfortunately, in Ethiopia this fact seems to have been over looked. In APAP Vs EPA, the court ruled that Art 11 (2) did not permit the APAP to sue the EPA. And the appellate courts including the Federal cassation court up held this decision. Thus the above decision shows the passive response of the judiciary for environmental protection.

Therefore, according to the researcher, the above fear seems reasonable. Particularly, in the absence of clear provision for criminal standing in EIA cases, it is difficult to expect a different decision. And the environmentalists cannot be assured as to whether the above mistake will be

repeated or not by the judiciary. According to my interview with key informants from APAP, the absence of clear provision for standing is identified as one reason for the lack of NGO's involvement in EIA related crimes.

In conclusion, by understanding the fact as to how the absence of clear provision for standing affects the role that the judiciary and NGO's should play in the protection of the environment, the legislature is required to reconsider it.

Moreover, beyond the absence of clear provision for standing the inconsistent and contradictory legal regime pertinent to environmental crimes in Ethiopia, also contributes for the poor involvement of NGO's in PIL. This is best illustrated perhaps by the rules governing EIAs. On the one hand, the EIA proclamation makes the conduct of an EIA a mandatory prerequisite before any project is commenced (See Art 3(3) of the EIA proclamation No. 299/2002). On the other hand, investment licenses are issued to investors by the investment office rather than the EPA, even though the investment office is ill equipped to review EIA reports. And this creates confusion as to whether or not conducting an EIA is really a prerequisite, which in turn discourages environmentalists to initiate a case against perpetrators.

The other challenge to prosecute environmental crimes is lack of access to environmental information which in turn diminishes the practical utility of the right to standing. When a private individual/an organization intends to institute or institute a court case against a person for causing or likely to cause damage to the environment, it may not be easy for him /it to collect the required information to substantiate his/its assertion in the court. He/it doesn't have any authority to receive information from the polluter or from the EPA or the relevant REA. For instance, by virtue of art 19 of the EPC Proclamation, a person engaged in an activity pertaining to any provisions of the proclamation (or any other related law) is obliged to provide information to the EPA or the relevant REA, and only the EPA has access to all environmental information. He/it also does not have any legal authority to seek entry into the premises where alleged anti-environmental activities are being carried out, or to inspect documents or equipments. If he/it ventures to do so, he/it takes risk of being prosecuted for unlawful trespass.

The same is true under EIA proclamation. It is the EPA or the relevant REA that have the power to monitor the implementation of an authorized project, or to seek records (See Art 12 of the EIA pro. No. 299/20002). But it should be noted that, a private individual /an organization that intends to institute a court case, for instance, under Art 18 (2) and (3) of the EIA proclamation, may need to inspect the existence or otherwise of documents (like environmental clearance certificate or monitoring records).All these powers, as mentioned earlier, vested with the environmental inspectors. Therefore, all the required information can be accessed by and is available to, the EPA or the relevant REA. In the absence of such information, a compliant is bound to lose his case. Thus, the constitutionally recognized public standing practically turns out to be non-existent.

However, with a view to overcoming the difficulty and to making the 'standing' of a private individual more effective environmental laws of most of the countries, recognizing locus standi of private individuals in environmental matters, have, through law, made it obligatory for the pollution control authorities to make available, on demand, all the relevant information available with them to the individual intending to institute a case against a polluter (Vibhute, 2008).

Accordingly, to allow individuals to involve in PIL under EIA proclamation among other things, the competent Agency must provide *'a record of decision report'* which should be provided to the proponent, be made available to any interested and affected party on request. However, EPA does not yet establish information disclosure system. EIA reports are often confidential. Some EIA reports have been bound like PhD thesis, have been similarly indigestible, have been produced with similarly limited numbers of copies and have not even been available through inter-library loan. Very few EIA reports have been made available to the public even for training purpose. In relation to this, EIA reports are written in English and no efforts are made on the side of the authority to translate them in to local languages, at least in to the federal language, Amharic. This is hardly an appropriate climate for EIA peer and public review as well as for PIL that could probably be initiated by lay readers.

Even though the then EIA proclamation says nothing on the issue, the draft EIA proclamation (MELCA, Mahiber, 2010) provides for information disclosure with a view to overcoming the difficulty.

Art 22. Information disclosure

1. The proponent shall prepare sound and culturally appropriate information disclosure plan.
2. The proponent is responsible for publicizing and discloses the initiative's scoping, the terms of reference, project reports for environmental assessment, to interested and affected parties in appropriate languages, culturally acceptable and gender sensitive manner at least 15days before the submission for the report for formal approval.
3. The Environmental agency shall publicly available the scoping document, terms of reference, a draft strategic, or project level environmental Assessment and environmental performance report of decisions on regular basis and solicit comments before making decisions.
4. The proponent has an obligation to respond to public concern in good faith of at all times.
5. The authority shall prepare a detailed guideline and directive on information disclosure, environmental performance audit or sustainability.

Moreover Art 23 of the Draft proclamation provides a possibility for confidential information. Thus, for the better protection of the environment, the above provision needs to be incorporated by the legislature.

B. Lack of Awareness creation programs about Environmental Crimes

Art 92 of the FDRE constitution imposes a duty on both the federal and regional governments and their citizens to protect the environment. It imposes an obligation on these governments to ensure that development projects do not damage the environment. It further assures participatory rights for citizens in planning and implementation of environmental policies of projects that affect them directly. In addition, Art 85(1) of the FDRE constitution mandates all organs of the federal and regional governments to be guided by constitutional objectives when implementing the country's environmental laws and policies. However, in order to enable them to actively

participate in the protection of the country's environment, there should be continuous awareness creation programs and trainings about environmental crimes.

According to my interview undertaken with the head of the Environmental education department of EPA, even though some efforts have been made to increase the environmental awareness level of the general public by using different medias, the absence of trained personalities on the issue and financial constraints were mentioned as the major challenges. Thus, to bring EIA violations to light, as it is also confirmed by the head of the department, the EPA and other stakeholders should do more on public awareness creation programs. Otherwise, under the current setting, expecting the people to play their role in PIL is being foolish. This is because, above all, the people are needed to be aware of the criminal implications of EIA related environmental violations and the need to report such crimes to the police.

Moreover, there is also a lack of police and prosecution office involvement in the enforcement of environmental legislations including the EIA proclamation. This is because an understanding of what constitutes environmental crime is still lacking, even at federal courts, and in the police and prosecutors' offices. Some key respondents, such as federal court judge and public prosecutors, have stated that they have never had the opportunity to participate in environmental law awareness program.

Even though the Federal Police Commission has an expanded mandate over the control of crimes in Ethiopia, there appear to be a significant misunderstanding in the police force about its role with regard to environmental crime. This is evident from the low profile environmental crime holds within the federal police commission. Particularly, the federal police commission has not been involved in EIA related crimes. According to my interview with the law enforcement officers from the central Bureau of Ethiopia, which also acts as Interpol's representative in the country, the low involvement of the police in investigating environmental crime, in part, is because crime of an environmental nature are a relatively new phenomenon in Ethiopia. Moreover, he indicated that training for police officers in environmental law is quite minimal.

The police acknowledged that while they had received some training in environmental law, this had covered only a small portion of the force and had been very rudimentary. And they called for more targeted training. This is also strongly confirmed by the legal and human resource department of the police. To this effect, according to the dean of the Ethiopian Police Training University College (EPTUC), even though environmental law and related crime issues have not yet addressed adequately, it was noted that this is one of the main aspects the police and the university administrations are seeking to reverse.

Police prosecutors also confirmed that while they had received some environmental training as part of ongoing legal education, much of the information received has patchy and lacked the comprehensiveness that would enable them to have a greatest understanding of environmental crime and enhance their capacity to enforce the relevant laws including EIA.

On the other hand, the EPA reported its involvement in training activities on the basic principles of environmental law (including EIA proclamation) for the police and state prosecutors. However, the training had been sporadic and had not provided the consistency that was required to enhance the capacities of the law enforcement agencies. This lack of consistency was blamed on a shortage of resources, rather than on insufficient good will on the part of the government.

However, in conclusion, it should be noted that the law enforcement agencies could not effectively do their jobs without public support. As it is also confirmed by the legal commander's office, the community participation in the policing of environmental crimes would assist greatly in complimenting the efforts of an over stretched police force. Thus sensitization awareness campaigns on environmental crimes should also be targeted at local communities.

C. Lack of Information sharing between responsible agencies

Regular and consistent information's sharing among the responsible agencies is important to enhance the enforcement of environmental legislations. Coordination and information sharing is particularly important for the EPA and the police, but this hardly ever happens.

In order to make the perpetrators accountable for their violation and to bring environmental violations to light, the cases should be reported to the police for prosecution. According to an interview with the head of legal and policy department of EPA, even though they are rare, pollution related environmental offences have been reported to EPA by different members of the community. However, in the cases where an environmental offence is reported to the EPA, the authority dispatches investigators, does all the requisite research, but in the end does not proceed with prosecution.

Similarly, according to the discussion undertaken with a group of experts at EPA and MOM, as a review committee, they have found different EISRs with false presentations. However, they have only ordered the re-doing of reports. And such proponents were neither prosecuted by EPA nor were their cases reported to the police. But it should be noted that making false presentation in an EISR is an offence under Art 18(2) of the EIA proclamation.

Thus, the reasons for this could either be in adequate knowledge about the next steps to be taken, or simply the result of neglect. Moreover, the experts do not seriously consider the EISR presented with the belief that it is improper to impose greater obligations and responsibilities on those developers who have presented the report, while the greater portions of developers do not appear at all.

4.4. Assessment of Incentive Packages towards EIA promotion

The provision of incentive or disincentive packages has a significant role to promote environmental protection. In this regard, the EPA has the duty to, in consultation with the competent agencies, propose incentives or disincentives to discourage practices that may hamper the sustainable use of natural resource or the prevention of environmental degradation or pollution (See Art 6(12) of EPO establishment pro No. 295 /2002). However, under the current setting, incentive mechanisms are not related with best EIA performance in Ethiopia. Even though, the EIA proclamation provides for incentives to be available for project owners in Art 16, there are problems associated with it.

Art 16-Incentives

1. The authority (EPA) or the relevant regional environmental agency shall, with in the capacity available to it, support implementation of a project destined to rehabilitate a degraded environment.

2. Without prejudice to sub-art (1) of this article, the Authority may to the extent that its capacity allows, provide any environmental rehabilitation or pollution prevention or cleanup projects with financial and technical support to cover additional costs.

Firstly, the above provision does not directly address those initiatives with best EIA performance. It may even create doubt as to whether the incentive refers to performance in EIA or not. Secondly, it is not known how to implement the incentive as there are no directives or guidelines in this respect (See table 1). This shows the EIA proclamation does not provide its own incentive or disincentive mechanisms that can enforce potential proponents to comply with EIA requirements.

However, unlike the EIA proclamation, the EPC proclamation allows the EPA to exempt any new imported equipment for controlling pollution from custom duty (See Art 10 of EPC Proclamation No. 300/2002). Even though the regulation to that effect is not yet enacted, the existence of such incentive rights encourages investors to import and install green technologies and equipments to mitigate the adverse impacts of the respective projects. According to a key informant from EPA, the granting of such kinds of incentives should not necessarily be attached with best EIA performance. Because it does not make a difference whether such equipments are imported by proponents who have conducted EIA or not, as far as they are imported for the purpose of controlling pollution, which is also the objective of EIA. Therefore, the proper question that should be answered here is as to whether the provision of investment incentives is related with EIA performance or not.

It should be noted that incentive based policies have a significant role in promoting investment activities. To this effect, different countries have been using a number of incentive mechanisms including tax incentives, financial subsidies and regulatory exemptions to attract foreign and domestic investors. However, in doing so it is important to ensure that investment incentives are not granted in a way that conflicts with other objectives. For instance, it is in appropriate to

encourage investment by lowering health, safety or environmental standards or relaxing core labour standards (OECD, 2003).

Despite this fact, in many developing countries, there is a clash between investment and environmental concerns, the reason mainly being that any out lays devoted to environmental control would be at the expense of development and poverty alleviation objectives (OECD, 2003). However, it should be noted that, to ensure sustainable development, its three pillars- namely, economic growth, social development and environmental protection must be proportionately considered. If one of these pillars is missing, we cannot achieve the development we desire. And such a narrow focus to economic growth will not carry us far (Mellese, et.al. 2008).

It has been repeatedly mentioned that EIA is a tool to achieve sustainable development. And one of the potent tools to promote EIA practice is making EIA performance a prerequisite for the granting of investment incentives. Unfortunately, the amendment investment Proclamation No. 375/2003 reversed the requirement of EIA and allows the investment office to grant investment license without considering the investor's EIA performance. According to a key informant from MELCA mahiber, it is the overriding desire to create "*conducive environment*" for investor explains the omission of EIA requirements in our national investment laws. He further indicated that under this law there is absolutely no mention of the word "environment" anywhere and no environmental obligations what so ever are imposed up on investors.

Moreover, the investment incentives and investment areas reserved for Domestic investors council of Ministers Regulation No. 84/2003 and its amendment Regulation No. 146/2008 says nothing about the incentive mechanisms for environmentally friendly investment. Therefore, investors in all sectors of the Ethiopian economy are exempted from the payment of custom duties and other taxes levied on imports of all capital goods (Machinery, equipment, and accessories) and construction material necessary for the establishment of new projects or expansion /upgrading of the existing one irrespective of their EIA performance. This is also confirmed by a key informant from Ethiopian revenue and custom authority.

The above investment incentive regulations, according to the former head of the EIA department at EPA, had given investors "*very generous incentives and guarantees*" showed that the regulations placed very minor obligations on the investors. He further indicated that the granting of investment incentives to investors irrespective of their EIA performance has been the main reason for project implementation before EIA.

This is because, firstly, EIA is not a prerequisite requirement for granting investment licenses. Secondly, there is no restriction on land allocations or uses without a proper EIA being undertaken. This is also confirmed by a key informant from Ethiopian Investment agency. According to him, together with the application for land, the applicants are not required to submit environmental clearance certificate.

Therefore, once the necessary equipments have already been imported duty free, there would be nothing that hinders project implementation before a proper EIA being undertaken. These shows, there is a lack of "*check points*" on EIA unlike that of VAT proclamation which has a number of watching eyes for its implementation.

However, in the contrary, according to the deputy general of EPA the importation of equipments and the allocation of land to investors do not allow them to commence project implementation. This is simply because, the only purpose of allocating land for investors is to avoid delay of projects by allowing investors to commence environmental impact study at least until the necessary equipments are being imported from abroad. To this effect, according to him, under the lease agreement, project owner, before his project implementation, is required to get permission from the relevant environmental unit.

Therefore, according to him, the country could achieve the objectives of both EIA and Investment laws, by allowing investors to enjoy investment incentives while doing EIA at the same time. He further indicated that, if EIA is a prerequisite to get investment incentives, it may hinder the country's development needs by undermining the investment incentives that the country has to offer in one hand, and by allowing the EIA requirement to delay project implementation on the other hand.

However, the above argument does not hold water for two reasons. Firstly, it preferred to follow a difficult path, which requires time, resource, strong follow up and co-ordination, to trace those project owners before they implement their activities. Secondly, since a lot of money has already been invested to import the necessary equipments before a proper EIA is being undertaken, the decision makers may put a green light for project implementation even contrary to the results of EIA study on the belief that refusing project implementation at this moment will be wastage of public money. In this regard, according to the former head of EIA department at EPA, he is aware of projects which have get green light while having significant adverse impacts; the reason is mainly being that the necessary equipments have already been imported from abroad. This shows how the failure to make EIA a prerequisite for the grating of investment incentive challenges the effective implementation of the legislation.

Moreover, it is important to integrate EIA performance with access to market. To this effect the environmental agencies are required to develop a mechanism for recognition and promotion of products, services or achievements made in an environmentally sound manner (vibhute, 2008).However, EPA is doing nothing on the issue. According to one official of EPA, even though the issue has been addressed in the BPR document, the lack of environmental fund to that effect is hindering the authority to take action.

Moreover, to be competent in the world market, which is also favoring products processed under the condition of healthy environment, investors themselves are required to set environmental code of practices. In this regard, for instance the Ethiopian Floriculture Association is a pioneer in developing a code of conduct that requires EIA for the purpose of accessing the EU market successfully.

With a view to curb the above and related problems, a draft EIA proclamation (MELCA, Mahiber, 2010, Art 30) provides a provision for incentives.

Art 30. Incentives

1) The authority or the relevant Regional Environmental agency shall, with in the capacity available to it, support voluntary initiatives destined to avoid, mitigate adverse impacts,

far beyond what the law requires or demonstrate high level of environmental performance.

2) Any state organ that has a mandate to provide incentive of any kind shall, before doing so, ensure that any development initiative that is required to undertake environmental assessment has been granted environmental clearance.

3) The authority or the relevant environmental agency shall develop an incentive scheme or criteria and procedure for the promotion of exemplary environmental performance on voluntary basis.

4) The authority or regional environmental agency shall encourage the development of voluntary mechanisms that help achieve exceeding environmental performance in continuous basis, by a group of developers.

5) The importation or invention of new equipment or technologies that are destined to control pollution or help produce environmentally friendly items or services or ensure highly efficient resource use, shall up on verification by the authority or relevant regional environmental agency, may be exempted from payment of custom duties or other taxes.

6) The authority or regional environmental agency shall develop a mechanism for recognition and promotion of products, services, or achievements made in on environmentally sound manner.

CHAPTER FIVE

Conclusion and Recommendations

5.1. Conclusion

The EIA proclamation No. 299 of 2002 has subjected development projects and public instruments in the country to pass through an EIA process prior to commencement of operation. Moreover, it defines a set of EIA related environmental crimes. In spite of this legal requirement, EIA is seldom enforced.

From the examination of the legal and practical challenges for the effective implementation of EIA proclamation, the following conclusions are derived.

1. The EIA proclamation is a framework law that needs specific regulations, directive or guidelines. However, it is observed that a number of necessary EIA supportive legislations are missed from the country's EIA regulatory regime (See Table 1). For instance, there are no guidelines provided for public participation, EIA decision making and monitoring procedures. Moreover, even the existing few number of EIA supportive guidelines have the status of draft legislation. For instance, guidelines for preparation and review of EIA reports prepared by EPA are still at their draft stage, leaving the EIA proclamation in effective. Above all, which projects shall be subjected to EIA or otherwise has not been publicized and made accessible. For this reason, the decision on whether or not to undertake EIA is practically dependent upon the will of the investors.

2. Since there is no code of conduct for EIA consultants' nor even any requirement of registration, consultants' job has become to satisfy the proponents' requirements rather than carrying out objective EIAs to ensure environmental soundness of the project.

3. The delegation of the power to review EISR to sectoral institutions that have conflict of interest in the review is against the fundamental principles of neutrality and independency which in turn makes the entire EIA system in question.

4. Quality review systems and follow through are constrained by inadequate human, material and financial resources. There have been almost no training programs for the persons responsible for the evaluation of EIA reports. Moreover, the concerned sectoral

environmental units including those found at MOM, ERA, MWE and MA do not have additional financial resources to support EIA review and follow up activities.

5. The judicial support for EIA implementation is insufficient. Cases related with EIA violations were not reported to the police and no action was thus taken to make the perpetrators accountable for their violation. For instance, even though there were proponents who have submitted their EISRs with false presentations, they were neither prosecuted by EPA nor were the cases reported to the police. This shows even those who are well enough informed to bring complaint generally fail to bring prosecution.

6. Beside the absence of favorable conditions related with the right to standing and access to environmental information, lack of NGOs and professional associations that can strongly advocate for EIA is a prominent obstacle to a robust EIA process.

7. There is no incentive mechanisms provided by the government and other stakeholders for the development projects and programs which have excellent EIA performance. In this connection, the investment incentives provided by the Ethiopian government are not integrated with EIA performance which in turn discourages investors to comply with EIA requirement.

8. The reliable baseline data on ecological and socio-economic environment is a prerequisite for both conducting and reviewing EISRs. In Ethiopia, either the baseline data are not available or patchy and fragmented and in most cases unreliable. This is one of the major factors responsible for poor quality of EIA studies and reviews undertaken in the country.

5.2. Recommendations

The following Recommendations are forwarded to improve the effectiveness of the EIA implementation.

- Clear, comprehensive and unambiguous legislation is the essential precursor to an effective EIA system. In view of this, the legal foundation of EIA should be strengthened. With this regard all the missing EIA supportive directives and guidelines (See table 1) should be prepared and timely approved by the environmental council. Moreover, the existing EIA proclamation must be monitored and amended to fill gaps and to incorporate

feedback from experience. For instance, the absence of provision for the right to standing, and the mechanisms for grievance redress and EIA incentives designed under the EIA proclamation, for the reason highlighted in the thesis, deserve serious re-look.

- However, in order to have a comprehensive and clear environmental regulatory system with in short period of time, we should not rely on a single agency (i.e. the legal and policy department of EPA) to accomplish the task of drafting. Different stakeholders including governmental agencies, citizens, NGOs and industry should submit to EPA draft environmental management norms. In this regard, MELCA Mahiber is a pioneer in preparing and submitting the draft EIA proclamation to the Federal EPA to be evaluated by the EC. Thus, this good starting of MELCA Mahiber should be followed by other non-government actors too.

- To have expedite and reliable EIA review process, the EPA needs to reconsider the delegation of the power to review EISRs to entities that have conflict of interest.

- For effective monitoring after project approvals, institutional capacity building of sectoral environment units should be undertaken in terms of (1) provision of necessary monitoring equipment, (2) provision of trained manpower for monitoring and (3) provision of logistics and transport for monitoring. But primarily, it is important to develop viable financing mechanism to support the capacity enhancement needs of sectoral environmental units. To this effect the sectoral institutions should allocate adequate budget for their respective environmental units. In addition, donor institutions working on related issues shall be considered as a potential source of funding. To this connection, sectoral environmental units should also find additional source of funding. For instance, EIA fee systems should be legally introduced to support financing of EIA. In this regard, in general, two part of fee systems are recommended (1) a processing fee, which supports the regulatory agency in execution of its screening, scoping and EIA review responsibilities and (2) a permit or license fee, which supports the regulatory agency in the execution of monitoring of EMP implementation.

- In order to strengthen and develop individual capacity of staff in terms of review of EIA reports, the officials of EIA cells of sectoral environmental units should be provided with opportunities for training from countries with developed EIA systems. Moreover a learning group forum and information clearing house on EIA should be established to provide experience sharing and learning plat forms.

- Since there is lack of judicial support and PIL towards EIA enforcement, a great deal of sensitization is needed to bring related environmental violations to light so that environmental crimes can be reported to the police for prosecution. Sensitization needs to occur not only among the general public, but also at environmental agency level. Agencies need to be encouraged to report all violations to the police for prosecution. To this connection, in order to improve the involvement of the police in the investigation of EIA related crimes, there should be a comprehensive training for police officers and prosecutors about environmental crimes. As it is also suggested by the dean of the police training University College, training in environmental legislations should start with constabulary and police cadets, and that courses be offered at both undergraduate and post graduate levels.

- There have to be incentive mechanisms provided by the government and other stakeholders for the development projects and programs which have excellent EIA performance. To this effect, primarily the procedure required EIA for an investment license, which was reversed by the investment law, must be reinstated. Moreover, as a potent mechanism to enforce project proponents into the track of EIA, performance of EIA should be a prerequisite condition for the granting of investment incentives, for access to credit, access to market and getting land for the operation of the project.

- The process of conducting and reviewing EIA can become more efficient and low cost if a country wide reliable environmental data base is available. Therefore, the federal EPA should develop reliable and systematically obtained data bases of ecological and socio-economic environment with the co-ordination of Universities, research and development organizations in related sectors. This would help sectoral environmental units in

reviewing and evaluating the EIA reports, thus the process of decision making will become efficient.

- Guidelines for the registration, accreditation and certification of EIA consultants should be developed. Moreover, a written code of conduct should be there for consultants. Thus, if some consultants do not observe the code of conduct then it should be blacklisted.

- Finally, it should be noted that the availability of legislation and guidelines or even institutional capacity of the regulators may not help to achieve functional EIA system unless key stakeholders including politician /decision makers do not have a high degree of commitment to environmental protection.

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Annex

Annex I: Interview Questions

The principal purpose of this interview is to obtain data for the study intended to investigate the challenges for this the effective implementation of the environmental impact assessment legislation. Therefore, your cooperation in providing the data collected through this interview will be used strictly for academic purpose.

Thank you in advance for kind cooperation

A) Interview Questions for EPA

1. Is the existing EIA proclamation clear, comprehensive and enforceable?
2. Is the existing EIA proclamation supported by specific directives and guidelines?
3. Does EPA have a mechanism to and practically give incentive for projects of better EIA performance? If yes, what kinds of incentives? If No, why?
4. Is there a system that allows each major decisions of the authority can be challenged before the regular court?
5. What is the significance of delegating EIA review task to sectoral agencies? Did you assess their capacity before the delegation?
6. Is there strong co-ordination and information sharing between EPA and federal police commission against EIA related environmental crimes?
7. Was there any awareness creation program for the police, public prosecutors and judges about the environmental crimes? If No, why? If yes, how and when?
8. Was there any public awareness creation programs for the general public about the criminal implication of EIA related environmental violations and the need to report such crime to the police? If No, why? If yes, when and how?
9. What are the major challenges for the prosecution of EIA related environmental crimes in Ethiopia?
10. Do you think there are consultants who can prepare quality EIA report in Ethiopia? If yes, how? If No, why?
11. Have you established a national environmental information center (EIC) or EIA information center? Why?
12. Do you think the low status of agencies responsible for EIA affect the effective implementation of the law? How?
13. How do you see the importance of integrating EIA requirements with financial institutions?
14. How do you explain the political commitment of the Ethiopian government towards environmental protection?

B) Interview Questions for Sectoral Institutions (MOM, ERA, MA and MWE)

1. Do you have environmental units? If yes, what was the role of the unit in implementing EIA proclamation? If No, why?
2. Are environmental performance criteria included in your respective sectoral incentive or disincentive structure?
3. Do you have a comprehensive monitoring program to check compliance of project implementation with conditions of approval? ?
4. Do your staffs receive training on EIA review process?
5. Do you think your institution have the necessary human, material and financial capacity to effectively assure the implementation of EIA?
6. Is there any guideline (directive) that you relay in reviewing the quality of EISRs?
7. Are the proponents liable to pay a certain amount as a review fee? If yes, is there a mechanism that allows the institution to utilize such funds for operating costs (e.g. public participation, review and follow up programs)?
8. Did your institution established co-ordination and information sharing with the judiciary?
9. What are the major challenges in EIA review process in your institution?
    a) The time to complete the task is short
    b) Lack of experts
    c) Absence of national environmental information center (EIC).

    State if there is another.
10. What mechanisms have you been developing to cope with the challenges?
11. Do you have a mechanism to check the accuracy of facts presented in EIA reports?
12. Do you give advice and technical assistance for projects in the process of undertaking EIA?
13. In practice, how many days do you spent in approving EIA reports?

C) Interview Questions for sample Proponents

1. What was your standard to choose the particular practitioner?
    a) there fee requirement c) Time
    b) Expertise of the EIA team d) Arbitrarily
2. Where did you get the necessary information to contact the EIA practitioner/s who made your EISR?
3. How do you describe the EIA process? Why?

a) Reasonable b) costly c) Time taking d) bureaucratized e) state if there is another

4. What would have been your response if the results of EIA report prepared by your client had against your interest?
5. What reasons forced you to undertake EIA?
   a) To be up to the law b)To get loan c)to get incentives d)state if there another

6. At which stage of your project you undertake EIA? (Before getting investment license, after project implementation)? Why? At what stage do you think is better for you to undertake EIA?
7. Has your project implementation been followed and supported by EPA or other sectoral institutions?
8. Have you received advice and technical assistance for the project in the process of undertaking EIA?

D) Interview Questions for EIA Consultants

1. Is there a published code of practice for EIA practitioners?
2. Are you legally licensed to undertake EIA? If yes, what were the criteria?
3. Is there established networking system of EIA practitioners (authorities, consultants, NGOs etc)?
4. How do you compose the EIA team? Do you think your consultancy firm has a multi-disciplinary team? How many experts are there in your firm?
5. Have you ever get the opportunity to work with international consultant? If yes, how do you explain the importance of your participation with regard to knowledge transfer?
6. From where did you get the base line socio-economic and environmental data for EIA report preparation?
7. How do you determine the charge fee of undertaking EIA study?
8. Do you make proper site visit during EIA study? Why?
9. Do you think that there are actually favorable conditions for EIA practitioners to do EISRs being free of proponents' influence? If yes, what? If no, what has been your response for environmentally unacceptable proposals?
10. What challenges have you faced in the process of preparing EISRs?
    a) Lack of relevant baseline data c) lack of inter disciplinary team
    b) Financial constraints d)lack of independency
    State if there is another.
11. What do you suggest as a solution to the challenges?

E) Interview Questions for Federal Public Prosecutors

1. How do you describe the role of the judiciary in the protection of the environment?
2. What are the major challenges for the prosecution of EIA related environmental crimes in Ethiopia?
3. What are the main enforcement mechanisms that are in place to deal with the perpetrators of environmental crimes in Ethiopia?
4. Do you think the discrepancy between EIA and investment laws as to the requirement of EIA affect the enforcement of EIA related environmental crimes?
5. Have you participated in an environmental law awareness program?
6. Is there a legal mechanism that allows citizens to have free access to environmental information and successfully involved in public interest litigation?
7. Do you think there is a problem on the liberalization of the right to standing, against EIA related environmental crimes, in the Ethiopian system?

F) Interview Questions for Federal Police Commission

1. Do the police members receive training about environmental crimes?
2. Is there co-ordination between the police and EPA? If no, why?
3. How do you describe the involvement of the police in environmental related crimes including EIA?
4. Are the peoples active in reporting environmental crimes to the police? If your answer is NO, why do you think the reason behind?
5. Do you think the use of reward mechanism is important to encourage the people to report such crimes to the police?

Annex II: List of Personalities Discussed with

No	Position	Institution
1	EIA expert and head of environmental establishment unit	EPA
2	Head of investment promotion department	Ethiopian investment Authority
3	Head of environmental monitoring unit	ERA
4	Head of environmental and community development unit	MOM
5	Water quality management and EIA expert	MWE
6	Directorate director in agricultural investment support department	MA
7	The former head of EIA service department	EPA
8	Head of environmental education department	EPA
9	EIA expert	MOM
10	Judge at Federal high court	Fed. H. court
11	Head of education and training department	Fed. Police commission
12	Head of crime investigation department	Fed. Police commission
13	Federal public prosecutors	First instance court
14	Head of legal and policy department	EPA
15	Head of Ethiopia police university college(EPUC)	EPTUC
16	EIA consultant	Negash Consultant PLC
17	EIA consultant	Negash consultant PLC
18	EIA consultant	IRIS consultant PLC
19	Expert	Ethiopian Revenue and custom Authority
20	Environmental law instructor	EPTUC
21	Directive of MELCA Mahiber	MEICA Mahiber
22	Director of APAP	APAP

Declaration

I, the undersigned, declare that this thesis is my original and real work that has not been for a degree in any other university and that all sources of materials used for the thesis have been duly acknowledged.

Declared by

Candidate

Confirmed by

Advisor