

Environmental Impact Assessment Implementation and Challenges

MELCA Mahiber
in collaboration with Sheka Forest Alliance

April 16, 2008
Addis Ababa, Ethiopia

Published by:

MELCA Mahiber
P.O.Box 1519 code 1250
Addis Ababa
Ethiopia

Tel. +251 -11-550-71-72/550-79-49
Fax: +251-11-550-71-72
e-mail: melca@ethionet.et

April 2008

There is no copyright on this book. Any information in this book can be freely shared. However, acknowledgment of the source would be appreciated.

Report Writer: Tsion Yohannes
Editors: Million Belay and Befekadu Refera
Cover design: Aynalem Melesse

* This publication is financed by Heinrich Boll Foundation

Contents

List of tables and pictures.....	i
Acronyms	ii
1. Executive Summary	1
2. Presentations	3
2.1. “What is the Importance of Environmental Impact Assessment (EIA)?” By Dr. Asferachew Abate.....	3
2.2. Effectiveness of EIA Application in Ethiopia (Good and Bad experiences) - By Ato Yonas Tekelemichael.....	6
2.3. Overview of Environmental Impact Assessment in Ethiopia: Gaps and Challenges – By Ato Mellese Damtie	18
3. Problems and Gaps Identified in relation to EIA in Ethiopia (Group Discussion).....	24
Group 1 -Federal and Regional Institutional Linkages	24
Group 2- Legal issues	26
Group 3- Capacity Issues	28
Group 4- Public Participation and Awareness	29
4. Closing Remarks - By Dr. Tewoldeberhan G/Egziabher.....	31
Annex I: List of participants.....	32

List of Tables

Table 1- Cost of undertaking EIA in relation to cost of the project

List of Pictures

- Picture 1: the constructed gabion made from physical structures and concrete ditches on the hillsides near the sides of access road. These structures contribute lot to soil conservation.
- Picture 2: Domestic animals grazing at the buffer Zone area
- Picture 3: Abandoned Quarry site at Gilgel Gibe I hydroelectric project.
- Picture 4: Land slide along Bordede Harar Road project
- Picture 5: Water ways that has been constructed under the road
- Picture 6: Deforestation resulting from road construction project along the road side
- Picture 7: Polluted Streams resulted from the construction activities of the Project
- Picture 8: Damage of the trees and the surrounding land caused by the mass slide of soil
- Picture 9: Discussion with the presenters (left to right- Ato Yonas T/Michael. Ato Negussu Aklilu, and Dr. Asferachew Abate
- Picture 10: The presenter (Ato Mellese Damtie) discussing on gaps and challenges in the legal framework
- Picture 11 & 12: Group discussions by participants of the meeting

Acronyms

APAP	Action Professionals Association for the People
CSO	Civil Society Organization
ECFF	Ethiopian Coffee Forest Forum
EIA	Environmental Impact Assessment
EMP	Environmental Management Plan
EPA	Environmental Protection Authority
EWNHS	Ethiopian Wildlife and Natural History Society
EWNRA	Ethiopian Wetland and Natural Resources Association
FDRE-HPR	Federal Democratic of Ethiopia House of Peoples Representatives
FfE	Forum for Environment
FSS	Forum for Social Studied
MELCA	Movement for Ecological Learning and Community Actions
NTFP	Non-Timber Forest Products Program
OSJE	Organization for Social Justice in Ethiopia
SheFA	Sheka Forest Alliance
SLUF	Sustainable Land Use Forum
YNSD	Youth Network for Sustainable Development

1. EXECUTIVE SUMMARY

The “National Workshop on Environmental Impact Assessment for Implementation and Challenges” took place on April 16, 2008 at the Hilton Hotel. Participants included members of the Federal Democratic Ethiopia House of Peoples Representative (FDRE-HPR), Civil Society Organizations, Government and Private Sector Organizations. The workshop was attended by a total of 74 participants.

Ato Million Belay, Director of MELCA Mahiber, welcomed the participants on behalf of MELCA Mahiber and Sheka Forest Alliance. Following, Ato Alemneh Getaneh, chairman of Natural Resource and Environmental Affairs standing committee at the FDRE house of Peoples Representative, gave an opening speech and expressed his belief that the workshop will come up with cogent recommendations to improve the implementation of EIA process in Ethiopia.

The event included a presentation on the importance of Environmental Impact Assessment (EIA), effectiveness of EIA application in Ethiopia and an overview of EIA in Ethiopia (the gaps and challenges). Following the presentations, discussions were undertaken where the participants were able to voice their concerns and ask questions. (See section 2.1. to 2.3.) The participants worked in groups and explored different issues related to the EIA process in Ethiopia mainly institutional and capacity concerns, legal issues, public participation and awareness issues, and Federal and Regional Institutional linkages which are all relevant for undertaking effective EIA. In line with this, the participants identified major problems, possible solutions and means of addressing them. In this regard, it was also possible to assess what the roles of the FDRE House of Peoples Representatives were. The groups also discussed what is expected from Civil Society Organizations (CSOs), Private Sector or investors and Governmental Organizations for undertaking effective EIA.

The national workshop was undertaken with the aim of obtaining views from different stakeholders, so as to facilitate the formulation of a comprehensive advocacy strategy for Sheka Alliance. The Sheka Forest Alliance (SheFA) consists of 14 organizations namely, Movement for

Ecological Learning and Community Action (MELCA Mahiber), Forum for Environment (FfE), Organization for Social Justice in Ethiopia (OSJE), Ethiopian Wetland and Natural Resources Association (EWNRA), Ethiopian Wildlife and Natural History Society (EWNHS), Sustainable Land Use Forum (SLUF), SOS Sahel/ Farm Africa, Non-Timber Forest Products (NTFP), Ethiopian Coffee Forest Forum (ECFF), Youth Network for Sustainable Development (YNSD), Action Professionals Association for the People (APAP), Forum for Social studies (FSS), Panos Media and Tsalke Yetekenaje Yetimihirtna Yelimat Mahiber. The Alliance was formed with the aim of influencing policy and bringing about political commitment from decision makers. They used the workshop on EIA to further refine their advocacy strategy.

2. PRESENTATIONS

2.1. What is the Importance of Environmental Impact Assessment? By Dr. Asferachew Abate

In his presentation on the importance of Environmental Impact Assessment, Dr. Asferachew Abate, Project Coordinating Scientist from Martin Luther University, said that development has for a long time focused on whether the initiative was economically and technically feasible. Thus, development projects increased pressure on the environment due to their lack of concern for the environment.

With regards to the historical background of EIA, Dr. Asferachew noted that the National Environmental Policy Act (NEPA) was formulated in 1969 and became effective in January 1970 in USA. Starting from 1970, EIA became a tool to integrate environmental concerns into development. Prior to 1970 there were also laws dealing with the environment e.g. control of water and air pollution, solid and hazardous waste management, resource protection etc. But what makes this different is that it specifically concerns EIA.

WHAT IS ENVIRONMENTAL IMPACT ASSESSMENT (EIA)?

Environmental Impact Assessment is a method of identifying and analysing the potential impacts of a project on the environment, with the view of ensuring environmentally sustainable development. In this regard, sustainable development can be achieved only through taking into consideration social, economic and environmental situations.

Dr. Asferachew noted that the purpose of EIA is not to cancel all projects which put pressure on the environment. First, there is a need to predict the negative impacts, and then measures can be taken to modify the project so as to avoid them.

Projects which are undertaken without EIA lack ownership by the community, show incompatibility between the project and land use pattern, and will fail to tap local knowledge in project design. Thus, there is a need to undertake EIA in order to prevent the resulting negative effects.

According to Dr. Asferachew, due to the absence of EIA, some projects designed to protect or enhance the natural resource base have ended up doing the opposite. In addition, a large proportion of mass-mobilization efforts to improve the livelihood of communities and rehabilitate degraded areas have failed

Generally, there are some negative assumptions about EIA. Some of these misconceptions are that :

- EIA is considered as anti-development and that it is created by developed countries to keep the underdeveloped countries as they are.
- EIA is also considered as highly procedural.
- EIA is thought to be expensive.
- EIA is considered as a paper tiger. This means that EIA may remain on the paper, unutilized and ineffective. For example, recommendations presented in the EIA may not be practiced and there is little follow up.

Dr. Asferachew noted that the cost of undertaking EIA is relatively very small in relation to the cost of the project. In accordance, he gave some examples of projects, in terms of the percentage of EIA cost. (See table 1.1. below). He also noted that EIA will save costs that will be incurred in case of negative environmental effects.

Table 1.1. Cost of undertaking EIA in relation to cost of the project- case of projects

Project Name	EIA Cost	Percent of total Project Cost
Solid waste Mgt, Lebanon	500,000	0.37
Solid waste Mgt, Lebanon, OECS	500,000	1.00
Bombay Sewage Disposal Project	310,000	0.11
Forestry and Environment Project	45,000	0.12
District Heating Rehabilitation	68,000	0.11
Mexico Solid Waste II Project	60,000	0.01
Natural Resource Management	25,000	0.03

According to Dr. Asferachew, if one is able to clear these misconceptions, EIA can be undertaken, in a way that can make projects sustainable, popular and cheap. Therefore, EIA is a friend of development and a friend of investment. Since Ethiopia needs development, stopping a project is the last resort.

Discussion

Q- Does EIA take into consideration baseline information from the community?

A- Dr. Asferachew noted that one of the problems EIA is facing is lack of sufficient and reliable baseline data. It is relevant to obtain sufficient information from all sources in order to have a complete EIA.

2.2. Effectiveness of EIA Application in Ethiopia (Good and Bad experiences) - By Yonas Tekelemichael

According to Ato Yonas, from the EIA department of the Environmental Protection Authority, the objective of EIA is to make development sustainable. In some cases, the negative effects of the projects are found to be irreversible, because due consideration was not given to EIA. Such development interventions are undertaken with the consideration of short term benefits only. Thus, EIA is one of the most important processes to ensure sustainable development for the country.

2.2.1. Evolution And Status Of EIA System In Ethiopia

In Ethiopia, land degradation is the most serious environmental problem. Pollution, especially of water, is low but increasing fast. Land degradation is caused by a combination of natural and anthropogenic factors, the chief among which is the rugged nature of the terrain and the removal of vegetation cover for crop cultivation and for grazing. Consequently, the tilling of land and overgrazing have caused a number of environmental problems such as soil erosion, and the disruption of the hydrological cycle exacerbating both flooding in the rainy season and desiccation in the dry season. It also causes the loss of both biomass and biodiversity.

In the recent past excessive exploitation of natural 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. This can be demonstrated by many examples. 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, salinization, which are aggravated by improper water management. It is widely known that about 3,000 ha. of land in the basin have been abandoned as a result of salinization. Water borne diseases, like schistosomiasis, and water related vector borne diseases, like malaria were also among the major diseases of concern to people in and around many of the water resource development schemes. The main reason behind this is

that traditional project preparations and decision-making mechanisms were based on short-term technical feasibilities and economic benefits.

However, through time, the need to take environmental considerations into account to ensure successful economic development was increasingly recognized. This realization of the importance of forecasting the environmental impacts of development endeavors on the surrounding areas has served as basis for the formulations of appropriate laws, policies, administrative procedures, and government institutions to manage and protect the environment of the country. The EIA System which has been introduced and applied in the country is one of them. The most important aspect of it is to avoid irreversible environmental damages that occur as the result of implementation of development projects and saving huge amount of costs that are required to repair them.

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's. Perhaps the most significant driving force behind this development was the establishment of Environmental Protection Authority (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"***.

As a consequence of this mandate EPA in the year 1996- 1997 prepared Procedural and Sectoral Technical Guidelines. Following its early preparation it underwent a period of refinement and consolidation in the years 1999-2000, in terms of both its methodology and its application. Currently the EIA System (consisting of both Procedural and Sectoral Technical Guidelines) is legally binding and is used on a mandatory basis. For making these guidelines more effective and practical they are contained in one document titled ***"Environmental Impact Assessment Guideline, May 2000 (EIA System)."***

The process of developing and refining the EIA System and its implementation was based on a participatory process, which involved

people from various government organizations, NGOs and the private sector. Therefore, the EIA System has secured a wide acceptance by entrepreneurs and other stakeholders.

2.2.2. Best and Bad Experiences in applying EIA especially monitoring Activity

Even though EIA in the country has matured somewhat over the last few years, it has a number of constraints which makes it fall short of realizing its full potential as a frontline instrument to promote sustainable development. The main constraints that weaken the implementation of EIA are absence of enforcement tools such as monitoring system, lack of public consultation mechanism, insufficiency of EIA to integrate environmental considerations at the planning phases of development efforts above the project level (i.e. at policy, plan, and program level), limited technical and managerial capacities to implement EIAs, inadequate financial and technical resources for capacity building and competence in EIA, etc.

The main focus of this presentation is to demonstrate best and bad experiences of EIA especially by taking into consideration the linkages between Environmental Impact Study recommendations on mitigations and monitoring of projects. EIA auditing/monitoring means checking environmental performance of a project as per the specificities contained in EIA report and Environment Management Plan. The implementation of the EMPs and follow-ups *are*, more often than not, neglected and grossly ineffective. As a consequence, most implemented projects have caused damage to the environment.

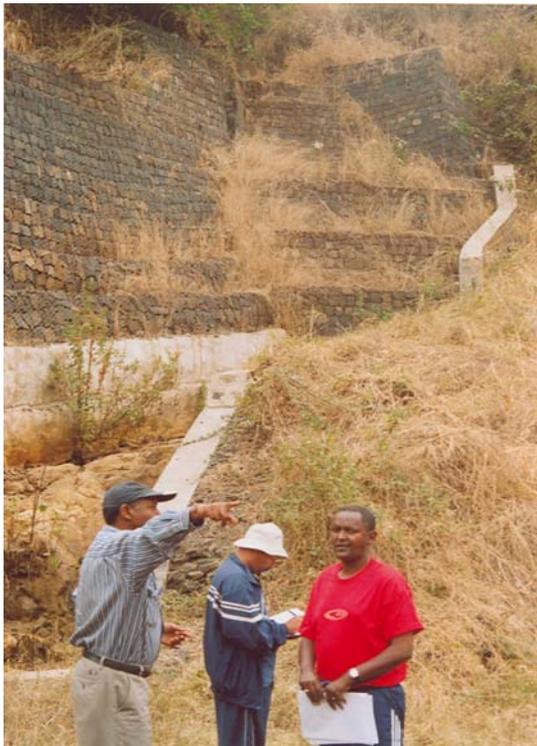
For the sake of illustrating best and bad practices of the linkages between Environmental impact study reports and monitoring, the following cases are presented on this paper. These pictures are taken from the three preliminary EIA auditing reports which have been prepared for the following hydroelectric and road projects by the EPA.

- Gilgel Gibe I and II Hydroelectric Projects (February 2006) - Pictures 1-3
- Bordede Kulebi Harar Road Project (June 2002) - Pictures 4 - 6
- Gilgel Gibe I Hydroelectric project (June 2001)– Pictures 7 and 8

2.2.3. Illustrative examples that show best practices - Pictures 1 -2

Gilgel Gibe I and II Hydroelectric Projects (February 2006)

The Gilgel Gibe Hydroelectric Projects are located at about 260 km. Southwest of Addis Ababa and about 70 km Northeast of Jimma. During undertaking of auditing of the projects, i.e. Gilgel Gibe I hydroelectric Project was at the operation phase. Gilgel Gibe II Hydroelectric Project was under construction phase. The contractor who was in charge of undertaking construction of this project was SALINI Costruttori S.p.A on behalf of EEPCO.



Picture 1: the constructed gabion made physical structures and concrete ditches on the hillsides near the sides of access road. These structures contribute a lot to soil conservation

Picture 1 was taken at the sides of access road in and around the Gilgel Gibe I Hydroelectric project. Similar environmental protection measures, i.e. construction of appropriate check dams cut off drains, drainage structures and natural vegetation at various places were also observed in various places of Gilgel Gibe II hydroelectric project especially near and/or along the sides of access roads and power house. The lesson learnt from this is that both projects have demonstrated their achievements in enhancing and protecting the environment (especially by avoiding or minimizing soil erosion and subsequent siltation in the reservoir) through effective implementation of such physical soil conservation measures in and around the project area. This can be taken as best practice so that it can be replicated to other projects.



Picture 2: Domestic animals grazing in the buffer Zone area

Picture 2 shows the buffer zone area around the perimeter of the reservoir at the Gilgel Gibe I Project. Since the quick-growing native and exotic species that are planted in the buffer zone are not monocultures they served as appropriate compensation for the lost mixed natural forests in and around the project area. The very important thing that has been noted was that these plant species are not neither alien nor invading species. They are

rather suitable for the existing agro-ecological conditions of the project area. The established plantations and natural vegetation in the buffer zone can also be taken as best practice for preventing and/or reducing land degradation (i.e. soil erosion, land slides, siltation in the reservoir etc.) and avoiding the endanger of water sheds, maintaining suitable microclimate.

During the EIA auditing, however, it was observed that in order to maximize the positive impacts of soil conservation measures, establishment of a buffer zone is essential so as to protect the area from intensive cattle grazing.

2.2.4. Illustrative examples that show bad practices

Gilgel Gibe I hydroelectric project



Picture 3: Abandoned Quarry site at Gilgel Gibe I hydroelectric project.

As seen in the **picture 3** because the quarry site at the Gilgel Gibe I was not rehabilitated with appropriate stockpiled topsoil and other stabilizing structures, the intended drainage of water into natural watercourses was not attained at all. This quarry site affected the aesthetic beauty of the surrounding environment by converting the topography of the area and

leaving scars behind. A pond was also formed inside the excavated quarry. During that time, the project owners were told that if the site remains as it is, it can be potentially dangerous to the life of both domestic and wild animals, which live in and around the project area. The pond can also be a favorable site for water and vector borne diseases. According the team's observation, this was one of the most un welcomed situation within the project area.

Bordede Kulebi Harar Road Project (June 2002)

This project, which is located at the Oromia Region, can be taken as one of the examples of bad project experiences.

Rapid assessment of the project carried out by EPA on June 2001 has revealed the following environmental problems associated with the construction activities of the project.



Picture 4: Land slide along Bordede Harar Road project

- Occurrences of mass land slide as well as the completed asphalt road (See **picture 4**) at the nearby of Medina town. According to the explanations of various stakeholders, this environmental damage has been caused, among other, due to ditches that have been buried under the road, or due to ground water level rise and/or soil types.



Picture 5: Ditches that has been constructed under the constructed road

- The structures for drainage that are buried under the road starting from Meiso up to Hirena may have importance in safeguarding the constructed road from flood during the rainy season. Nevertheless, during EIA auditing, we noted that unless soil conservation measures are taken, it may have negative impact on land degradation (see pict. 5)



Picture 6: Deforestation resulting from road construction project along the road side

- Clearance of about 5,000 junipers trees form Alwa Gora state forest (**See picture 6**). As can be seen from the picture, the state afforestation program was undertaken on a hilly area. And the team has noted that, as per the given specifications on the EIA report, unless rehabilitation in terms of tree planting and soil and water conservation measures are taken, it might result severe environmental degradation problem.

Gilgel Gibe I Hydroelectric project (June 2001)

The Gilgel Gibe Hydroelectric Project is located at about 260 km. Southwest of Addis Ababa and about 70 km Northeast of Jimma. During EIA auditing, the project is under construction by the Ethiopian Electric Power Corporation (EEPCO) with the assistance of three contractors (Nesco -SALINI, SALINI-Nesco, and Zublin). The Consultant (ENEL S.P.A./ELC-Electro Consult) is responsible for supervising the construction of the project.



Picture 7: Polluted streams resulted from the construction activities of the project

Picture 7 shows that water quality was affected by soil erosion and pollution generated during associated civil engineering works (e.g. tunnel, quarry and borrow pits). Excavated soils were disposed directly on to the available open spaces, the surrounding streams and Gilgel Gibe river

without any treatment. These discharges are muddy and grayish in color, contain mixtures of cement, grease, oil and other unknown substances that can be detrimental to water quality, aquatic ecosystem and the surrounding environment.

It is also noted that sediment ponds constructed below the stone crushing plant are not properly managed.



Picture 8: Damage of the tree and the surrounding land caused by the mass slide of the spoil

As can be seen from **picture 8**, soil, stones and other materials excavated from tunnel, dam and quarry sites are dumped close to creeks and river, i.e. out of the specific places designated for spoil. The team has also observed the occurrence of a mass slide of the spoils. This mass slide has caused damage to the patches of remaining forest and valuable trees in the buffer zone. Moreover, the slide of the spoil has also interfered with the natural flow of streams. It has been observed that the stockpiles and spoils in the project area are washed off and transported to the creeks and rivers. It is felt that this might have various effects in aquatic fauna and flora.

In general the most important lesson learnt from this project is that even a complete and well conducted EIA would not have helped to prevent

environmental damage that occurred because the finding of the EIA document was itself neglected during the implementation phase of this project.



Picture 9- Discussion with the presenters (left to right- Ato Yonas T/Michael. Ato Negussu Aklilu, and Dr. Asferachew Abate

2.2.5. Factors that contributed for the poor performance of EIA and opportunities

Among other factors that contributed to the poor performance of EIA and monitoring are the following.

- Lack of capacity to monitor the implementations of Environmental Monitoring Plans (EMPs)
- Absence of monitoring system and other specific mechanisms
- Absence of active and vibrant civil society who work on EIA issues
- Limited private sector involvement
- Poor linkage between EIA and the project cycle

Opportunities created to enhance the effectiveness of EIA include,

- Demonstrated concerns by CSO about EIA/SEA (Strategic Environment Assessment)
- Establishment of Association for Impact Assessment in Ethiopia
- Partnership with private sector and financial intermediaries.

Finally, effective implementation of EIA achievement of the three pillars of sustainability would be realized through:

- Building the capacity of the concerned Environmental protection agencies and other stakeholders
- Actively involving all stakeholders including the community at grass root level
- Creating strategic alliances and partnerships with CSOs (NGOs, CBOs, Higher institutions) & private entrepreneurs

Discussion

Q- Should EIA be limited at the project level?

R- EIA should not be limited at the project level, because it is wider than that. For example, in the case of bad experience, we can site Addis Ababa as a case. In this case, the city plan can be subjected to EIA. We do not have to wait for projects to be implemented in Addis ababa to do EIA. We can start from the general city plan. Therefore, the category goes beyond projects.

R- Another presenter also agreed that there is no need to restrict the topic to project levels, and added that Strategic Environmental Assessment is also being implemented worldwide at National Strategy documents level..

General Comments

- With regards to Strategic Alliance, Ato Yonas noted that it should also encompass communities. For this reason, there is a need to devise ways on how to proceed. There should be defined set of responsibilities for different stakeholders.
- There is a need for a clear strategic alliance, because NGOs / CSO are contributing as well as the governmental institutions. They have similar concerns. However, there is a need to know what is expected from the civil society organizations and the governmental bodies.
- There is apparent lack of commitment from different stakeholders. Thus, this should be improved and all stakeholders should internalize their roles.

2.3. Overview of Environmental Impact Assessment in Ethiopia: Gaps and Challenges -- By Mellese Damtie

2.3.1. Definition of Environmental Impact Assessment and its background

EIA is a methodology for identifying and evaluating in advance any effect- be it positive or negative- that results from the implementation of a proposed project or public interest. EIA can also be used to ensure the viability of an activity.

Environmental Impacts were magnified after the Industrial Revolution, because in the period before that the technology used was not sophisticated and could not incur much damage. The first EIA law was adopted in the late 1960's by a USA. From then on, other legal instruments like the 1969 US National Environmental Protection Act (NEPA) came out. Such instruments were later embraced by other national legal systems.

There are a number of legal instruments with similar concerns. For example, the principle of the **1972 Stockholm Declaration** has a rationale underlying EIA. This can be identified in Principle 14, which states: *rational planning constituted an essential tool for reconciling development and environmental needs*. Principle 15 also reads: *Planning must be applied to human settlements and urbanization with a view to avoiding adverse effects on the environment and opting maximum social, economic, and environmental benefits for all*.

Agenda 21 also calls on all countries to assess the environmental sustainability of infrastructure for human settlements, to ensure that relevant decisions are preceded by EIAs and to take into account the costs of any ecological consequences. It also calls on countries to integrate environmental considerations in decision making at all levels and in all Ministries and to ensure that transparency and accountability prevail when economic or other policies have environmental repercussions. Agenda 21 also endorses comprehensive analytical procedures for prior and simultaneous assessment of the impacts of decisions, including their environmental impacts and the assessment of costs, benefits and risks, and

the systematic application of techniques and procedures for assessing environmental impacts.

With regards to the 1994 Convention on Biological Diversity, the convention requires parties to identify categories of activities which have or are likely to have significant adverse impacts on the conservation and sustainable use of biological diversity, to monitor their effects through sampling and other techniques and to require EIA of proposed projects that are likely to have significant adverse effects on biological diversity.

In addition to these, the presenter cited other legal instruments like World Charter for Nature, Forest principles and Ethiopian laws like the Constitution, and Environmental policy.

2.3.2. Policy framework for EIA in Ethiopia

The Environmental Policy of Ethiopia was issued in 1997, and it provides overall guidance on the conservation and sustainable use of the country's environmental resources. The policy also lays the foundation for EIA. In section 4.9 it provides for the enactment of a law which requires that an appropriate EIA and environmental audits be undertaken on private and state development projects.

There is also Environmental Protection Council. The fact that it is established as a council is encouraging. However, one of the problems is the fact that the members are not meeting as regularly as they should. In fact, after its formation, they have never been able to undertake a single general meeting.

2.3.3. Legal Framework for EIA

The 1995 Constitution of the Federal Democratic Republic of Ethiopia contains provisions that support the enactment of EIA legislation. It stipulates that the design and implementation of development programs and projects in the country should not damage or destroy the environment and recognizes the right of people to be consulted to express their views on the

planning and implementation of environmental policies and projects that affect them. (Article 92)

Despite these provisions there are some problems. These are:

1. Lack of awareness about EIA among different stakeholders. Even those who are put in position to implement the laws (at Woreda and Zonal levels), do not have sufficient knowledge about these laws. In addition, awareness raising programs have not been given to these sections. Communities also do not have sufficient knowledge about EIA. Local government bodies consider is as a bottleneck for development. Thus, it is difficult to implement EIA in such situations. In the case of the EIA law, there was limited public participation during its formation. Thus this could be one of the reasons why there is limited awareness about the issue.
2. Lack of capacity: EPA leads the EIA process at both Federal and Regional levels. However, starting from its inception, EPA has never been well capacitated. There are no sufficient laboratories to conduct EIA, and there is shortage of documents and poor internet access. In addition, it was observed that the EIA studies are big volumes which require more time and human resource to assess them. According to the law, the evaluators are only given 15 days to evaluate the document. However, EPA is forced to do it in 3 or 4 days. In many countries' cases, they are given up to 90 days to evaluate the document.
3. With regards to budget, EPA has very limited budget of which 90% is used for salary. This is not sufficient for effective work.
4. There are also problems in relation to consulting organizations. EPA has not yet given license to competent consulting organizations or individuals to undertake this task. Therefore, most project owners go to consultants who require less payment, and this compromise the quality of the assignment.
5. There is insufficient structure to effectively put EIA to use. There are laws, but the means of implementation are not clear. There is no monitoring system
6. There is also lack of functional linkage with Regional and sectoral organs. There is no coordination.

7. All stakeholders are responsible for the effective use of EIA. However, all are pointing fingers at EPA. Since it is an agenda of all, everyone should share the responsibility.



Picture 10- The presenter (Ato Mellese Damtie) discussing on gaps and challenges in the legal framework

In line with the above problems, the recommendations forwarded by the speaker include:

1. As the knowledge level on EIA is very low in the country, efforts must be made to enhance awareness. Emphasis must especially be on key actors, such as parliamentarians, various governmental officials, woreda administrators, business persons, people directly affected by development programs and projects, etc. All stakeholders, mainly NGOs, must start an extensive awareness creation campaign.
2. Work must be done to eliminate the notion that EPA is the sole entity responsibility for the EIA process. Regional environmental organs and sectoral units must be strengthened to decentralize the EIA process.
3. EIA needs huge capacity, both on the side of consultants and reviewers. Additional efforts must be made by all stakeholders to enhance the capacity of those who steer the wheel of the EIA

process. Guidelines which provide for the registration and licensing of consultants who prepare EISA must be prepared and approved by the Environmental Council.

4. Efforts must be made for the realization of functional linkage, including revising the law to clearly set up a viable institutional link between EPA and other organs. This can be through
 - Opening discussion forums with proponents (both private and government) to raise awareness on the importance of EIA
 - Finding ways to impose EIA as a condition for access to credit, business licenses, access to market and getting land for the operation of the project or the initiative etc. Such initiatives must be backed by legal instruments and must spread to other lending banks.
 - Establishing the public interest litigation in relation to the EIA system
 - Insurance schemes must exist to cover the environmental liability held by development programs and projects.
 - Strictly applying both the EIA law and the Criminal Code (Article 521) to punish those who do not submit their EISR to EPA or the relevant Regional organ, through effective cooperation with the prosecution office.
5. The procedure required EIA for an investment license, which was reversed by the investment law, must be reinstated.
6. The constitutionality guaranteed rights of the people to participate and be consulted in any development activity that could affect them must be realized in its full sense.
7. There have to be incentive mechanisms provided by the government and other stakeholders for the development of projects and programs which have excellent EIA performance.
8. EIA should be included as part of the country's Millennium Development Goals.

Discussion

Q- How could we enhance political commitment?

R- With regards to the political commitment, Ato Mellese noted that one of the ways to bring it may be through raising the issue of EIA and related concerns in different forums and through lobbying.

Q- The fact that the Council is not meeting regularly is one of the problems. Why is not the Council meeting regularly?

R- Ato Mellese noted that the council has never met regularly may be due to its structure. The council consists of Regional presidents and a delegate of the Prime Minister. These are very busy people who may find it difficult to meet regularly or even at the same time. Therefore, there may be a need to look at this structure.

Q- Are there guidelines for EIA?

R- There are review and procedural guidelines. However, they are drafts and do not have legal force. But subsequently this may be changed and there is a need to work on this.

General Comments

- It is advisable to have a way of identifying and rewarding ethical investors. It is better to have a list so that will help to show those who are responsible investors and those who are not and expose this through the media.
- It is important to provide continuous awareness raising programs to decision makers and development agents
- Undertaking EIA is important not only for the present generation but also for the future.
- Those international organizations that are required to undertake EIA in their countries should be pushed to use the same stringent rules.
- Development agents at the local should also be given awareness about these issues. It is advisable to increase pressure groups.

3. Problems and Gaps Identified in relation to EIA in Ethiopia (GROUP DISCUSSION)

During the course of the workshop, the participants were divided into four groups (namely Federal and Institutional Linkages, Legal Issues, Capacity Issues, and Public Participation). All the groups were given the task of discussing on the following questions, based on which they made their presentations to the plenary.

Questions

1. What are the problems in relation to EIA?
2. What are the possible solutions to the problems?
3. How can the solutions be implemented?
4. What is the role of the parliament?

3.1. Group Discussion Findings

GROUP 1

FEDERAL AND REGIONAL INSTITUTIONAL LINKAGES

Identified problems are:

- In some regions, the section which deals with environment is not given prominent place. It is represented under different sectors, mainly under the Regional Agricultural and Rural Development Bureau instead of standing as a separate institute.
- There is limited coordination between federal and regional environmental institutions. At the Regional level, EPA offices are found in different sectors and offices. This creates communication gaps and limitations in forming linkages.
- There are gaps in the law and there are gaps in the Regional and Federal linkage.
- There is also confusion about mandates
- The Regional EIA proclamation regulation and guideline have not been adopted and/or prepared at regional levels
- EPA is not well structured (at Regional and sectoral levels)
- EPA has no channel to voice its concerns. It is not represented at the Minister of Council.

- The National Council for Environment is not properly undertaking its responsibility

Suggested solutions include:

- It is better if Regional Government issues their own EIA proclamation, regulation and guideline with reference to the Regional reality. This will show means of strengthening the linkages
- The Regional EPAs should be autonomous or should report directly to the highest authority.
- There is a need to assess and improve the Federal – Regional structure of EPA.
- There should be Regional Environmental Councils since it will enable the Regional Council to executive its responsibilities effectively.
- The National Environmental Council should undertake its meetings regularly and it should look for a way linking with EPA.
- EPA should be established at the Ministerial level
- There is a need to look for ways to strengthen the effectiveness of the Regional Council

Discussion

Q- What is the relevance of establishing EPA as a Ministry, while its biggest problem is its inefficiency?

R- It is important to establish EPA as a Ministry because it will be better equipped with human resource. Its influence and decision making role will also improve because of its establishment and its participation in the Council of Ministers where big decisions related to environment and developments are made.

General comments from participants

- It is advisable to look at the relationship of EPA with other sectoral offices. For example, with the Ministry of Water, since there are linkages and common issues across different sectors.

- It was noted that there are gaps in the law at the Regional level. When the Federal Government designs laws, it is with the assumption that the Region will make laws in accordance to their situation and reality. Therefore, the gap may be found in implementation of the laws in the Regional context.



Picture 11 & 12- Group discussions by participants of the meeting

GROUP 2

LEGAL ISSUES

Problems

- There is discrepancy between EIA law and Investment law. EIA law says that any investment should get a go ahead from the EPA before the implementation of projects. But the 2003 Investment law reversed this procedure and it is no more required to go through EPA.
- There is no guiding list to define which projects need EIA and which do not require EIA
- There are weaknesses in monitoring the implementation of the laws

Possible solutions

- Making laws based on the reality of the country. Reconciling the EIA and the investment laws.
- Monitoring the implementing organs through the Federal Parliament
- Allocating sufficient budget for proper enforcement of the laws

General comments from participants

- The group analysis was based on EIA and Investment laws. However, it should also take into consideration other laws of the country. Human right issues should also be included. There is a need to look at what can be done to respect individual interest.
- It should also be noted that despite the fact that laws are made, one of the most important problems is in follow up and implementation of these laws.
- A participant noted that at EPA there are no reports on how many projects were approved, how many were rejected and how many have made improvements in their proposals. However, those at EPA have also noted that the Investment law has paralyzed them. In this regard, the Natural Resource and Environmental Affairs Standing Committee has the mandate to improve this.
- It is advisable for CSOs to assess and show the discrepancies in the laws, so that it will help the standing committee in making decisions.
- There are lots of laws in Ethiopia. However, the important issue is to synchronize them and to ensure their implementation. There is also a need for accountability from the law maker to the implementer level. For this, there is a need to strengthen the grassroots base. Generally, it should be the responsibility of different stakeholders to point out the discrepancies in the laws.
- It is also possible to strengthen community participation through targeting school environmental clubs and building their awareness.
- There are some protected areas. However, these are being negotiated for investment. This should not have been considered at all, and investors should never be requested to undertake EIA for such protected areas in the first place.
- The civil society should look for ways of building the capacity of private consultants who undertake EIA.
- Awareness creation about the importance of EIA should be arranged for investors.

GROUP 3
CAPACITY ISSUES

The problems are:

- EPA and Regional Environmental agencies lack sufficient human power, budget and institutional arrangement.
- There is lack of specialized and capacitated institution for EIA. Consultants undertaking EIA need improved capacity.
- There is limited link between financing institutions and investments.
- There is poor environmental data base management, lack of information exchange and networking.
- There are no standard laboratory and resources (budget and human power)
- Absence of monitoring systems and other specific mechanisms.
- EPA is not willing to participate in environmental related forums and meetings
- At the Regional level, the EPA offices do not have sufficient human resource.

Suggested solutions include:

- Improving the structure of EPA and furnishing it with capacitated human resource and sufficient budget.
- Strengthening EPA through capacity building and formulating relevant rules and regulations.
- Improving EPA's participation in environmental meetings and forums is essential.
- Strengthening the capacity of CSO, private firms, and relevant governmental institutions, to enhance their roles in improving the EIA process.
- Strengthening the capacity of consultants undertaking EIA
- Strengthening the commitment of different stakeholders

The role of the parliament is to:

- Present regular reports on environmental related concerns in the Parliament

- Ensure that the relevant laws are issued and to monitor their implementation.

General comments from participants

- It will be advisable if competent consulting firms and individuals are given special permits to undertake EIA
- The capacity of consultants can be improved if the capacity of EPA is improved, since EPA will then be able to reject poor quality Impact Assessment (IA).
- There is a need to include this issue in the educational curriculum, since it is one of the best ways to enhance the awareness and capacity of different stakeholders.

GROUP 4

PUBLIC PARTICIPATION AND AWARENESS

The problems in relation to public participation include:

- EIA is usually left just for EPA. There is no involvement of public and private sector, and NGOs.
- There is weak structural set up for undertaking EIA effectively. There is lack of communication which takes away the proper representation of the public in the EIA process.
- There are misconceptions that EIA is anti-development and expensive, whereas in comparison to the cost of the projects, EIA is not expensive. Investors also assume that EIA will bring compensation issues
- Some of those professionals who have improved awareness about EIA may be attracted by benefits they receive from investors. In addition, some of those working on EIA may not be committed and accountable.
- There is limited public participation and in most cases it only involves the participation of few groups/ segments of the population

Possible Solutions

- Creating public awareness about projects, before they are launched.
- Preparing awareness raising programs for communities about environmental and Impact Assessment issues
- Involving different groups (including religious leaders) in the awareness creation program

4. Closing Remarks

By Dr. Tewoldeberhan G/Egziabher

The meeting was finalized by closing remarks of Dr. Tewoldberhan G/Egziabher, who on behalf of EPA commented that such discussions are relevant for exploring stakeholders' attitudes and concerns about EIA. He further confirmed EPA's lack of capacity and promised to work on those recommendations which can be undertaken using the available capacity.

Annex I- List of participants

No	Name	Organization
1	Omer Ahmed	FDREHR
2	Hailekiros W/Mariam	CETU
3	Gatluak John Jock	Gambela Investment Agency
4	W/Berhan Kuma	SNNPRS Natural Resources
5	Yeneakal Yehualashet	Awash Bank
6	Alebachew Adem	FSS
7	Sameul Hailu	Midroc Gold
8	Alemu Yimer	HFR
9	Hailemariam Mesfin	EEJA
10	Yeneneh Teka	WCD/MoRAD
11	Dr. Asferachew Abate	EAIA
12	Melkamu Tekle	Addis Admas Newspaper
13	Said Abdella	AA EPA
14	Yonas T/Michael	Private
15	Tessema Mebratu	OSJE
16	Moges Tades	FDRE-HPR
17	Askale Lema	FDRE-HPR
18	Yeshihareg Getachew	FDRE-HPR
19	Kori Abdela	FDRE- HPR
20	Yohannes Ture	FDRE - HPR
21	Tadelech Amare	FDRE- HPR
22	Abdi Mumade	FDRE- HPR
23	Asmarech Haile	FDRE-HPR
24	C Peter Berries	HBF
25	Gemedo Dalle (PhD)	IBC
26	Ahmed Hassen	
27	Dr. Berhanu Adenew	Eth. Economics Association
28	Biruk Denbel	Ministry of Women's Affairs
29	Getachew Mengistu	Menagesha Suba State Forest
30	Michael Tewelde	Reporter Newspaper
31	Firbel Testo	
32	Tadios Wudaju	
33	Sunday Omod	BoRAD, Gambella
34	Fekede Terefe	Oromia Investment comm.

No	Name	Organization
35	Solomon Nigussie	Ministry of Mineral & Energy
36	Mach Koat Rik	BoRAD, Gambella
37	Muradu Mitta	B/Gumuz Investment Agency
38	Hiluf Gashaye	Tigray EPA
39	Kemal Mohammed	Amhara EPA
40	Hussien Kebed	MoRAD, Amhara
41	Dereje Seyoum	Investment Agency, Amhara
42	Ayele Aeyoum	Federal Parliament
43	Debela Dinka	SLUF
44	Tesfa W/Kidan	Development Bank
45	Kassahun Belete	YNSD
46	Berhane Alemu	Reporter Newspaper
47	Selome Tibebu	Ministry of Water Resources
48	Deribe Gurmu	EIAR/ FRC
49	Mohammed Seyid	EIA
50	Nigussie Abebe	EIA
51	Mellese Damtie	ECSC
52	Ermias Wubishet	Negadiras News
53	Marie Kayachew	Legal and Ad
54	Tsegay Berhane	FDRE HPR
55	Bekele Dibaba	
56	Alemnew Getnet	FDRE HPR
57	Afewerk Hailu	EWNRA
58	Ararsa Regassa	Oromia Forest Agency
59	Taddele Debela	Eth Roads Authority
60	Tadesse Woldemariam	Eth Coffee Forest Forum
61	Mengistu Woude	EWNHS
62	Asefa Shamena	Tsalke
63	Negusu Aklilu	FfE
64	Argaw Ashine	Panos
65	Rose MESfin	Daily Monitor
66	Siraj Bekele	Forest Agency
68	Fikir Alemayehu	MELCA
69	Aynalem Melesse	MELCA
70	Mergia Beyene	MELCA

No	Name	Organization
71	Elsabeth Abebe	MELCA
72	Million Belay	MELCA
73	Befekadu Refera	MELCA
74	Tsion Yohannes	Private