



OVERVIEW OF ENVIRONMENTAL IMPACT ASSESSMENT LAW – ETHIOPIA

Dr. Prem Kumar Dara*

Associate professor, Department of Natural Resource Management, Gambella University, Ethiopia.

*Corresponding Author: Dr. Prem Kumar Dara

Associate professor, Department of Natural Resource Management, Gambella University, Ethiopia.

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ABSTRACT

Environmental Impact Assessment (EIA) can broadly be defined as a processes designed to study the effects of a proposed project, plan or program on the environment. The legal, methodological and procedural foundations of EIA were established in 1970 by the enactment of the National Environmental Policy Act (NEPA) in the USA. At the international level, lending banks and bilateral aid agencies have EIA procedures that apply to borrowing and recipient countries. Most developing countries have also embraced and are in the process of formalizing EIA through legislation. The paper highlights the evolution to current status, the legal framework, concepts, processes and principles of EIA in Ethiopia.

KEYWORDS: Environmental Impact Assessment (EIA), Ethiopia, National Environmental policy Act (NEPA), legal framework, proposed projects.

INTRODUCTION

Origin of EIA

After the Second World War, rapid industrialization and urbanization in western countries was causing rapid loss of natural resources and led to raise the concerns of pollution, quality of life and environmental stress (Chopra, et.al., 1993). As a result of this, pressure groups formed with the aim of getting a tool that can be used to safeguard the environment in any development. The USA decided to respond to these issues and established a National Environmental Policy Act in 1970 to consider its goal in terms of environmental protection. The USA became the first country to enact legislation on EIA. This was the first time that EIA became the official tool to be used to protect the environment. The United Nations Conference on the Environment in Stockholm in 1972 and subsequent conventions formalized EIA. At present, all developed countries have environmental laws whereas most of the developing countries are still adopting it (Lee, 1995).

EIA in Ethiopia

EIA is a recent phenomenon in Ethiopia. It became a legally required procedure toward the end of year 2002, though emerged Environmental Impact Assessment Proclamation № 299 of 2002, adopted by the House of Peoples' Representatives of Ethiopian parliament. Prior to becoming a legal requirement in 2002, the application of EIA in Ethiopia was introduced by a few sectors. The practice of contemplating environmental and health impacts was introduced as early as 1980 into water

resources development projects assisted by UNDP/WHO, though the main focus was limited to water-related and water-based health problems (Solomon, 2006). This practice then evolved into a formal requirement in international donor assisted and financed projects in various sectors.

The former Ethiopian Valleys Development Authority was the first national institution to incorporate EIA into 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 (Solomon, 2006).

Policy and legal frame work for EIA in Ethiopia

Until 1997, Ethiopia did not have a comprehensive environment policy as such. The Environmental Policy of Ethiopia was issued in 1997 to provide overall guidance in the conservation and sustainable utilization of the country's environmental resources in general. The 1995 Constitution of the Federal Democratic Republic of Ethiopia contains provisions that support the enactment of EIA legislation by enacting the (Article. 92 and Article. 44). These provisions provide a perfect constitutional basis for the development and implementation of an effective EIA process.

Environmental Impact Assessment law of Ethiopia

The Ethiopian government introduced the Environmental Impact Assessment Proclamation (Proclamation № 299 of 2002), and as per this proclamation an EIA process is

required for any planned developmental project or public policy which is likely to have negative impact on environment.

1. (Art. 3(1)) proclamation- stipulates that no person shall commence implementation of a proposed project identified by directive as requiring EIA without first passing through environmental impact assessment process and obtaining authorization from the competent environmental agency.
2. (Art. 7) proclamation- in line with this, project proponents must undertake EIA and submit the report to the concerned environmental body, and, when implementing the project, fulfill the terms and conditions of the EIA authorization given to them.
3. (Art. 18) proclamation- imposition of a fine between fifty-thousand and one hundred thousand birr on any project owner who commences implementation of a project without obtaining authorization from environmental agencies or who makes false presentation in the environmental impact assessment study report.
4. (Art. 3) proclamation- obliges licensing institutions, prior to issuing investment permits or operation license to projects, to ensure that the relevant environmental bodies have authorized the implementation of the projects.
5. (Art. 12) proclamation- under this provision licensing institutions to suspend or cancel the permit or license they have issued for projects where the concerned environmental body suspends or cancels the authorization given for implementation of the project.
6. (Art. 15) proclamation- provides for public participation in the environmental impact assessment process.
7. (Art. 13) proclamation- obliges government organs to ensure that their policies have passed through EIA process prior to their submission for approval.
8. (Art. 5) proclamation- requires the Environmental Protection Authority (EPA) to develop a directive identifying categories of projects likely to have negative impact.
9. (Art. 8) proclamation- issue of guidelines that determine the elements necessary to prepare and evaluate EIA study report.

Sectoral laws relevant to EIA

It has been recognized that activities in the various economic sectors have the greatest impact on natural resources in particular and the environment in general. Accordingly, integrating EIA into the laws, regulations and decision-making process in such sectors is crucial. The following lists of sectoral laws are enacted to enhance the EIA processes in Ethiopia.

1. Business Law- The licensing and operation of business activities in the country at present are regulated by the Trade Registration and Business Licensing Proclamation (Proclamation № 67/1997).
2. Investment law- The Investment Proclamation № 280 of 2002 (as amended by Proclamation №

375/2003) and Investment Regulation № 84 of 2003 are the laws that regulate investment activities in the country at present.

3. Land Law- Regarding the utilization of land for investment, Ethiopia's 1995 Constitution provides for the right of investors to obtain land for investment purpose on lease in accordance with conditions to be specified by subsidiary laws (Art. 40). In line with this, the Rural Land Administration and Use Proclamation (Proclamation № 456/2005) recognizes the right of investors to obtain and use rural land, provided that priority is given to peasants and pastoralists (Art. 5(4)(a)).
4. Fishery Law- The government has ratified fishery legislation with a view to ensure the conservation, development and utilization of fishery resources in the country (Proclamation № 315 of 2003).
5. Wild life Law- Wildlife Proclamation was enacted with the view to adapt the management of wildlife to existing realities (Proclamation № 541/2007).
6. Water Law- The conservation, utilization and development of water resources in the country at present is regulated by the 2000 Water Resources Proclamation (Proclamation № 197/2000) and the 2005 water resources regulation (Regulations № 115 of 2005).
7. Mining Law- The Mining Proclamation (Proclamation № 52/1993) and the Mining Operations Regulation (regulation № 182/1994) regulate the mining of mineral resources in the country.
8. Genetic resource law - Following the Convention on Biological Diversity, the government of Ethiopia enacted legislation which provides for community rights and access to genetic resources and traditional knowledge (Proclamation № 482/2006).

Thus the current system of government in Ethiopia is organized into a federal structure, comprised of a federal government and nine regional states. Government administration of EIA in Ethiopia is thus shared between the federal government and regional states.

Benefits of EIA

EIA is a universally accepted observable fact for setting off impact of a project as its preliminary phase. Some most important forms criterion are: Specific legal requirements (e.g. national laws, standards conventions, relevant policies, International agreements etc.), Cost of mitigation, Public views and complaints, Geographical extent of the impact (e.g. has Trans boundary implications), Reversibility of impact, Duration, Likelihood or probability of occurrence (Very likely, Unlikely) (Rao, CVC, 1997)

Gaps and challenges of EIA in Ethiopia

Irrespective of the progress in the area of EIA, there are a number of gaps and challenges with respect to EIA process in Ethiopia (Salomon 2006). The gaps and challenges observed in the Ethiopian EIA process are

lack of awareness, problems of capacity, absence of effective mechanism for the EIA process, weak political commitment and weak public participation (ECA 2006).

CONCLUSION

The constitution of the Federal Democratic Republic of Ethiopia provides a strong constitutional foundation for the introduction and effective implementation of the EIA system in the country through the Environmental Impact Assessment Proclamation № 299 of 2002. But there are still some gaps and challenges that hinder the effective enforcement of EIA.

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