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The Institutional and Regulatory Framework for Environmental Impact Assessment in Uganda: SWOTs Analysis.

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Presentation Outline

- Introduction
- Institutional and Regulatory Framework for EIA
- Methodology
- Results (SWOTs analysis)
- Conclusion and
- Recommendation

Introduction

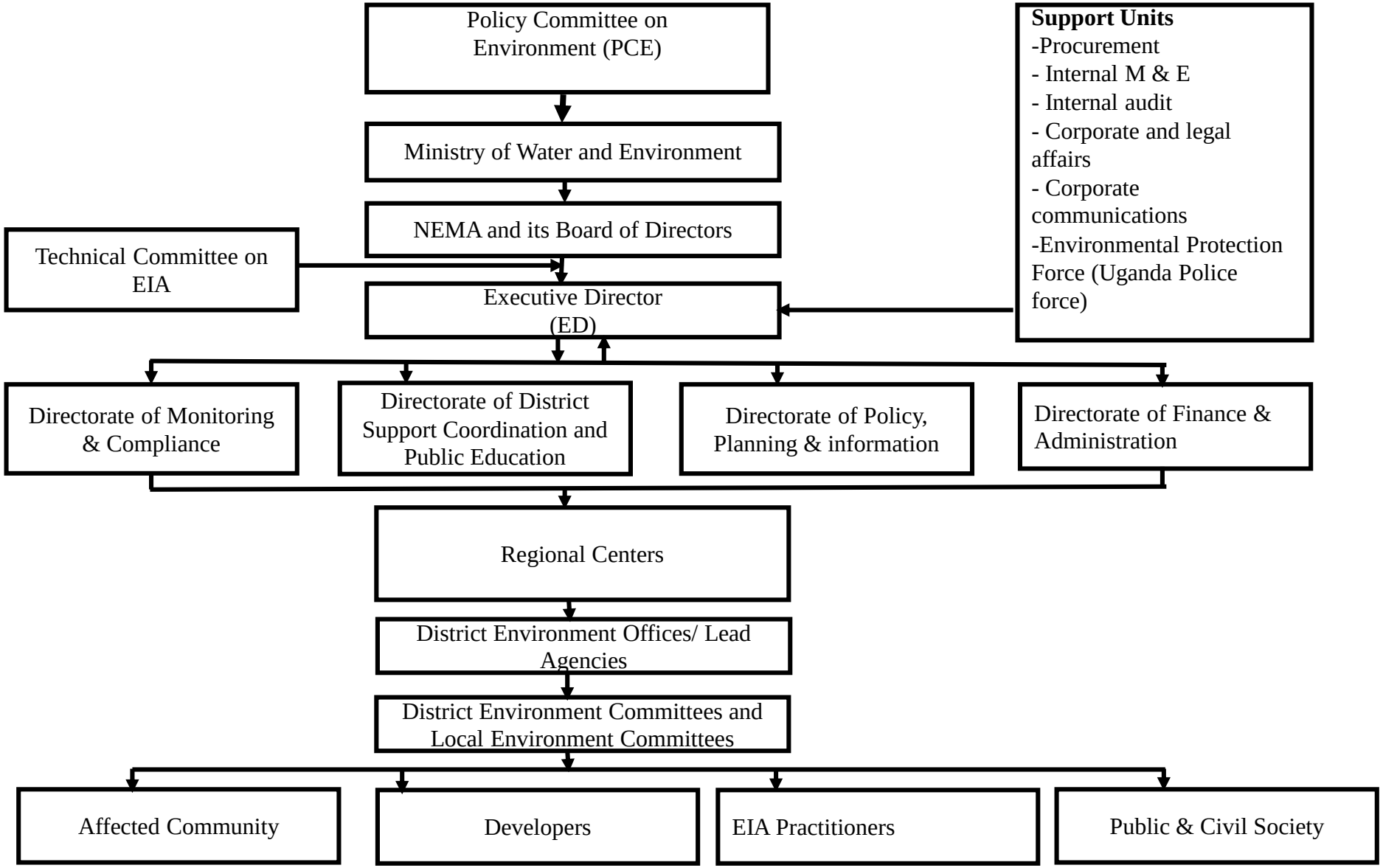
- Environmental impact assessment (EIA) or simply Impact Assessment (IA) is the process of identifying, predicting and evaluating the potential impacts of development proposal prior to major approval decisions being taken and commitment made (IAIA).
- First incorporated into legislation through the National Environment Policy Act 1969 in the U.S.
- The original objective of EIA was based on the positivist information provision model (Bond & Pope, 2012) i.e. information generation to guide decision making.

Cont.

- The period 1970 - 1990s witnessed rapid global spread of EIA.
- Uganda ratified all 4 major conventions with provisions for EIA (World Bank, 2002 pg. 49)
- The Rio Declaration- Principle 17 declared EIA a national instrument for sustainable development.
- In responses, Uganda enacted the National Environment Act (NEA) 1995 (now NEA 2020) which established the National Environment Management Authority and instituted the formal practice of EIA.

The Institutional arrangement

- The NEMA is the principal agency in Uganda for the management of the environment.
- It is charged with the responsibility of coordinating, monitoring and supervising all activities in the field of the environment including EIA.
- The organogram of NEMA is represented in figure 1.


Policy Committee on Environment (PCE)
Ministry of Water and Environment
NEMA and its Board of Directors
Technical Committee on EIA
Executive Director (ED)
Support Units
-Procurement
- Internal M & E
- Internal audit
- Corporate and legal affairs
- Corporate communications
-Environmental Protection Force (Uganda Police force)
Directorate of Monitoring & Compliance
Directorate of District Support Coordination and Public Education
Directorate of Policy, Planning & information
Directorate of Finance & Administration
Regional Centers
District Environment Offices/ Lead Agencies
District Environment Committees and Local Environment Committees
Affected Community
Developers
EIA Practitioners
Public & Civil Society

The Regulatory framework

- The 1995 Constitution of the Republic of Uganda
- The major conventions with provisions for EIA.
- The National Environment Act 1995 (Now NEA 2019).
- Over 8 Sector specific legislations (Acts)
- EIA Regulations, 1998 (ESIA Regulations, 2020) and over 12 other EIA related regulations.

Cont.

- Despite the good EIA legislation and regulations and the practice for the last f 25 years, many studies (Bateganya et al., 2015; Ochieng, 2010; Kayima et.al., 2008; Mbabazi et al., 2010), reveal increasing level of pollution and environmental degradation particularly lake Victoria and wetland degradation.
- **Objective**
- This research paper explored the institutional and regulatory framework for EIA, established the strength, the weakness, the opportunities and the threats in order to establish the strategic direction for the future practice of EIA in the country.

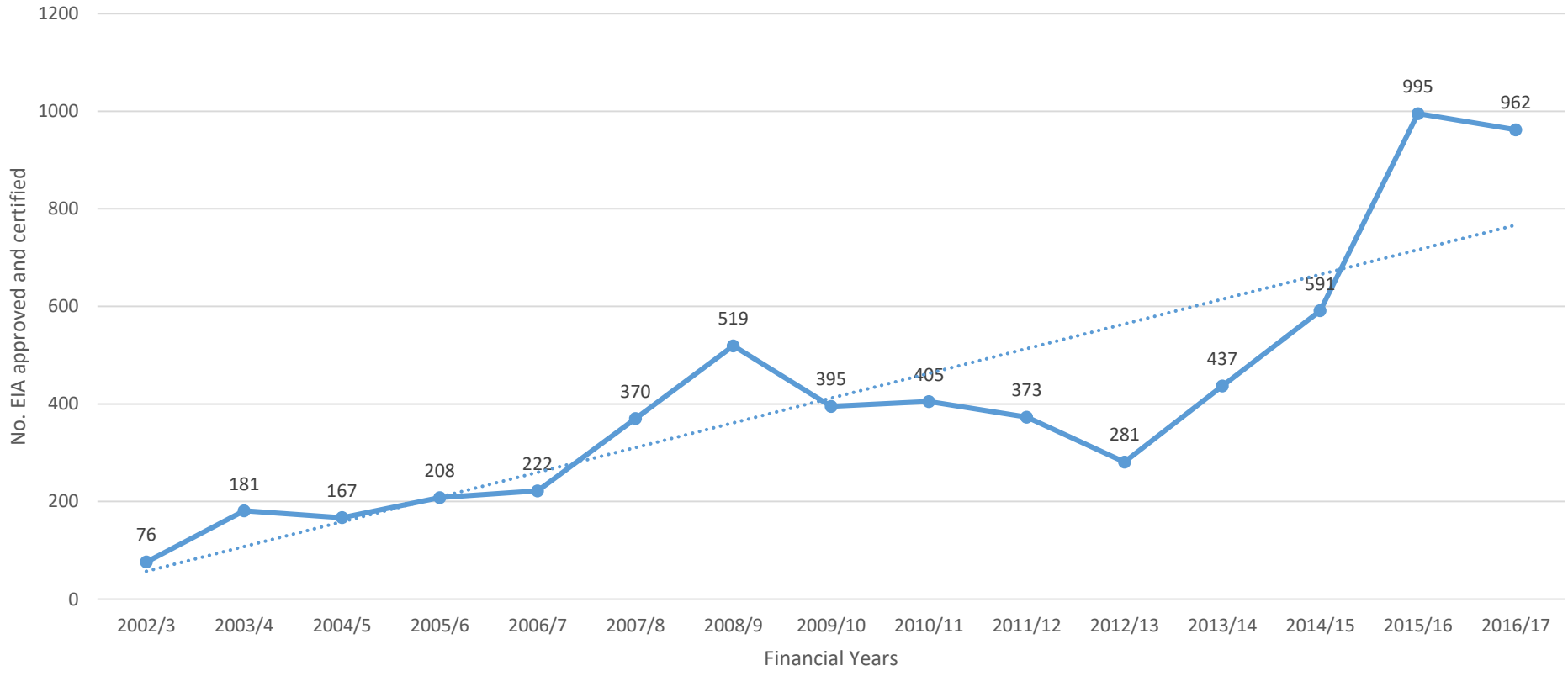
Methodology

- The method used a SWOT analysis which was used by other studies (Bond & Pope, 2012; Adelle & Weiland, 2012; Bond et al., 2012; Morgan, 2012)
- Data was collected between June 2018 and August 2019. Data was collected using different questionnaires for different categories of EIA stakeholders, literature review, EIA reports analysis and key informant interviews.
- In all 100 household adjacent to 4 manufacturing industries, 30 staff from 17 environmental NGOs which participated in EIA between 2000 and 2017, production managers of 16 manufacturing industries and 44 district and municipal environment officers were administered specific questionnaires. Informant interviews were conducted for 5 staff of NEMA.

Results/ SWOT ANALYSIS

- **Strength**
- EIA was well legislated and regulated in Uganda (over 27 EIA enabling laws and regulations)
- Increased trend in approval of EIA by NEMA. Between financial years 2002/3 and 2016/17, there were 6,182 projects approved and certified by NEMA shown in figure III below;

Figure II: Trend in EIA Approval and Certification (NEMA database 2020)



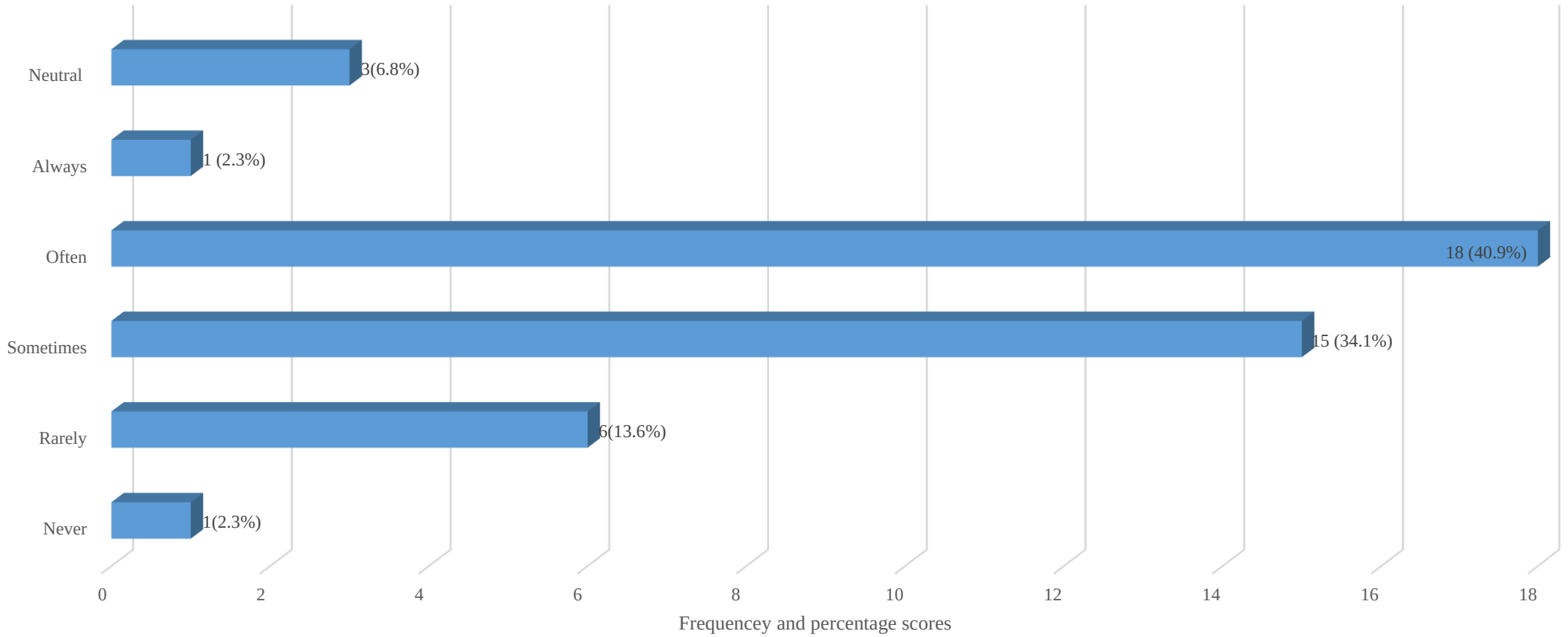
Cont.

- There was a well decentralized environment management structure inclusive of the district local governments.
- All 113 districts and urban authorities had substantive environment officer or designated environment officer (NEMA 2014).
- The 44 environment officers interviewed; majority 19 (43.2%) holders masters degree, 11(25%) hold postgraduate diplomas, 13(29.5%) hold bachelors degree.

Cont.

- 38 (86.4%) of the 44 environment officers reported the existence of district environment committees (DECs) in their jurisdiction.
- Majority 18(40.9%) of the 44 environment officers reported that, the environment committees often meet and the issues discussed related to waste management, charcoal burning and timber logging.

Figure III: Frequency of DEC Meetings.



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- **Weakness**
- Screening was predetermined by the third schedule of the NEA 1995 and in accordance with sections 5 and 6 rather than on ecological and geographical peculiarities.
- Scoping was used synonymous with preparation of terms of reference (ToRs) and were developed by the proponents in consultation with ED, NEMA and the lead agency. This implied no public participation and therefore missing out the benefits of a well-conducted scoping phase (Borioni et al., 2017 pg. 201).

Cont.

- 94% of the 100 households interviewed around 4 manufacturing industries in central region of Uganda reported not to have participated in the EIAs.
- The EISs review process lacked transparency, independence and inclusiveness e.g. civil society coalition on oil and gas in Uganda court battles with oil companies for lack of transparency of public hearings.
- Centralization of decision making despite existence of committees.
- Low level of implementation measures (ranged between 30% to 40% of what were contained in EISs.
- None of the 16 manufacturing industries conducted environmental audit even when provided for in the Audit Regulations, 1998 (Audit Regulations, 2020).

Cont.

- EIA was applied at project-level. No formal application of strategic environmental assessment (SEA) for the last 25 years and hence the problems associated with project level EIA (Alshuwaikhat et al., 2007 p.228) were prevalent in the EIA process.
- Limited application of EIA in a transboundary context and the important UN treaties and conventions related to EIA in transboundary context were not ratified.

Cont.

- Limited human capacity in area of air pollutions, environmental valuation and judiciary review by judiciary officers in the high court of Uganda which are also cited by Pierre & Wondwosen, 2016 p.21 and Akello, 2007 p.25.
- The availability and access to pollution monitoring tools significantly affected the role of environmental non-governmental organizations (ENGOs) in EIA.

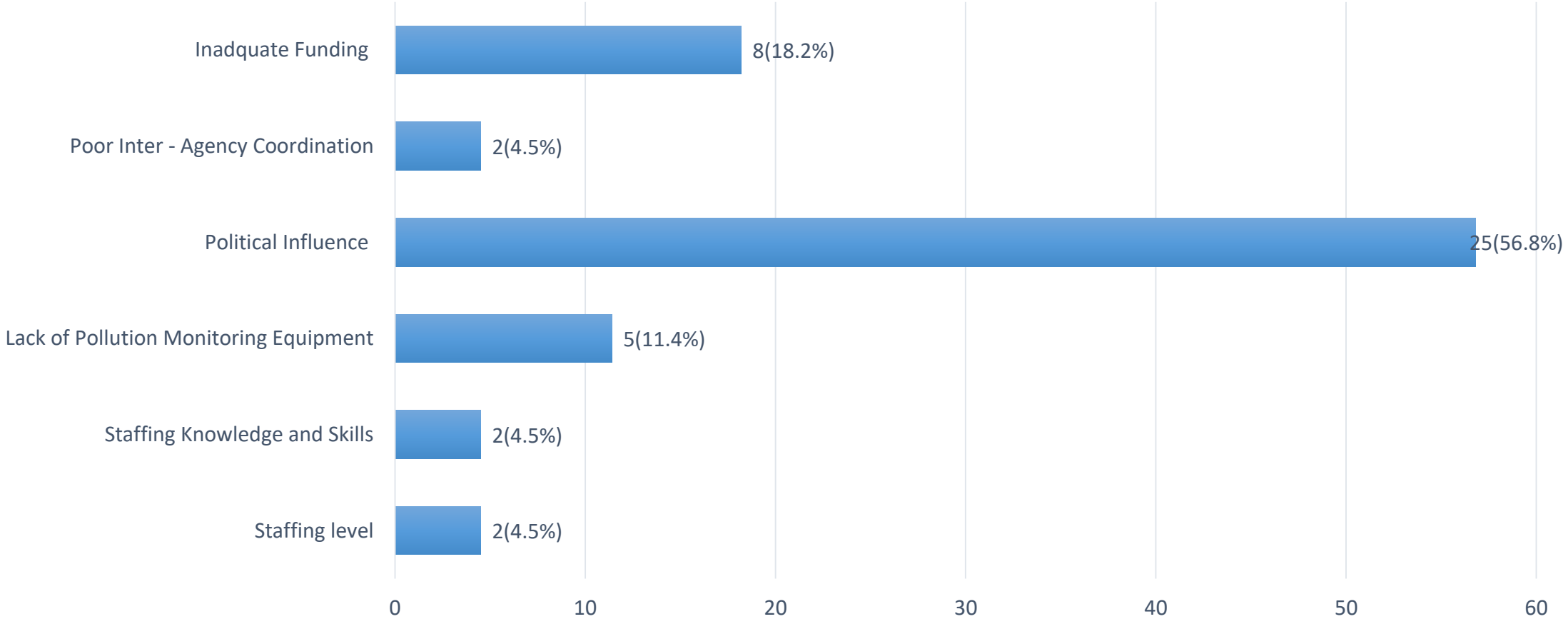
independent variable on the role of ENGOs in EIA (Significant coefficients are indicated with * p<0.1, ** p<0.05 or*** p<0.01).

Unstandardized Coefficients			Standardized Coefficients	
	Beta	Std. Error	Beta	t-ratio
Information capacity (X_1)	-0.095	0.201	-0.11	-0.473
Measurement capacity (X_2)	0.645***	0.192	0.592***	3.355
Networking capacity (X_3)	-0.254	0.299	-0.159	-0.849
Institutional and regulatory capacity (X_4)	0.354	0.25	0.307	1.414
Constant	1.57	1.119		1.402
F-Ratio	916			
F P-value	0.015			
R^2	0.377			
Adjusted R^2	0.278			

Cont.

- **Opportunities**
- Decentralized political governance system which is also recognized by Oosterveer & Van Vliet (2010 p.292)
- Robust national planning framework good for application of SEA
- Regional integration e.g. the East African Community (EAC), Intergovernmental Authority on Development (IGAD).
- Most developments are funded by development partners that have guidelines for EIA allowing for hybrid EIA application.
- **Threats**

Figure IV: Perception of EOs on selected factors affecting implementation of EIA laws.



Cont.

- Majority 25(56.8%) perceived that political influence/interference is a major factor affecting negatively the implementation of EIA laws.
- Majority of the Direct Foreign Investments are from East and Southeast Asia countries which studies (Bice & Fischer, 2020 p.92) reveal to have not fully developed EIA system.
- Poverty of 41.7% (UBOS 2016) and unemployment of 1.87% is a threat to public participation and decision making in EIA. Projects as sources of income and employment, likely negative environmental impacts were overlooked.

Cont.

- **Conclusion**
- Good legislations, regulations and institutional set-up in a country do not guarantee environmental protection and sustainable development.
- Contextual factors and factors inherent in the EIA system may facilitate or constrain EIA processes.

Recommendations

- Smarten EIA by increasing access to pollution monitoring equipment for local governments, civil society organizations and communities.
- Promotion of effective public participation in all key phases and make EIA a “social contract”.
- Transparency, independency and inclusive review of EISs.
- Building national capacity for SEA
- Capacity building in air pollution ,environmental valuation and capacity of judiciary staff to try cases related to environment.
- Development of complementary infrastructure for implementation of mitigation measures (urban sewerage system).

Cont.

- Countries should be encouraged to ratify the important UN treaties and protocols related to EIA in transboundary context.
- Development agencies and finance institutions should increase vigilance in the application of their EIA guidelines by borrowers and be involved in follow-up especially during this increased borrowing to recover economies from the COVID-19 pandemic.
- Research is required to establish variance between EIA application and approval/certification and the reasons therein.

Let's continue the conversation!

Post questions and comments via chat in the IAIA21 platform.

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