
FROM ENVIRONMENTAL PLANNING TO ENFORCEMENT: A CASE STUDY FROM EGYPT

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SUMMARY

This paper presents and discusses the Egyptian experience in preparing a National Environmental Action Plan (NEAP) and a major environmental law. The analysis includes the processes of preparation, its shortcomings and the extent of interlinkages between the plan and the law.

1 INTRODUCTION

The Egyptian Environmental Affairs Agency was established under the Cabinet of Ministers by Presidential Decree 631 for 1982. Until 1990, the Agency was a rudimentary body having weak authority and relying on a limited human resource base to perform its functions. The initiatives undertaken by the Agency at the time could be described as being of an ad hoc nature, restricted effectiveness and efficiency.

With the onset of the 1990s, the Government of Egypt embarked on two major initiatives on the way to establish a planning and regulatory framework for environmental management in Egypt. These are:

- the National Environmental Action Plan (NEAP); and
- the Environmental Law (Law 4/1994) and its Executive Regulations.

Following is an overview of the preparatory processes and both outputs.

1.1 The National Environmental Action Plan (NEAP)

In 1991, the Government of Egypt "requested" the World Bank for its assistance in the preparation of a National Environmental Action Plan. Basically The World Bank assisted in:

- managing the preparation process;
- management of the input of the international experts;
- refining the outputs of the national experts; and
- production of the final output, i.e., the National Environmental Action Plan.

On the national level, ten working groups were formed comprising experts, researchers and decision makers. Members of the groups were drawn from line ministries, research centers, and universities. The working groups prepared background reports addressing the following environment-related issues:

- air pollution;
- land resource degradation;
- water resource quality and management;
- marine and coastal zones;
- solid waste;
- natural heritage;
- cultural heritage;
- institutions;
- education and awareness; and
- population

World Bank led missions made up of international experts from its member states scrutinized, discussed, refined the outputs and finally produced an action plan document.

The plan focused mainly on policy and institutional actions. In addition, the plan briefly outlined a two-phase investment program, each lasting five years. Table 1 gives the main components of the Action Plan together with the estimated investments for each of the two phases.

Table 1.

COMPONENTS	PHASE I (L.E. MILLION)	PHASE II (L.E. MILLION)
Natural Resource Management (land and water)	385	990
Air Quality Improvement (industrial & urban)	435	695
Solid Waste Management (including hazardous waste)	290	905
Protection of Egypt's Heritage (natural/cultural, marine/coastal zones)	385	420
Development of Environmental Institutions	75	110
Total	1550	3320

note: US\$ = 3.391 L.E.

1.2 The legal framework -- "the environmental law"

The early 1980s witnessed the "birth" of a number of important "environmental" laws and decrees. The most important of these are:

- Law 48 of 1982 for the protection of the River Nile and its waterways.
- Presidential Decree 631 of 1982 establishing the Egyptian Environmental Affairs Agency.
- Law 102 of 1983 concerning natural protectorates.
- Law 101 of 1985 levying a charge on air tickets earmarked for tourist development and environmental protection.

It is worth mentioning that the degrees of enforcement of these laws and compliance with their standards have been very weak. Law 48/1982, for example, addresses the protection of Egypt's most vital natural water resource - the Nile River - from municipal and industrial sources of pollution and yet untreated industrial and municipal wastewater continues to be discharged into the Nile and its waterways. Failure to comply with the law could be partially attributed to the absence of realistic phasing of discharge reductions to meet its standards.

The Governorate, which is a regional administrative area, is responsible for much of the enforcement of statutes in Egypt. While it has been difficult to enforce Law 48 on many larger industrial facilities because of a number of factors including older technologies, depressed economics, and government ownership of large sectors of industry, there has been more activity on the smaller sources of pollution where the solution is less capital intensive but the environmental problems are very pervasive. For example, last year in the Ismailia Governorate, approximately 200 decrees were issued to small discharges to the waterway under the Law 48 authority. As a result of this effort 190 discharges were converted to septic tanks.

In 1990 an integrated environmental bill was presented to the Parliament. It was ratified in January 1994, becoming Law 4 of 1994, the "Law for the Protection of the Environment." In preparing the law an attempt was made to complement and fill gaps in previous legislation related to the environment. The Highlights i.e. particularities of the new law-as compared to previous legislation-are briefly summarized in the following points:

- a. Restructures and strengthens the Agency. The law clearly designates the Egyptian Environmental Affairs Agency as the highest national environmental authority in charge of (in most cases in coordination with other competent authorities) the following:
 - preparing draft legislation and decrees relevant to fulfilling the objectives of the Agency and evaluating proposed legislation that is related to environmental protection;
 - preparing national reports related to the state of the environment and formulation of the national environmental plan;
 - preparing and implementing the National Environmental Information and Monitoring Program;
 - preparing environmental education, training and awareness programs and following up on their implementation;
 - managing of natural protectorates;
 - setting principles and measures for environmental impact assessment of projects;
 - following-up on compliance and undertaking legal procedures against violators;

- preparing, coordinating and implementing a contingency plan for environmental disasters;
 - preparing and implementing a hazardous material and waste management plan; and
 - participating in the preparation of a national integrated coastal zone management plan.
- b. Introduces Environmental Impact Assessment (EIA) as a legal requirement;
- c. Allows operating economic tools and creates an environmental fund to be managed by the Agency; and
- d. Grants a grace period for compliance.

2 ANALYSIS AND ASSESSMENT

In an attempt to assess The National Environmental Action Plan and the Law as outputs and analyze the processes of their preparation, the following general and basic conclusions can be drawn:

2.1 The plan

- a. A major constraint manifested since the outset of the process has been the difference in perception and vision as to the output itself, i.e., the Plan, between the two key players: the government, represented in the environmental authority, and the World Bank, the leading counterpart. On the national side, the Plan was expected to be project oriented and saleable to the donor community to provide the technical and financial support required for its implementation. Or so was the promise. On the other hand, the World Bank was more focused on proposing policy and institutional actions. An investment program was very briefly outlined based on vague project ideas. Accordingly, the output produced cannot be accurately described as being an action plan. Rather, it is an environmental policy report with a number of annexed project ideas. Nevertheless, it could well serve as a basis for preparing an action plan.
- b. Despite the active participation of researchers and decision makers drawn from the different competent authorities in the National Environmental Action Plan preparation process, the draft plan was not adequately discussed among the various stakeholder groups. Accordingly, there was no actual consensus on the document in general and its proposed policy actions in particular. Consequently, the plan was viewed as one proposing action to be undertaken by the Environmental Agency and not by the government at large, whereas it proposes integrated policy action that the Environmental Agency-individually-can do little about.
- c. The Plan lacked an in-depth assessment of financial resources that are available and/or those that could be mobilized from national and other sources. This resulted in a serious discrepancy between resources needed and those actually available for operationalization of the Plan.
- d. Despite its focus on policy and institutional actions, the Plan fell short of indicating the optimal mix of policy tools required to effectively implement these actions.

2.2 The Law: “Law 4/1994 For The Protection Of The Environment”

As mentioned previously, several environmental laws that have been ratified over the past 2 decades have not been enforced such as Law 48/1982 for the protection of the river Nile. Yet in drafting the environmental law, Law 4/1982, due consideration was not given to the same factors that rendered other laws unimplementable, i.e. affordability, practicality, realism, and flexibility. More specifically, the lack of consideration of the following factors may restrict and hamper the enforcement of Law 4/1994:

- high costs of environmental monitoring and testing;
- lack of skilled and trained human resources;
- unclear roles, responsibilities and legal requirements;
- inadequate flexibility (for instance permitting); and
- devising legal tools for promoting changes in environmental perception and behavior when other tools would have been much more cost effective and efficient.

Failure to address these shortcomings may be largely attributed to the following reasons:

- Insufficient experience on the part of the legislators with respect to the high cost and technical implications of the law that would influence the degree of compliance and level of enforcement.
- Indirect pressure from members of the international donor community whose commitment for support and assistance to the environmental sector was tied to the ratification of the law without being “diluted.”
- Members of the Parliament who fully supported the Law with a predominant position that it is urgently needed to protect long neglected natural resources and threatened public health. Hence the issues of cost, practicality and affordability were masked and not raised.
- Inadequate participation of and discussions with other concerned authorities.

Nevertheless the grace period granted for compliance and the use of economic instruments as per the law are two of its innovative positive features that could allow for an implementable compliance and enforcement program.

2.3 The plan — law interaction

Although the preparation of the National Environmental Action Plan and the Law was initiated more or less, simultaneously, each was developed and prepared independently and in isolation. A dialogue and interaction between the two exercises would have facilitated the desired transition toward rational environmental management. Simply stated: it would have made the Plan more realistic and the Law more enforceable and both harmoniously functioning within the same context.

2.4 Compliance and enforcement

As previously stated, the Egyptian experience in compliance and enforcement has been limited and could be described as being non-supportive to the regulating system. Enforcement, occasionally practiced in the past, has been mainly of the legal type. Furthermore, court orders against violating of environmental standards were never carried out.

Hence, the Agency has adopted an innovative approach that is based on creating a demand for compliance and enforcement. First, it allows a grace period of 3 years for establishments to comply with standards of the new law. The grace period is currently used by the Egyptian Environmental Affairs Agency to provide technical and financial support to pollution abatement efforts. An example of such support is the National Industrial Pollution Prevention Program (NIPPP) that has been launched by the Agency in 1994. This program serves as an umbrella for a multitude of projects that are generally characterized by their focus on a low-cost/no-cost interventions for pollution abatement. Indeed, the program, among others, may be considered a positive step in the future of environmental management in Egypt as it demonstrates the transition by a government agency from relying solely on rigid command and control measures to employing a wider range of economic instruments for enhancing enforcement and compliance. The potential success of such instruments has been based on estimates that 50% of industrial pollution in Egypt could be treated at a negative incremental cost.

Secondly, for more aggressive forms of pollution, the Agency is extending its support through establishing credit facilities, of which a major component is the provision of capacity building and technical assistance. All of these are geared toward creating an environment that is conducive to a positive change.

3 CONCLUSION

The Egyptian experience as described in this paper shed the light on a number of constraints that could be encountered with respect to environmental planning and law formulation. These constraints could be summarized in the following points:

- varying perception and vision of national vs.. international experts that reflected on the design, structure, efficacy and effectiveness of the output (the Plan);
- inadequate national environmental experience on part of legislators, planners and decision makers likewise;
- external pressure on members of the donor community who linked their commitment to providing financial and technical assistance to the environmental sector with the ratification of the law;
- the absence of rational financial resource planning for environmental interventions; and
- deficiency of a mix of policy tools that is vital to enforcement of the law and compliance with its standards.

For Egypt, the next steps should necessarily aim at formulating environmental strategies that would encompass a mix of policy tools. More importantly these strategies should be the output of a negotiating process ending in actual consensus of line ministries and other concerned authorities.

