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Legislation is not enough: What it takes to create an Environmental Urban Management Initiative in Egypt

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Legislation is not enough: What it takes to create an Environmental Urban Management Initiative in Egypt

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Abstract

Since Egypt is one of Africa's most populous nations, its struggle to boost its economic performance while achieving sustainable development is now guided by a pioneering legislation which provides an interesting case that merits investigation in international fora. This paper, therefore, aims to shed light on Egypt's Law 4 of 1994, while making the case for an Environmental Urban Management Initiative (EUMI) that should capitalize on the merits of an enabling legislation. The framework of analysis posits the hypothesis that environmental legislation can only be effective in urban areas if it were mindful of the 4 "I's," namely, institutions, investment, incentives, and information. In consequence, and based on a literature review, a field survey and interviews with key personnel, an analytical critique identifying some of the most salient caveats of the law in light of the 4 "I's" will follow. The ensuing synthesis of the findings will be crowned by a list of recommendations to guide the possible establishment of an EUMI in the future and set the stage for further topical inquires.

Introduction

The World Resources Institute's report for 1996-1997 focused on urban environments. The following quotation from the report best describes the problems encountered in many countries, including Egypt, where an Environmental Urban Management Initiative (EUMI) is direly needed to redress worsening urban conditions:

> Burgeoning cities are expanding into fragile ecosystems … Cities sometimes deplete nearby areas of water and firewood, rendering them less capable of supporting rural populations and thus adding to the pressures for urban migration. Air pollution already exceeds health standards in many mega-cities in developing countries. Sewage and industrial effluents are released into waterways with minimal or no treatment, threatening human health and aquatic life. Some urban environmental problems such as access to safe drinking water improve with economic growth, while others tend to worsen. Thus in the absence of policy reform, stronger institutions, and enlightened political leadership, economic and population growth in developing countries in the near term may lead to a deterioration of the urban environment, both physical and social (quoted in Srinivas, 1999, 31-32).

Focus on Egypt's Problematique

Egypt is beset with a multitude of environmental problems that are inextricably linked to the poverty-development nexus. Egypt's "brown agenda," as the classic set of environmental problems have recently come to be known in international fora, is overarching. It ranges from air pollution (especially in major cities where industry and large rolling stock are located),[1] pollution of the marine environments fronting Alexandria, Suez and the Red Sea coast, to water and soil pollution (due to improper solid waste management and hazardous drainage). As the Nile reaches its carrying capacity, the scarcity of life-sustaining clean water, in particular looms large as a very significant environmental challenge.

Hypothesis

This paper is premised on the hypothesis that the health of urban environments cannot be attained by the enactment of legislation alone. Indeed, what is required is an

Environmental Urban Management Initiative (EUMI) that is developed within a framework that aims to develop institutions, design policies and programs, establish monitoring and evaluation, enhance investment in environmentally friendly technologies and finally, raise public awareness of environmental issues.

Method of Inquiry

This research is based on content analysis, field notes taken in a survey of selected Cairo neighborhoods, as well as personal interviews conducted with key personnel in the environmental field in Egypt. By and large, however, names of interviewees have been held where their critical views are deemed sensitive.

Review of Egypt's Environmental Law

In view of the above-mentioned challenges, it is easy to surmise that the need for a comprehensive environmental legislation that would address the state of the environment in Egypt did not emerge in vacuum. Egypt's environmental law 4, however, was slow in coming since it was only enacted in 1994. Contrary to the expectations of many, the law did not unify the 35 laws and 14 ministerial decrees that precede its enactment. In its final form, though, the law combines four separate bills pertaining to environmental management, land, air and marine pollution.

The law is divided into five sections. The **first** section of the law includes 4 chapters. Chapter 1 offers general provisions; chapter 2, comprising 11 articles, defines the structure and role of the Egyptian Environmental Affairs Agency (EEAA); chapter 3, containing 2 articles, is dedicated to the Environment Protection Fund, or EPF; while chapter 4, including 2 articles, vaguely mentions incentives (EEAA, 1995).

According to chapter 2, EEAA is declared an independent body and is assigned a budget of its own from the national government. EEAA is responsible for, *inter alia*, devising environmental protection policies and plans, coordination with relevant authorities, follow-up on implementation, preparation of draft legislation, establishment of norms and standards, data compilation and dissemination, education and training. EEAA is also entitled to preside over the preparation of an Environmental Contingency Plan (ECP), as well as an annual environmental report to be submitted to the President of the Republic an the Cabinet. Furthermore, the law grants EEAA the power of court policing over violators –except for marine polluters- with the tacit support of the Minister of Justice (El-Gamaal, 1994). This power is very important since it entails imposing fines, issuing building permits and suspending factory operations.[2] Law 4 also promotes decentralization by allowing the Minister of the Environment to issue decrees to establish EEAA branches at the regional level. EEAA and its regional branches are authorized to review Environmental Impact Assessments (EIAs)[3] of new developments and determine whether it meets EEAA standards and procedures within 60 days. EEAA will partly finance EIAs of large-scale projects, pollution abatement and conferences (pertaining to environmental issues) by tapping into the EPF.[4]

The **second** section of law 4 pertains to the protection of the land and air environments from pollution. The first chapter on "Development and the Environment" comes in 10 articles regulating the preparation and review of EIAs for land-based establishments, the conception of the ECP, the establishment of plant nurseries in urban residential districts and the protection of wildlife. The second chapter on "Hazardous Materials and Waste" contains 5 articles, which mostly

prohibit handling of dangerous waste except by permission and within strict guidelines.

The **third** section of law 4 is entitled "Protection of the Air Environment from Pollution." Its 14 articles streamline the 130 plus articles, which were initially included in the ministerial decree 470/1971.

The **fourth** section of law 4 covers marine pollution. Chapter 1 legislates for pollution resulting from oil spilling from ships, sewage and hazardous dumping of toxic waste according to the international conventions to which Egypt is a party. The 7 articles of chapter 2 protect against pollution of the seas from land-based sources. Establishments found guilty of discharging untreated wastewater will be granted 1 month to reform their ways otherwise the discharge will be terminated through administrative procedures, the license issued to the establishment revoked, and penalties imposed. Chapter 3 is dedicated to the issuance of international pollution prevention certificates, while chapter 4 regulates administrative and judicial procedures.

The **final** section of law 4 includes 16 articles concerning penalties. Penalties range from as little as $40 for engine emissions that exceed the limits set by the executive regulations of the law to as much as $100,000 for oil spills from ships (Ibid.).

Analytical Critique

Almost 9 years after the enactment of law 4, environmentalists have, by and large, welcomed the fact that it filled gaps in past legislation. From an institutional perspective, the role of EEAA has been strengthened and redefined to exploit its full potential. For instance, EEAA has been empowered to act as a facilitator/coordinator between inter-sectoral government agencies in matters relating to the environment.

Law 4 created a legal framework that would help Egypt both live up to its commitments to the many international conventions and protocols it has signed, as well create a national address for international donor agencies to call on (Environment Business Egypt, 1994a). The stipulation regarding establishing branches of EEAA at the regional level by ministerial decree has also benefited decentralization. The authority to set standards for EIAs, which has been entrusted to EEAA and its affiliates, speaks of an effort to guarantee transparency and do away with the often-irrational reasoning which different ministries offered for their pet projects. By granting police powers to EEAA, furthermore, legislation appears to have reduced the confusion surrounding the issue of penalty imposition/collection. The consolidation and strengthening of air pollution acts (regulating car exhaust, noise, ...etc.) is another positive development. And so is the regulation for toxic waste transactions.

The enabling legislation has led to reasonable progress on the ground. Progress includes the mobilization of some $100 million by 34 industrial compounds to stop the discharge of 100 million cubic meters/year of polluted industrial water into the Nile, a 100% phase out of lead from gasoline used in urban areas and the promotion of Compressed Natural Gas as an alternative fuel, as well as the relocation of lead smelters away from residential areas in Cairo (EEAA, 1998). Vehicle emission testing was also introduced for the first time in major urban areas of Egypt and dust emissions from 9 cement factories were targeted for significant reduction. All 2700 industrial facilities in the country have been, or will be, inspected for compliance with the standards specified in the legislation. The enabling legislation has also invited a lot of donor involvement and funding from USAID[5], Canada,[6] Denmark,[7] Finland[8] Japan,[9] to name but a few (Ibid.).

Conversely, however, many analysts criticize law 4 for its lack of comprehensiveness. With regards to the role of institutions as prescribed by the law, there are those who argue that the EEAA could benefit from a stronger association with the State Minister for Following Up on Cabinet Decisions (Fahmy, 2003). This comes as no surprise, since once a preliminary review of a particular project is conducted, EEAA suffers from its incapacity to follow-up on required modifications. Thus the implementation of projects is largely left unchecked for conformity with standards. This is disconcerting because, by and large, Egypt has a dismal enforcement record. Lax enforcement is largely due to overlaps, and sometimes even, conflict in the domains of relevant authorities (El-Kholy, 1995). The inadequate pool of trained environmental personnel, who are well equipped to monitor pollution levels, further hampers enforcement.

The dissemination of information on environmental legislation and the gathering of data relevant to its enforcement, is also wanting (Fahmy, 1995).[10] To date, the Technical Cooperation Office of the Environment (TCOE)[11] conducted the most notable awareness campaign in 1994/5. The campaign was most targeted at the educated elite and decision-makers (TCOE, 1994). Critics of the campaign, however, took issue with the fact that it did not reach out to non-governmental organizations (NGOs) and the general public (Gomaa, 1997).[12] Though the TCOE established an Industrial Database Unit (IDU), its operations and outreach are routinely hampered by the paucity of reliable information, the unwillingness of industry to divulge sensitive data, and ironically, the IDU's guarded attitude in sharing its database (interviewees names held upon request).

Synthesis

Given the critique leveled at law 4, it is obvious that an enabling environment for its enforcement will have to be created through some sort of an initiative that would take the following into consideration:

1- *Institutions*

Strengthening the regional branches of EEAA –which would be naturally devoted to environmental wellbeing- may ultimately lead them to collide with governors who are keen on promoting economic development but little else. The ongoing debacle in Cairo, is a case in point. Cairo's governor is insisting on building an underground mall and garage beneath the central city's largest horse-racing course/open area located in a neighborhood that is already congested with traffic. Environmentalists and citizens of the central neighborhood targeted for the dubious development have staged a mass protest, only to be met with Rambo-tactics from the Governor who refuses to listen to the rationale of the opposition. In a flagrant move, moreover, the Governor fenced off the construction site without having a legal permit to do so! (El-Khishin, 2003) Which route, then, should conflicting parties follow as a way out of such crisis? Would it be arbitration, compromise, or confrontation? Further inquiries are also pressing in this regard. For instance, what would be the role of the general public should such a scenario emerge? Would environmental proponents necessarily lose out either because of the weak lobby they muster or the lower priority usually attached to the environment especially in situations where the emphasis is more on alleviating poverty and creating jobs?

2- *Incentives*:

Law 4 seeks to widen participation. However, this cannot be sectoralized. The people should be given more freedom to elect those who can represent them on the Boards of the regional branches of EEAA. The government cannot ask people to participate in reducing air pollutants, for instance, without motivating them to do so. Moreover, developers cannot be required to invest in environmentally friendly technologies without making them more affordable (by reducing excessive customs duties, for example). In sum, the vague nature of the acts concerning incentives needs to be significantly addressed since the enforcement of legislation cannot proceed without appropriate incentive packages.

3- *Investment*:

Investment in an EUMI will certainly demand a lot of financing at a time when a bad economic situation in Egypt may not be conducive. Getting the public to contribute to the health of the urban environment is the way to go. The ambitious schemes pioneered by the Alexandria and Cairo governorates to collect urban solid waste by signing contracts with foreign specialized firms while passing on the bill to the citizens via a surcharge on the monthly electricity bill, is a case in point.

Developers, however, may have to resort to expensive consultants to prepare EIAs for their projects. The paucity of qualified consultants with enough expertise to undertake robust EIAs is a cause for concern. Bringing in consultants from abroad may be beyond the financial means of many entrepreneurs, so what would their options be? Also, what about the unrealistically strict nature of some of the environmental standards (such as those of industrial discharge spelled out in law 94? Would such standards necessarily impede investment? Finally, given that the investment map of Egypt is political and not eco-based, there exists a paradox .

4-*Information*:

The semi-realized awareness campaign of the TCOE was a step in the right direction. However, it was not followed by similar campaigns. Public awareness of environmental issues in urban areas is still low. Stronger political commitment and backing at the higher echelons of government is a prerequisite for relieving obstacles that may obstruct the paths of future campaigns. Committing funds to such campaigns (drawn from the EPF, for example) is a must, since donor money cannot be expected to last forever. The strengths and weaknesses of TCOE's campaigns demand scrutiny and analysis so as to introduce improvements in the future.

At the cross-national level, furthermore, there exists a significant caveat in knowledge transfer at the city-to-city level. Few in Egypt, for instance, are aware of the successful environmental urban management experience of Curitiba in Brazil.

Concluding remarks and recommendations:

Progressive societal change is too often hampered by the conflict between NIMBY (not in my backyard) vs. "we want…" best determined again by democratic processes where deliberation, participation and responsibility combine to create a society that is molded by the people in it. Competition, transparency and accountability are important factors furthered by the World Bank for the sustainable management of cities (Serageldin et al. 1995). MacNeill's following assertion is also enlightening:

> Institutions, laws and policies alone will not produce a sustainable society. In the final analysis, a transition to sustainable forms of development must rest on new societal values and a deep understanding and broad consensus among the various interest groups affected by the policy and institutional changes required.
> Traditional forms of dialogue by elected representatives with their constituents, by industry with government or its potential customers, by NGOs with the public, and by government agencies with their client groups are not adequate to the task. It requires a more deliberate and horizontal effort, bringing leaders from all sectors together around a common mandate over a long period (MacNeill, 1992, p.11).

In tandem with consolidating political and social commitment to bettering the urban environment, I propose that authorities should be more mindful of the 4 "I's" alluded to earlier. Following is a generic list of recommendations that may be helpful in this regard.

A- *Institutional Recommendations*:

1- Quality capacity building should be given a higher priority so as to ensure the proper enforcement of legislation.

2- The integrated approach to urban environmental management requires that there exist adequate coordination and mediation between different authorities. Coupled with that, an effort has to be expended to establish environmental governance.

3- More government and donor support for green NGOs is needed so as to ensure increasing their effectiveness at the grassroots level in urban areas.

4- Municipalities should recruit high caliber planners and environmental experts so as to build their capacities and become privy to innovative initiatives.

B- *Incentive Recommendations*:

1- Relevant authorities should regard the institution of succinct incentive policies, tax breaks, and the removal of excessive duties on environmentally friendly technologies as a sine qua non for the success of environmental legislation. That said, a greater effort should be made to develop an elaborate system of incentives.

2- As an extra incentive, investors should be encouraged to determine the cost-effectiveness of environmental protection. By so doing, high upfront investment

costs in environmentally friendly technologies will be easily justified and the commitment of the business community will be enlisted.

3- A national prize should be established and awarded to cities that make strides in urban environmental management.

C- Investment Recommendations:

1- An effort should be expended to streamline strict standards that may discourage compliance. As the environmental doctrine takes hold, however, an incremental 'tightening of the screws' should be adopted.

2- Egypt should embark on promulgating the concept of eco-friendly cities where more investment should be directed toward air pollution abatement, better solid waste management, and the establishment of large open areas and parks in residential neighborhoods throughout the nation.

3- Egypt should promote investment in eco-friendly appropriate technologies.

4- More investment should also be targeted at local universities and research centers, which are capable of developing such technologies.

D- *Information Recommendations*

1- Awareness of, and respect for, environmental laws and their executive bylaws can be boosted if EEAA would create an effective environmental database and make it available to the general public at affordable prices (possibly on the Internet).

2- Targeted media campaigns at the regional level, increased doses of environmental topics in school curricula, and the mobilization of the potential of "green" NGOs, should all be contemplated to build a powerful "green" lobby in the future.

4- The concept of sustainable development and "green" consumerism should be engrained in the national psyche through wider public participation.

ENDNOTES[13]

[1] According to Egypt's daily al-Ahram (April 30th, 1995), air pollutants in Cairo are far higher than international standards: solid particulates are 10 times higher than what is permissible internationally, sulfur oxides are in excess of international norms 4 times over, while lead residue is 3 times as much. Such alarming statistics have already set in motion an exodus of some members of the upper middle and upper classes of society from residences in central areas of Cairo to gated compounds in the suburbs.

[2] According to the executive regulations of Law 4 (EEAA, 1994), EEAA's Board of Directors is established by Prime Ministerial Decree, while its chairman is the incumbent Minister of for Environmental affairs. Members of the Board include the Executive Head of the EEAA, in addition to at least one representative of the following six Ministries: Agriculture and Fisheries, Public Works and Water Resources, Transportation and Communications, Industry, Interior and Health. The Board should also includes Head of the Legal Counsel Department of the State Council, two environmental experts, three representatives of non-governmental organizations, three representatives of the public sector, and finally, two representatives from universities and scientific research centers. The Minister of Environmental affairs, it is worth noting, selects all other representatives -with the exception of Ministry representatives- following nominations made by EEAA's Executive Head.

[3] Based on the type of technology used, EEAA has prepared a gray as well as a white list of projects to distinguish between those that require EIAs and those that don't.

[4] As outlined in Chapter 3 of Section 1, the EPF will draw on the pool of grants from state, local and international donors, monies paid as penalties for environmental offenses, disbursements from the Protectorate Fund as specified in Law 102/1983, and taxes on airline tickets. EEAA is responsible for disbursements from the EPF without the prior consent of the Minister of Finance; however, the Central Auditing Agency will audit expenditure.

[5] Cairo Air Improvement Project.

[6] Environmental Initiative Support for NGOs and community groups as well as an Information System Project.

[7] Environmental Education and Training as well as Environmental Information.

[8] Industrial Pollution Abatement Project.

[9] Environmental Monitoring Training Project

[10] The haphazard urban development, which is taking place throughout Egypt, tells of a general lack of awareness among those responsible for it with regards to the costs and hazards that have ensued due to bad planning.

[11] TCOE was created as a United Nations Development Program (UNDP) project to provide technical assistance to EEAA. When UNDP funding ran out in the summer of 1995, a consortium of international donors –including USAID, Danida of Denmark and Italian Aid- stepped in to fill the financing gap. Bolstered by fresh funding, TCOE got involved in identifying and preparing studies for technical cooperation projects, as well as the convention of conferences. In 1999, however, the TCOE ceased to exist and was replaced by a Planning & Follow-Up, International Affairs and Technical Cooperation Department (PITCD).

[12] The $2 million USAID funded campaign comprised 3 components. The first component included the convention of seminars and round-table discussions with decision-makers, central and local government officials and environmentalists. The second component resulted in the production of flyers and printed materials that were distributed during the seminars and beyond. The third, and most important component, namely the airing of messages on national TV was unfortunately cancelled due to lack of political commitment. USAID regulations do not allow payment for TV spots. TV officials, for their part, refused to air the messages for free. An 11th hour attempt to get national TV producers involved in the production of the spots –in return for free airing- failed. Reason: the media campaign consultant refused to relinquish his share in production as spelled out in the contract with USAID!

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