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# **CAIRO PAPERS IN SOCIAL SCIENCE**

**ENVIRONMENTAL THREATS IN EGYPT:  
PERCEPTIONS AND ACTIONS**

**Edited By**

**SALWA SHARAWI GOMAA**

**SPECIAL SUPPLEMENT:  
DIRECTORY OF EGYPTIAN ENVIRONMENTAL  
NON-GOVERNMENTAL ORGANIZATIONS**

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## CHAPTER FIVE

### THE POLITICS BEHIND EGYPT'S NEW ENVIRONMENTAL LAW\*

SALWA SHARAWI GOMAA

Effective environmental policies in Egypt cannot be put forward or implemented without the existence of a strong legal framework to lend credence to the decisions made by the state in this field. Recognizing this, the government of Egypt submitted a draft proposal for a new environmental law to the People's Assembly on October 15, 1989. After more than four years of bargaining and deliberations, the law was finally passed in January 1994. During those years the law has been discussed by more than 61 members of the parliament, 52 members from the ruling party (the National Democratic Party), 8 independent members and only one from the opposition. The law had also been redrafted 17 times.

Much of the controversy revolves around differences of opinion, between committee members at the People's Assembly, reflecting broader conflicts of interest between the different bureaucratic segments of the Egyptian government. Apart from the almost unprecedented delay by the People's Assembly in the passing of legislation, this issue has had political implications on environmental policy making in Egypt, on the status of the Egyptian Environmental Affairs Agency (EEAA) as a decision-making institution, and on foreign assistance programs in the field of environment.

This chapter analyzes the political conflicts behind the environmental law in Egypt. A brief look at the factors that gave rise to its initiation will be followed by an analysis of the parliamentary debate and the decision making process.

#### **The Initiation of the Law**

The initiation of the law resulted from the interplay of several factors:

- The Egyptian government felt that effective environmental policy could not be achieved without a legal framework, that regulates use of the natural environment, influences the way people behave and provides regulations by which certain activities are carried out or forbidden. Consequently, it realized the necessity of proper legislation to buttress its environmental policies and to complement the existence of the EEAA and

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\* This chapter is the product of a research on environmental policy making in Egypt sponsored by the International Development Research Center (IDRC).

the National Action Plan.<sup>1</sup> The law also helped the authorities gain credibility in the eyes of foreign donors.

- The government of Egypt also admitted that although the country had environmental regulations dating back to 1940, these did not cover all environmental aspects. There was therefore a need to fill that gap.

- More significantly, there was need to strengthen the power of the EEAA and to demarcate the lines of its authority vis-a-vis other ministries and institutions so as to allow it to fulfill its responsibility in terms of environmental protection.

- Also relevant to the initiation of the law was pressure from donor countries, which were pushing for a greater consideration of environmental issues and for a formal commitment by the Egyptian government in this respect. For instance, the Egyptian press stated that donor countries and organizations (Canada, Denmark, the UK, the EEC and the World Bank) made it clear to both the EEAA and the Ministry of International Cooperation that an environmental law would show the government's commitment and give credibility to its environmental policies.<sup>2</sup> The donor countries also indicated during their meetings with the government in May 1992 and January 1993 that "the ultimate success of environmental protection efforts in Egypt was largely dependent on the passage of the environmental law... Most of the donors coupled their approval of the law with a willingness to provide financial support to environment."<sup>3</sup>

### **The Politics of Passing the Environmental Law**

The controversy in the making of the law is a vivid example of the Bureaucratic Politics model of decision making. According to this model, decision is the outcome of conflict and bargaining between officials who have various objectives and conceptions of national, organizational and personal goals.<sup>4</sup> Although those officials, or actors in the model, share power, they have different opinions regarding what should be done. Consequently, the decision making process reflects "pulling and hauling" between them, and the decision itself is a result of the triumph of one group over the other or a compromise between the two.

Egypt's Environmental Law touches on the interests and power of several ministries in the government. This fact generated the conflictual

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<sup>1</sup> Speech by Dr. Atef Ebeid, Minister of State for Environmental Affairs, IDRC workshop on "Indigenous Knowledge and Desertification in Africa," Jan. 3-5, 1994.

<sup>2</sup> Al-Akhbar, 7/2/1993, p. 6.

<sup>3</sup> "The New Environmental Legislation in Egypt" report prepared by CIDA/Field Support Unit, Nov. 1993, p. 20.

<sup>4</sup> For the detailed hypothesis of the Model, see: Graham T. Allison, "Conceptual Model and the Cuban Missile Crisis" in Morton Halperin and Arnold Kanter (ed.), *Readings in American Foreign Policy: A Bureaucratic Perspective* (Boston: Little, Brown and Company) pp. 45-84.

pattern of interaction that took place within the parliament. The conflict centered around procedure, content, and style of the law.

In terms of procedure, there was a debate over which committee should be in charge of reviewing the law.

On the 15th of October 1989, the government submitted to the People's Assembly two draft Laws: One for the protection of the environment, and the other dealing with air pollution. The speaker of the assembly sent the drafts to a joint committee that included the committee on Health and Environment and the Committee on Legislation and Constitutional Affairs. On the 25th of February 1990, the speaker submitted to the joint committee another draft law focused on marine pollution. The joint committee met on 20 May, 1990, to discuss the drafts. However, it could not finish its review because of the end of the legislative session.

On June 24, 1992, The Chair of the Committee on Industry and Energy, Dr. Amin Mubarak demanded that his committee be included in the review of the draft law, especially after receiving many complaints from the ministry of Industry and the Ministry of Petroleum regarding some articles in the law.<sup>5</sup>

Although Dr. Hussein El Serafy, the chair of the Committee on Health and Environment, did not formally reject the idea of including the Committee on Industry and Energy in the joint committee, he made it clear that it was the main responsibility of the Committee on Health and Environment. If other committees were interested in the subject they could just send a representative. He also pointed out that his committee had been studying the law for two years. He indicated that he opposed any effort to repeat the whole process of reviewing the law from the beginning.<sup>6</sup>

On June 24, 1992, the People's Assembly approved the Committee on Industry's request. The chair of the Committee on Health and Environment subsequently sent a memo to the speaker of the assembly indicating that laws or draft laws related to environmental protection remain one of the main responsibilities of his committee according to Article 44 of the internal regulations of the assembly. He added that what the chair of the Committee on Industry asked was also applicable for other committees. He therefore asked that representatives of the parliamentary committees on Transportation, Agriculture and Irrigation, Defense and National Security, and Local Government be included in the joint committee that would review the law. In my view this was an attempt by the chairman of the committee to prevent the polarization of the issue between his committee and Committee on Industry. Including more representatives from other committees would not only broaden the discussions, but also defuse any confrontation with the strong Committee on Industry.

Finally the Assembly decided that the joint committee in charge of reviewing the law should include: The Committee on Health and

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<sup>5</sup> The People's Assembly's minutes No. 98, 24/6/1992, p. 9.

<sup>6</sup> Ibid.

Environment, and representatives for the following committees : Industry and Energy, Legislations and Constitutional Affairs, Agriculture and Irrigation and Local Government.

The conflict among parliamentary committees reflected to a certain degree their perceptions of the issue. While the Committee on Health made the link between health and environment, committees on Industry, Energy, and Agriculture saw the draft law in terms of their own interests.

In terms of style the Committee on Legislations and Constitutional Affairs requested that the three laws be combined into one draft law in order to avoid any multiplicity of laws. In May 1992 the government submitted an integrated draft of the environmental law which covered marine pollution, air pollution, and environmental management.

Regarding the content of the law, the debate in the Assembly centered around several key points. Egypt's problem lies in the lack of financial capability to implement laws. For instance, Abdul Hamid Ghazy, member of the Assembly, asked whether the ministers of finance and planning participated in the formulation of the law so that they could share the responsibility of providing sufficient financial resources.<sup>7</sup> Dr. Edward Ghali El Dahaby, another member of the Assembly, stated that it was not beneficial to issue legislation that could not be implemented.<sup>8</sup> In contrast to this argument, the speaker of the parliament, said that it would be illogical not to draft laws because of the lack of resources.<sup>9</sup>

The Assembly also debated the issue of enforcement. Members of parliament questioned the ability of the government to enforce laws. In fact M.P. Sabry Blal attacked the government's inability to enforce law 48, 1982 for the protection of the River Nile and questioned whether laws would be enforced on poor citizens only and not on powerful interest groups and government actors.<sup>10</sup>

To deal with the issue of enforcement, the draft law initially called for imprisonment as a punishment to deter pollution. Nevertheless, officials in both the ministry of Petroleum, and the Ministry of Agriculture rejected the idea strongly. For example, the Ministry of Agriculture attacked Article 34 of the draft law, which specified imprisonment for anyone who purposely caused harmful effects to man, plant, animals, or waterways whether directly or indirectly while spraying pesticides for agriculture or public health purposes. The ministry demanded that a fine should replace imprisonment as a punishment for such acts. The Ministry of Agriculture led a media campaign against the law claiming that the law would punish farmers.<sup>11</sup> As a result, this article was ratified and imprisonment as a punishment was lifted.

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<sup>7</sup> The People's Assembly's minutes, 22/4/1993, p. 34.

<sup>8</sup> The People's Assembly's minutes, 5/5/1993.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

<sup>11</sup> *Al-Ahram*, 20/2/1993, p. 19.

In addition to the problems of enforcement and implementation, a great part of the debate was centered around the role of the Egyptian Environmental Agency and the authority given to the Agency. For instance, the law in its original version intended to create a strong central environmental agency under the Prime Minister, giving it the title of "Central Environmental Agency" (CEA). It was hoped that the agency would be similar in power to Egypt's only three Centralized Agencies: The Central Agency for Public Mobilization and Statistics (CAPMAS), The Central Agency for Organization and Management, and the Central Agency for Accounting. During discussions in the Assembly, the notion of a Central Agency was rejected and the title changed to the Environmental Protection Agency (EPA), a title that does not give a strong image to the organization. It became clear that the Agency would not be under the Prime Minister but rather under the Minister of Administrative Development and Environmental Affairs. This reduction in the power of the Agency was not enough, some members of the Assembly questioned the new title and argued that the word "protection" implied that the Agency would have executive power. In the end, the organization's old title was returned: Environmental Affairs Agency.

Although the debate over the title of the Agency might appear to be superficial, in reality it reflected power politics in the Assembly, and the fear on the part of some members, especially those representing the industry, oil, and tourism sectors, that the Agency would reduce their own authority and interfere in their own domains.

The heart of the debate was about whether the Agency should be empowered by executive or coordinating authority. On one hand, a strong central body with executive power can be very useful in terms of setting plans, implementing projects and having the power to enforce environmental regulations and review environmental impact assessment. On the other hand, it would create a huge bureaucracy that might compete, contradict, and overlap with other ministries' authority and interest. It would also necessitate the creation of an environmental cadre to be employed in the Agency, in addition to financial capability to implement projects.

However, a coordinating body would not be able to implement projects or enforce regulations. Its plans would be implemented by other ministries, consequently the establishment of huge bureaucracy with all its problems will be avoided.

A compromise was reached when the Agency was given the power both to coordinate all environmental activities and to execute some actions in that field.<sup>12</sup>

Regarding the coordinating function, the law allows the Agency to set a comprehensive framework, the purpose of which will be to regulate the behavior and actions of all authorities or persons involved in environment-related activities.

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<sup>12</sup> Personal interview with Mr. Salah Hafez, Chairman of EEAA, 15/2/1994.

This framework will permit the Agency to:

- Draw the general policy and prepare plans required for the preservation and the development of the environment;
- Prepare National Plans aimed at achieving such goals;
- Contribute to the formulation of legislation dealing with environmental problems;
- Participate in preparing plans to ensure safety against leakage of dangerously polluting materials and wastes;
- Cooperate with the Ministry of International Cooperation to ensure that projects funded by donors meet environmental safety regulations.

As for the executive and implementing role of the Agency the law states that:

- EEAA will have the status of a "Public Juridical Personality".
- The Agency will follow up the implementation of plans it initiates , in coordination with the concerned administrative authorities.
- It will have the power to implement pilot projects, prepare their budgets, draft charts for areas scheduled for development.
- It will work with the Ministry of Education to set training programs and various curricula in elementary education, as well as design citizens' environmental education programs and contribute to their establishment.
- It will prepare an annual report on the "State of the Environment in Egypt" to be submitted to the President of the Republic, the Cabinet, and the People's Assembly. One may argue that this report to the President will strengthen the power of EEAA vis a vis other ministries. Simply because such a report could expose any misconduct of the ministries in relation to the environment.

- The Agency will set procedural guidelines for Environment Impact Assessments.

- It is also to set standards to ensure that permissible limits of pollution are not exceeded and to monitor compliance with these standards.

The last two functions represented a significant part of the debate in the People's Assembly. The core questions in this regard were: do we really need Environmental Impact Assessment? and if we need it who should supervise and review the EIA statements?

The question of whether Environmental Impact Assessment should be included as part of the law touched on a deeper conflict, that between environmental protection and economic development.

According to developmentalists, the allocation of part of the budget to projects related to environment, the setting of environmental standards and the insistence on environmental impact statements would hinder industry, add cost to production and drive investors away. The trade off between environmental protection, economic growth and the cost of pollution control were salient features in the Assembly discussions. Not only did parliamentarians question the necessity of requiring Environmental Impact Assessment, they also rejected any role for EEAA in this regard. Their argument was that EEAA should not set standards, grant permits and review



and approve EIA statements. This would concentrate all the power in EEAA's hand and allow the Agency to interfere in their own work.

According to Dr. Amin El Gamal, a breakthrough was achieved when Minister Atef Ebeid suggested that the administrative agencies in charge of granting operating permits would review the EIA statement submitted by the establishment owner and then send it to EEAA for approval.<sup>13</sup>

During the parliamentary debate, the environmentalists tried to mobilize their efforts to influence the outcome. For instance ENGOs lobbied for the law by issuing a declaration signed by 12 NGOs that emphasized the importance of passing the law as a legal tool for the implementation of previous international treaties that Egypt has signed concerning the protection of the environment.<sup>14</sup> They also argued that any delay in issuance of the law would damage the credibility of the Egyptian government's commitment to protect the environment. The ENGOs concluded their declaration by calling on President Mubarak to pledge his full support to the environmental law. They also called for the People's Assembly and the government to speed up the process of issuing the law so it could be implemented.<sup>15</sup>

Furthermore, officials concerned with the environment made use of their contacts with donor countries to urge them to use their influence to overcome the obstacles that delayed the passing of the law. An attempt that was welcomed by foreign donors, who wanted a formal commitment from the Egyptian Government before they began investing in environmental projects.

## Conclusion

In assessing the impact of the law one must conclude that the law set the legal framework needed for the implementation of environmental policy. It also showed the existence of a political will that is determined to address environmental problems in Egypt. The law reflects the extent to which the government is leaning towards confrontation or collaboration as ways to approach polluters. The choice of collaboration was quite apparent, where

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<sup>13</sup> Rania Fahmy, "Do We Need a New Environmental Law?" *Environment Business Egypt*, Nov. 1, 1993, p. 3.

<sup>14</sup> 1) Society for Urban Development in Islamic Cairo; 2) Society for Development and Services at Zamalek; 3) Friends of the Environment and Development association; 4) The Integrated Rural Technology Center for Training and Production; 5) The Productive Cooperative of Basaisa; 6) Tree Lovers Association; 7) Society for Protection of the Environment and Resources; 8) National Association for protection of the Environment; 9) Egyptian Botanical Society; 10) Scientific Association for Arab Women; 11) Friends of the Environment Association (Alexandria); 12) Arab Office for Youth and Environment.

<sup>15</sup> Hatem Sidqi, "Environmental NGOs Call for a Unified Law," *Al-Ahram*, 7/2/1993, p. 15.

the government of Egypt elected to sponsor the environmental law. The law motivates polluters to adopt a sounder environmental behavior by setting standards, making environmental impact assessments, allowing for an adjustment period for industrial establishments, forcing them to comply with regulations and by offering economic incentives for the first time in Egyptian Law. Penalties are called for in the law as a last resort against polluters who do not abide by the rules.

Moreover, the existence of the law may enhance foreign assistance programs in the area of environment. While the debate and deliberation of the law within the People's Assembly have weakened the status of EEAA and limited its power, in the final analysis the law stipulates the responsibilities of EEAA in Environmental Management and creates a special fund to support environmental activities.

In retrospect, the decision making process reflects lack of prior coordination between governmental agencies and ministries. Unlike the discussion of "the unified tax law", in which the government appeared as a unified or monolithic actor and the Prime Minister himself led the campaign in the Assembly for the law. The deliberation over the Environmental Law revealed ministerial competition and conflicting vested interests.

One might also argue that the nature of the issue at stake affected the decision making mechanism. In the Unified Tax Law the issue at stake was the government's financial needs and desire to increase its revenue, a matter which directly affected the stability of the regime. Consequently the full resources of the government were mobilized to confront opposition to the law, as a result of which the law was promptly passed. In the case of the Environmental Law, the issue at stake, environmental regulations and management, was not perceived as a critical issue by all cabinet members. In another way, environmental degradation was perceived as an important problem as long as efforts to deal with it did not decrease the authority and power of any ministry.

The decision making environment contributed to the outcome of the decision. Unlike the case in other countries, where public policy issues form a field of contention between the executive and the legislative authorities,<sup>16</sup> the debate within the People's Assembly reflected one of the main characteristics of the Egyptian political system: the hegemony of the executive authority over the legislature. In fact the debate was mainly among the members of the ruling party and only 8 members of the opposition took part in the discussion. Once an inter-government agreement was reached, the law was quickly passed. Moreover, the political setting of Egypt, a country marching towards democratization, reflects itself in the attempt to include new actors in the decision-making process. For the first time environmental NGOs were consulted in the formation of the law and

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<sup>16</sup> See, for example, Robert S. Gilmour and Alexis A. Halley (ed.), *Who Makes Public Policy: The Struggle for Control Between Congress and the Executive* (new Jersey: Chatham House Publishers, Inc., 1994).

they were called to public hearings sessions in order to testify for the necessity of the law. They also played an important role in lobbying for the law. Their lobbying tactics were also revealing of the nature of the political system. Instead of influencing members of the People's Assembly, they took their case directly to the most influential actor in the system i.e. the President of the Republic. Moreover, they attempted to influence foreign donors, whose role in environmental policy was perceived as crucial by both ENGOs and Egyptian officials. Interestingly enough, both attempted to push the donors to influence the legislation process and hasten the passage of the law.