



13-H Environmental Legislations

The twentieth century has witnessed an increasing concern and effort to preserve the environment and raise environmental awareness of the necessity of protecting and preserving the environmental resources. International conferences were held, regional and international treaties and agreements on preserving the environment and nature were signed; and also local legislations were issued in many countries to reveal this concern.

The Egyptian legislator has issued several legislations reflecting the concern of preserving the environment and its resources. This is clearly shown in the Egyptian penal code issued by law no. 58 of 1937 which stipulates a penalty for throwing anything in the way of passers-by that may hurt or harm them. It also imposes penalties for carelessness in cleaning or fixing chimneys, furnaces or labs where fire is used; for throwing stones, solid substances or

wastes on cars, houses, buildings, gardens, pounds or properties owned by others; for throwing in the Nile, canals, drainages or other watercourses any tools that may hinder navigation or fill such watercourses. This law also penalizes cutting off growing plants in shops used for public benefit, removing dust, stones or other substances from them without permission; producing noise at night in a way that annoys neighbors; and casting complex substances like animal wastes on building roofs and walls which may harm public health.

The Egyptian legislator then issued many environmental legislations including:

- Law no. 45 of 1949 on controlling noise and loudspeakers
- Law no. 66 of 1953 on the use of fuel, coal and petrol materials
- Law no. 86 of 1956 on mines and stone quarries

- Law no. 21 of 1958 on industry
- Law no. 59 of 1960 on ionized activities
- Law no.93 of 1982 on sanitary drainage and liquid wastes
- Law no. 79 of 1961 on marine disasters and wreckage
- Law no .53 of 1966 on agriculture.
- Law no .38 of 1967 on public cleanliness.
- Law no.1 of 1973 on industrial establishments and noise prevention
- Law no. 66 of 1973 on Traffic
- Law no.106 of 1976 on Housing
- Law no.52 of 1981 on pollution preventing
- Law no.3 of 1982 on urban planning
- Law no.48 of 1982 on River Nile protection
- Law no.102 of 1983 on natural reserves
- Law no. 116/1983 on prohibiting the destruction of agricultural lands and preserving their fertility
- Law no.12 of 1984 on irrigation and drainage

In 1994, the legislator issued the first law for preserving the environment (law no. 4 of 1944) considered an important environmental event and a civilized leap, which made Egypt assume a high status among civilized countries that give special concern to preserving the environment and combating its pollution. This law is considered the first Egyptian legislation aiming at environmental preservation setting an integrated legal framework for such preservation.

Key Features in Law 4/1994 on Environmental Protection

- Recognizing the recent concern with the environment, and due to keenness on the clarity legal provisions guaranteeing its protection, and on the defining of

terms included in its provisions, the legislator included definition for 37 terms and phrases on applying the law provisions, in the first article of the Preamble. The legislator also illustrated the administrative authorities responsible for protecting the aquatic environment in item 38 of this article.

- The law prepared a complete regulation for environmental management .It established the Egyptian Environmental Affairs Agency (EEAA) for preserving and improving the environment, and reports to the Minister of Environmental Affairs. The Law approved establishing sub-branches in the Governorates, in accordance with a decree by the Minister of Environmental Affairs, giving priority to industrial governorates.
- The Minister of Environmental Affairs already issued Decree No. 187/1995 establishing eight regional branches (RBOs) for the agency. These are Cairo, West Delta (located in Alexandria), Middle Delta (located in Tanta), East Delta (located in Mansoura), the Canal branch (in Suez city), the Red Sea branch (in Hurghada), Northern Upper Egypt branch (in Assiout) and the Southern Upper Egypt (in Aswan).
- In article Five, the law entrusted the EEAA with many terms of reference including setting the general policy and the plans necessary for environment preservation and development. EEAA is also responsible for following up the execution of these plans in coordination with the relevant administrative authorities. The law also allowed EEAA to execute some pilot projects, and granted it other terms of reference such as setting standards and conditions that should be followed by projects owners and establishments before construction

and during operation; field follow up of implementing the standards and conditions; taking action as stipulated by law against violators of such standards and conditions; setting bases and measures for projects' environmental impact assessment; devising a plan for environmental emergencies; administering and supervising natural protectorates and participating in setting and implementing the National Program for Environmental Monitoring and using its data.

- The law established the principle of public participation in environmental management, devising environmental policies and issuing resolutions on environmental affairs. It stipulated that EEAA board of directors is the supreme authority in its affairs and general policy. The Law, further, stipulated that this board shall be headed by the Minister of Environmental Affairs and formed of twenty members including three members representing NGOs, three representatives of the business sector; two experts in environmental affairs and two members from universities and scientific research centers. The law also granted each citizen or society concerned with environmental affairs the right to report about any violation of the provisions of the environment law and allowed them to resort to competent administrative and judicial bodies in order to enforce the provisions of the environmental law and its executive regulations; thereby allowing public participation in enforcing the environmental law and its executive regulations.
- The legislator was also keen on providing EEAA with the necessary financing to help it perform its duties. Consequently, the Environment Protection Fund was established, allocating its

sources for achieving EEAA objectives in order to provide funding sources necessary for overcoming environmental disasters and implementing pilot projects in the fields of protecting natural wealth, protecting environment from pollution, establishing and operating environmental monitoring networks, establishing and administrating natural protectorates, giving bonuses for special achievements and efforts made to protect the environment and supporting the EEAA's infrastructure and developing its activities.

- The legislator has adopted the carrot and stick principle; in addition to penalties stipulated in the law, an incentives system has also been introduced. EEAA, in collaboration with the Ministry of Finance, was assigned to establish an incentives system that may be granted by EEAA or other administrative bodies to authorities, establishments and individuals who undertake actions or launch projects for preserving the environment.
- In law no. 4 of 1994, the Egyptian legislator has formulated a system that necessitates environmental evaluation of developmental activities before performing them, which may minimize their negative impacts and increase their positive effects. Environmental Impact Assessment (EIA) is considered a necessary strategic tool ensuring environmental protection, where the impact of projects and developmental activities is assessed before licensing. The law has mandated EEAA with developing an integrated institutional system including principles and standards for conducting, reviewing and commenting on EIA studies to ensure observing sound work environment; maximum limits for gase-

ous emissions and effluents in addition to the elimination of new sources of pollution. The law has also subjected new expansions or upgrading in existing facilities to the provisions of the aforementioned environmental impact assessment. As for establishments that already existed before the promulgation of this law, they have to comply with its provisions within three years starting from the date of publishing its executive regulation.

- Law 4/1994 follows the principle of transparency, environmental commitment and enforcement. Owners of facilities have to keep a register of the impact of their activities on the environment and to incorporate self-monitoring system in their establishments; Owners also have to report to EEAA immediately by a registered mail with acknowledgement of receipt about any deviation from the standards and specifications of emitted or discharged pollutants and measures taken for correcting such deviations. The law has entrusted EEAA with follow-up of the said registry to ensure it contains realistic data, doing required sampling and carrying out appropriate tests on an annual basis. In case of any violation, EEAA shall inform the competent administrative authority to charge the establishment owner with correcting such violations within sixty days; otherwise, EEAA CEO shall take the following measures in coordination with the competent administrative authority:
 1. Closure of the establishment
 2. Stopping the violating activity
 3. Court order of suitable compensations to treat the damages
- The law includes a whole chapter on hazardous substances and wastes and

banning their exchange without license from the competent authority. It has also banned their importation, entry or passage through Egyptian territories. The law has also banned the passage of any ships carrying hazardous wastes in territorial waters or the Egyptian absolute economic Arab zone without a permit from the competent administrative authority. The penalty for violating this rule is not less than five-year imprisonment and a fine not less than twenty thousand pounds and not more than forty thousands; requiring the importer of such wastes to re-export them at his own expense.

- The law simplified marine environment preservation from land and sea pollution sources to include the territorial sea and the Egyptian economic area that extends to 200 marine km starting from the shore line.

Law number 102 of 1983 on natural reserves

Law no. 102 of 1983 stipulated in its article 1 that a natural protectorate - according to its provisions – shall mean any area of land, coastal or internal water unique for its living organisms; plants, animals, or fish, or other natural phenomena with cultural, scientific, tourism or aesthetic values. A natural protectorate is announced by virtue of a Prime Minister's decree upon the recommendation of EEAA.

The law prohibited all actions, behaviors and measures that destroy, damage or cause deterioration to natural environment, or harm the wild and marine lives or plants or even affect their aesthetic level within the protected area.

The law has particularly banned

- Hunting, moving, killing or disturbing wild or marine organisms or doing any action that may harm them.
- Hunting, taking or moving any organic substances or organisms like seashells, coral reefs, rocks or soil for any reason.
- Spoiling or moving any existing plants in a protected area.
- Spoiling or destroying geological or geographical formations or the areas considered habitats for flora and fauna species or for their reproduction.
- Introducing foreign species to a protected area.
- Polluting protectorate soil, air or water by any means.

The law has banned establishing any buildings or establishments, or digging routes, or driving vehicles or practicing any agricultural, industrial or commercial activities in a protected area without permission from the administrative authority, in conformity with rules, conditions and measures issued by virtue of a Cabinet resolution.

The law has also banned all activities or actions in areas surrounding protectorates, by virtue of a Ministerial decree issued upon the recommendation of EEAA, if such areas may impact on the protectorate environment or its natural phenomena, unless permitted by the administrative authority in charge.

Law number 102/1983 has allowed environment preservation societies to resort to administrative and judicial authorities in order to carry out the laws and resolutions on the protection of natural protectorates.

The law has also established a special Protectorates Fund for managing funds, donations and aids allocated for natural protec-

torates and their entrance fees - if applicable – as well as revenues from fines resulting from enforcing the Law's provisions. Such money shall be allocated for the following purposes:

- Increasing the budget of authorities entrusted with the enforcement of the law.
- Contributing to improving protectorates environment
- Conducting necessary studies and research in this field
- Providing bonuses to inspectors and officers reporting violations to the provisions of this law. It is worth noting that the Protectorates Fund resources were passed on to the Environment Protection Fund by virtue of law 4/1994.

Ministers' Council Decrees were issued successively declaring the natural protectorates that reached 24 natural protectorates (representing 10% of Egypt's surface area). A natural protectorates network is supposed to be completed till the number reaches 40 natural protectorates covering nearly 17% of the Egypt's surface area.

Law no.48 of 1982 on River Nile and watercourses protection from pollution

This law was issued on the 21st of June 1982 with the objective of protecting the River Nile and watercourses from pollution. Article 1 specified the watercourses protected by the law:

1. Fresh water surfaces:
 - The River Nile with its branches and valleys
 - Larger canals, canals of all kinds and articulates
2. Non-fresh water surfaces:
 - All kinds of drains
 - Lakes

- Pools, closed water surfaces and runlets

3. Ground water tanks

The law banned throwing or draining away solid, liquid or gas wastes from buildings, shops, commercial, industrial or tourist establishments, sanitary drainage and other watercourses of all lengths or surfaces without a license from the Ministry of Irrigation according to the standards and regulations determined in a resolution issued by the Minister of Irrigation upon the recommendation of the Minister of Health. The license determines the standards and specifications required for each case.

The law has mandated Ministry of Health agencies with conducting periodical tests of samples of processed liquid wastes thrown by establishments licensed to discharge their wastes in watercourses; and informing the Ministry of Irrigation and the party concerned with the analysis results. The law specified the measures that should be followed in each case according to test results.

The law has also regulated licensing the establishment of new floating houses and renewing licenses for existing ones. It assigned the Ministry of Irrigation with giving permissions to build any establishments with wastes to be discharges in watercourses.

The law has prohibited fuel leakage from river units used for tourism or transportation in watercourses.

The law has entrusted water surfaces police, which reports to the Ministry of Interior, with conducting regular inspection patrols along watercourses, and helping the agencies concerned in controlling wastes,

eliminating the causes of pollution and reporting of any violations.

International Legislations

In addition to national environmental protection legislation there are a set of legislations aiming at protecting the environment and preserving environmental natural resources. These are represented in 55 international agreements, treaties and protocols signed and ratified by Egypt and included in annex 5 to this report. Pursuant to the text of article 151 of the constitution, such treaties shall have the power of law following their conclusion, ratification and publishing according to decreed rules.

Constraints Against Implementation of Environmental Legislation

In a World Bank study conducted in 1996, in cooperation with environmental agencies, in six major developing countries; namely, Brazil, China, India, Indonesia, Mexico and the Philippines, it was indicated that environmental policies in these countries focused mainly on legislations as a means of preserving the environment and there are numerous problems hampering the work of competent agencies and offices in these countries. These problems can be summarized in the following:

1. The difficulty of listing and recording information on factories' emissions.
2. Bureaucratic complications encountered during registering data on air or water quality at environmental offices, when they are connected to the authorities responsible for registering publications.
3. The lack of competencies and experience at environmental offices and agencies. This is shown through the information on the benefits of experimental programs, and the use of outcomes to specify priorities in distributing scarce

resources and the small number of trained inspectors qualified to work in this field.

4. Lack of political support necessary for serious implementation of environmental programs. Such programs are sometimes even met with objection and political rejection, resistance and abandonment of implementation. In such cases, it is hard to control pollution and provide for the expenses and burdens of combating.

The situation in Egypt is not different from that in similar major developing countries. Despite the abundance of laws aiming at preserving the environment and its resources; the support provided for the environment by political leadership and the call for taking into account all environmental considerations in state-owned projects, yet the actual application of environmental legislations faces the same problems in Egypt as those faced by its counterparts. These problems can be summarized in the following:

1. Although MSEA has established an information center supplied with up-to-date equipment of information and communication technology, together with an integrated network for exchanging environmental data and information between MSEA, EEAA and the eight RBOs in Cairo, Alexandria, Tanta, Mansoura, Suez, Asiout, Aswan and Hurghada, yet, there is a difficulty in listing and registering data on factories emissions in Egyptian Governorates and other establishments that produce environmentally polluting emissions and discharges, such as, clay brick factories, potteries, coal kilns, lead smelters and foundries and lime industries... etc.
2. The lack of technical staff and qualified

experts necessary for implementing environmental legislations and shouldering responsibilities given to the EEAA and its five newly established RBOs. Local agencies could not effectively participate in environmental management because of the deficiency in the EMUs potentials and the humble experience enjoyed by their staff, and the lack of coordination between the EEAA, the ministries and competent administrative agencies concerned with the environment. These facts require support from EEAA and its eight RBOs, through environmental specialists and environmental affairs experts, in addition to competing the establishment of EEAA RBOs in each governorate. Hence, EEAA will be able to perform its duties in all Governorates, and support EMUs in municipalities so that they would assist EEAA and its RBOs in preserving the environment and in the actual and effective enforcement of environmental legislations.

3. The redundancy of authorities assigned with executing environmental legislations and the lack of coordination between them. In addition to the MSEA and EEAA, the Ministry of Water Resources and Irrigation is also assigned with executing the provisions of law 48/1982 on River Nile and Watercourses Protection From Pollution The Ministry of Health is legally mandated with sampling and analysis of samples and with reporting results to the Ministry of Water Resources and Irrigation. The Environment and Water Surface Police of the Ministry of Interior is also assigned with assisting irrigation engineers in apprehending crimes that violate the provisions of the law. Further, the sanitary drainage Authorities and the Ministry of Housing and Utilities

play a role in implementing the same law as well as law 93/1962 on wastes discharges into public drains. Moreover, many bodies cooperate with EEAA in preserving sea water surfaces from pollution, including the Ports and Beacons Authority, the Suez Canal Authority, Ports Authorities in the Arab Republic of Egypt, the Egyptian Public Shore Protection Authority, the Egyptian Public Petroleum Authority, the General Authority for Tourism Development and the General Administration of Environment and Water Surface Police.

The Ministry of Labor has also an important role in protecting the work environment within establishments through navigation and vocational health inspectors. Ministries of Agriculture and Industry have similar significant roles in preserving the environment, which may require some kind of coordination between these ministries and authorities. It may be suitable to form an authority or a supreme council for the environment headed by the prime minister and comprising ministries and authorities concerned with the environment. The Minister of State for Environmental Affairs is to be the Secretary General for this proposed authority or council, whereas the EEAA technical administrations, headed by the executive director of the EEAA, is to be responsible for the technical secretariat of this proposed authority or council.

4. The lack of environmental awareness of citizens and those in charge of managing different projects and establishments, and even those responsible for environmental legislations, in addition to their incomplete knowledge of some environmental provisions and the powers granted to them thereby. This re-

quires raising environmental awareness; holding environmental cultural courses; promoting environmental legislations and training those in charge of implementation on its procedures and on the practice of judicial control by the judicial control officers.

5. The inability of many industrial public and business sectors facilities, as well as some private sector establishments to economize the financial burdens necessary for compliance with the provisions of the law, because of economic constraints and the tendency towards privatizing business and public sector establishments – a fact that has disabled such facilities and establishments from abiding by environmental regulations, standards and rates stipulated upon in legislations.
6. The negligence of applying such legislations to former facilities, due to their hard economic situation and the social dimension resulting from the execution of such legislations and the consequent harm impacting the interests of workers in such industrial facilities.
7. The lack of legal regulations for practicing environmentalists or environmental experts and specialists' functions: unqualified persons conduct Environmental Impact Assessment studies for facilities and project, develop their environmental plans, and environmentally review their compliance. This results in several environmental performance deficiencies and exposes those in charge of managing such facilities to grave risks. Therefore, it is necessary to set forth legal regulations for practicing such functions and develop a pool of expert environmentalists to resort to in implementing such tasks and for reviewing EA studies conducted for new

projects or expansions and improvements of existing ones.

8. Article no.65 of the executive regulation of law 4/1994, promulgated by Prime Minister decree 338/1995, assigned the Ministry of Interior, in coordination with the EEAA, to establish specialized police for environmental preservation within the Ministry and Security Directorates in Governorates to be entrusted with enforcing environment preservation laws and decrees, receiving complaints and reports on this regard and taking legal action thereupon. Despite the lapse of 10 years since the promulgation of this law, the Ministry of Interior has only bestowed the title of “Environment and Water Surfaces Police” on the existing Water Surfaces Police units, without taking any further legal measures necessary to authorize them to undertake measures stipulated in article 65 or to even establish departments at security directorates all over the Egypt’s Governorates or provide sufficient number of policemen to undertake this duty. This is one of the obstacles hindering the execution of legislations, primarily law 4 of 1994.
9. Article no. 17 of the Environmental Law no. 4/1994 has stipulated that EEAA and the Ministry of Finance shall establish an incentive system to be granted by EEAA or competent administrative bodies to authorities, establishments and individuals and other entities working on activities or projects that aim at preserving the environment. Article 18 has stipulated the necessity of submitting the above-mentioned incentive systems to EEAA board, and has stipulated that they have to be certified by the Prime Minister. Despite the lapse of 10 years since issuing the law, this

system has not been developed yet and, consequently a whole chapter of the law has not come into force. Thus, the aforementioned incentive system has to be developed promptly as one of the most effective methods of enforcing environmental legislation.

Future Vision

The Ministry has developed a draft for introducing amendments to the executive regulation provisions for overcoming its shortages, developing performance and upgrading the levels and standards that have to be complied with by establishments and projects before construction and during operation, as well as to recognizing environmental loads of pollutants while undertaking EIA studies for establishments. Measures are currently being taken for issuing a Prime Minister’s decree promulgating such amendments.

The Ministry is currently undertaking necessary measures to review the provisions of laws 102/1983 and 4/1994 to consider introducing required amendments thereon that have been proven necessary following the practical application of the laws.