
ARMENIAN BOTTLENECK: BUILDING AUTHORITIES AND PUBLIC GROUPS CAPACITIES FOR ENVIRONMENTAL ENFORCEMENTTER-NIKOGHOSYAN, VIKTORIA¹ AND KARAMIAN, NARINE²¹Head, Policy Directorate, Ministry of Industry and Trade²Textbook Officer, Center for Education Projects, Ministry of Education and Science

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SUMMARY

Since gaining its independence, Armenia has been trying to overcome the legacy of the Soviet era and implement an environmental management reform that will orient the country toward sustainable development. Some of the first encouraging legislative steps have already been taken, but much more has to be done: (a) to reassess the old and identify the newly-emerged regulated community; (b) to develop enforceable requirements and set up a completed regulatory framework; (c) to redesign compliance and enforcement institutions and develop their capacities; and (d) to increase public awareness, participation, and involvement in decisionmaking, as well as to strengthen knowledge and capacities within the NGO and academic communities. The lack of such a comprehensive program endangers the reforms and makes them potentially unsustainable. An intensive information inflow and capacity development would facilitate the transition from a resource-consuming curative approach to environmental protection toward a more sustainable integrated environmental management system.

1 INTRODUCTION

Due to the lack of public awareness, experience and mechanisms incorporating environmental concerns into overall socio-economic development (both before and after independence), the current period of intensive social, economic and political change has unfavorably affected all aspects of the environment in Armenia.

Numerous environmental problems faced by Armenia include: wasteful exploitation of natural resources; intensive air, water, and soil pollution; industrial and agricultural contamination; and outdated technology and infrastructure. These conditions have negatively affected life expectancy and public health, as well as economically-important wild plants and animal species, ecosystems, and the economy in general.

Current perspectives for the environmental conditions improvement seem to be vague. There is a great disparity between the funds available and the numbers of polluted areas needing rehabilitation, and it is unrealistic to expect an increase in expenditures in the near future. Even economic recovery and increased funding for environmental protection will not greatly help in changing the still reactive, mostly resource-consuming curative (not preventive) management system or help improve public awareness and public involvement in decisionmaking. The main economic constraints in Armenia include: inadequate and inaccurate prices for the use of natural resources (*e.g.*, no charge for drinking water), lack of appropriate taxation and sanctions policies, an inefficient financial and banking system in general and directed to environmental problems

in particular, lack of foreign capital allocated to the environment, centralized distribution of financial resources, and lack of entrepreneurial interest for environmental protection, environmentally-friendly products and services.

It is widespread in developing and transition economies that the financial shortcomings hamper development of effective environmental protection programs. However, analysis shows that, for the current stage in Armenia, the most acute problems are underdeveloped environmental institutions, human resource capacities, and the lack of public involvement in decisionmaking.

Recent breakthroughs on the legislative level have laid the foundation for the further evolution of environmental reform. However, the reform reflects a "top down" approach, mostly based on analysis and intellectual exercises. As practice shows, it is difficult to advance reforms past the legislative stage to work out specific regulations, enforcement, and compliance programs without management system change, training of officials and strong public interest. The role of the regulatory framework in the current stage of the Armenian legal system is essential, since regulations make law enforceable.

2 LEGISLATIVE REFORM

2.1 The First Inefficient Phase of Legislative Reform

Since independence in 1991, the transformation of the whole state structure has been creating an opportunity for Armenia to take advantage and benefit from that, to establish an effective environmental management system based on the worldwide experience. Unfortunately, at the very beginning of legislative activity (independent from Moscow) from 1990 to 1995, the Armenian Parliament imitated the world's current environmental protection practice and developed media-specific and field-specific laws. The world's environmental program development trends had not been analyzed and a path which had driven us in an ineffective direction had been chosen.

In 1991, the Parliament passed "The Principles of Environmental Protection Legislation of the Republic of Armenia" as a constitutional Act. The Act states an overall environmental protection policy and establishes a framework within which the Parliament had to develop specific separate Acts to protect the atmosphere (air), water, soil, mineral (mining) resources, forest, flora, fauna, especially protected territories, endangered species, and manage waste, etc.¹

Accordingly, the Parliament developed several media- and field-specific laws and adopted the following Acts: "Water Code," "Law on Specially Protected Territories," "Natural (Mineral) Resources Code," "Land Code," "Law on Atmosphere (Air)," and "Forest Code." Along with these Acts, the Parliament adopted other laws such as "Act on Entrepreneurial Activity," "Act on Privatization," and "Act on Taxation" which contain some provisions related to environmental protection as well.¹

At that stage of the environmental reform, it was assumed that some foundation for environmental protection reform had been established. However, the media-specific approach and the incompleteness of the regulatory framework (in terms of regulations and guidelines issued subsequent to adopted acts) and some controversial provisions caused tremendous constraints to the harmonization of those acts and subsequent regulations and development of

environmentally sound programs to equally protect all parts of the environment. Even now, none of the regulations needed to implement new acts are complete to support comprehensive implementation and enforcement.

New environmental legislation still has no real effective implementation and enforcement practice.

2.2 The Second Encouraging Phase of Legislative Reform

The scarcity of financial resources has not given the government an opportunity to rehabilitate or even alleviate the damages caused in the past, even those which impact health and life expectancy. The current system has not been capable of coping with increasing environmental problems. This hardship has forced specialists to review the selected path of the environmental reform in early 1995. The absence of an integrated policy and a unified conceptual structure of environmental legislation are the sources of that hardship. For that reason, the strategy of the government for the last years has become the development of environmental policy that could *prevent further deterioration of the environment by reducing the negative impact of new economic and other activities*.

Analysis of the worldwide experience and most advanced practices show that the key change entailed by integrated pollution control is a shift in the focus of decisions. Although now most environmental programs consider decisions separately to protect air and water, and on-land waste management, there were practices that could be used in developing our approach. The options for integrated pollution control to prevent pollution and increase protection of air, water, and land are achieved by focusing on *the pollution control management function, the substance, the source, or the geographical region*. Each of these focuses offers a way to take into account the environment as a whole rather than a single medium in isolation and, thus, gives an opportunity to make decisions that are more than the sum of their parts. *Environmental impact assessment* could be a form of integration at the source as far as it looks at impacts on all parts of the environment of a particular activity.

The experience of Germany has been particularly analyzed and taken into account. The Federal Republic of Germany has proposed implanting uniform principles and procedures of environmental assessment into laws such as those on air pollution and noise abatement, water management, waste disposal, nature conservation and land management, mining, and land-use planning. Sixteen laws would be affected by the proposal, which has been stimulated by the need to implement a European Community directive on environmental impact assessment. Germany is also exploring approaches in the longer term to codification of environmental law, based on the *Vorsorgerprinzip*, the principle of precaution or foresight. Other countries are also moving toward integration and unification in their environmental legislation and programs.

The Armenian Parliament has taken into account the world's trend in streamlining environmental programs. In 1995, the Parliament developed and adopted the Environmental Impact Assessment Act mainly to serve as the separate environmental act in addressing environmental, economic and social issues in a comprehensive way in order to establish an integrated pollution prevention, control, and management system. Moreover, the Act is designed in such a way that it could overcome many shortages in serving as a mechanism not only to alleviate the fragmentation of Armenian statutory base but also to unify existing environmental legislation.

The logic of the Armenian environmental legislation with this Act as a cornerstone supposedly has to work in the following order: separate Acts will regulate the current status quo whereas the Environmental Impact Assessment Act will ensure sustainable development and reform. For that purpose, the Act implants uniform principles and procedures of environmental

assessment into all passed and proposed Acts. Moreover, the Armenian Environmental Impact Assessment process is linked to the permit process, which is the exact mechanism that could serve as a basis for integrated pollution prevention and control type of Environmental Management.²

The development of National Environmental Action Plan which is underway with the World Bank's support within the framework of the "Strengthening Institutional Capacity of Environmental And Natural Resources Management" program could serve that purpose. This program will highlight and set cost-effective priorities to establish a new environmental management system. The deficiency of this program development is the obvious scarcity and/or mostly lack of reliable data and information. Simultaneous development of the Monitoring/Control System and capacity development of the Environmental Impact Assessment System could speed up, enhance and correct the National Environmental Action Plan development. However, there is no funding yet to work out a new Monitoring/Control System concept, structure, and development strategy.

3 PREPAREDNESS OF THE GOVERNMENT FOR REFORM

Legislative breakthroughs toward environmental reform in Armenia have laid the foundation for its further evolution. In spite of such advanced reform on the legislative level, the reform may fail if there is not a simultaneous evolution in the public officials' education, raising of public awareness and public involvement in decisionmaking. The reforms are top-down approaches mostly based on analyses and intellectual exercises. Reform may remain pending by the lack of medium-level officials' and the public's involvement at the stage of working out regulations subsequent to legislation.³

The role of having a regulatory framework in the current structure of the Armenian legal system is essential. Before adopting the new Constitution, a usual practice in the environmental field was the development and adoption of laws by the Parliament. These laws were mostly declarative and general. Most enforceable provisions for the laws usually appeared in subsequent regulations. Ministries at that time had to prepare the subsequent regulations and rules and submit them to the Prime Minister's Office, which had the right to adopt them and complete the legislation. At that time, the Parliament only had the right to give general direction. The Government made real legislation.

After adoption of the new Constitution the situation changed. Parliament now only has the right to adopt or reject laws submitted by the Government experts. The Government is responsible not only for regulations but also for policy and laws. This structure is making government officials more involved in law-drafting and there is now need for special training. This kind of biased combination of legislative and executive branch duties and rights only in the hands of the government breaks a commonly-accepted rule of separation between legislative and executive functions. However, this is a broad issue, which needs some more deliberations that cannot be done here.

So far, working out the regulatory framework without wide involvement of NGO and academic communities and representation of the public endangers implementation and enforcement of the reforms.³

3.1 The Structure of Governance

The Ministry of Environmental Protection is responsible for the development and implementation of the strategy and policies in environmental protection, sustainable utilization of natural resources (excepting water and soil) and the development of public investment projects. The Ministry of Environmental Protection oversees the soil and surface water pollution. The Ministry of Agriculture carries out the responsibilities of managing and controlling the water resources and land utilization. This issue needs to be seriously discussed, since the priorities of the protection and utilization of resources are often conflicting.

After adopting the new Constitution on July 5, 1995, along with the overall transformation of the administrative structure of the Republic, the environmental protection responsibilities of marz (region) and community authorities are currently under development, and the decentralization of responsibilities has not been fully accomplished yet.

3.2 The Ministry of Environment's Current Structure, Capacities and Problems.

The Ministry of Environment has existed as a Ministry since December 1991. It took over from the State Committee for Nature Protection, which was created in 1985. In November 1995, the State Committees on Forest, Mineral Resources and Hydrometeorology were merged into the Ministry of Environment, which was renamed to "Ministry of Environment" (MoE). The Ministry Inspectorates' Central and 11 Regional Offices are responsible for overall inspection throughout the country.

The Ministry is headed by an appointed Minister, the first deputy Minister and three deputy-Ministers. The Ministry consists of the 18 following Departments and Inspectorates:

- Department for Water Protection Management
- Department of Mineral Resources
- Department of Forest
- Department of Flora and Fauna
- Department of Air Protection
- Department of Soil Quality Protection
- Department of Fishery Protection
- Department of Economic Instruments Development
- Department of Natural Resources Pricing Policy
- Department of Monitoring
- Department of Hydro-Geological-Investigation
- Inspectorate of Environmental Police
- Department of International Relations.

The Departments of Environmental Impact Assessment and Hydrometeorology, Central Control Inspectorate and 11 Regional Offices are currently becoming closed joint-stock enterprises under the Ministry's umbrella.

The Ministry of Environment, including 115 personnel in its central structure, employs 6000 people. Within the MoE, the Department for Water Protection Management established the Lake Sevan Ecological Implementation Office for the World Bank project (grant for the

Preparation of an Action Plan to Restore Lake Sevan), while the Department of International Cooperation is involved in the preparation of the World Bank National Environmental Action Plan.

Management within the Ministry is characterized by:

- a) lack of finance to cover current necessary expenses of the old resource-consuming management system;
- b) lack of, and outdated equipment and input supply;
- c) irregular and incomplete range of data and information collection for management and control;
- d) lack of coordination between different Ministerial Departments, Divisions, Inspectorates, and other state, private, academic and non-governmental institutions;
- e) overlapping of duties and responsibilities among Departments, Divisions, Inspectorates;
- f) lack of a unified structure on management within the Ministry.

The current situation within the Ministry is causing the following problems:

- a) lack of new strategy and structure matching the market-oriented and market relations' concept for a new efficient Environmental Management;
- b) lack of an opportunity for the Armenian specialists to formulate a new strategy and to develop an appropriate and cost-effective efficient Environmental Management strategy and structure prior to new conditions (due to the energy crisis during the last 5 years and the subsequent information vacuum);
- c) lack of an appropriate, fully developed and completed regulatory framework;
- d) lack of funding to obtain information and develop new efficient Environmental Management strategy and structure;
- e) after merging the State Committees on Forest, Mineral Resources and Hydro-meteorology into the MoE, no restructuring of management has been done in order to harmonize the functioning of the whole Ministry;
- f) this merging put more burden on the scarce communication carrying capacities of the Ministry, which, along with the increased responsibilities, resulted in the collapse of the communication system due to increased payment problems within the same financial budget of the Ministry.

3.3 Technical Assistance

Building capacity for authorities' institutional and human resources is an urgent problem. Government realized all these problems and asked for assistance. Technical assistance has been provided by international organizations to cover mainly the following areas:

- a) In September 1995, the Government of Armenia obtained a grant of US \$ 485,000 from the World Bank for the Preparation of an Action Plan to Restore Lake Sevan. The formal work started in January 1996 and lasted until March 1997. This program focuses on the areas of:

- institutional, regulatory and managerial issues;
- water resource management;
- industrial and municipal pollution;
- non-point source pollution;
- rehabilitation of fisheries;
- national park management and protection of biodiversity.

A wide spectrum of authorities will be invited to lead or participate in the above listed working groups, assisted by external consultants.

- b) A grant of US\$ 200,000 is allocated by the World Bank for Strengthening Institutional Capacity of Environmental and Natural Resources Management. The project is on the stage of problem formulation.
- c) The Food and Agriculture Organization (FAO) of the United Nations is providing a technical assistance program of “Armenian Forestry Sector Development” totaling US\$ 380,000, which aims at provision of support to the government of Armenia in managing the pressing fuel-wood crisis through strengthening the institutional and technical capacity of HAYANTAR (Armenian Forestry Administration), and assists in determining a strategy for the development of the forestry sector and in identifying investment priorities for national and international financing consideration.
- d) The World Bank funded “The Irrigation Rehabilitation Project” that is currently being implemented. The main objectives of this project are to maintain the level of irrigated agricultural production for food security and to improve the country’s water resource management. This project’s implementation will contribute to the prevention of the further soil erosion and salination as well.
- e) A program grant for a country study on “Climate Change” totaling US\$ 360,000 was allocated by the Global Environmental Foundation. This program is implemented by the Ministry of Environment with UNDP country office support during three years starting in 1996.
- f) A small-scale program for the Geographic Information System development totaling US\$ 12,000 was sponsored by USLA. The program is implemented by the Environmental Research and Management Center of the American University of Armenia.
- g) UNDP provided a grant totaling US\$ 130,000 on “Strengthening of Ministerial Capacities” to optimize the current management of the Ministry on Environment, capacity building, and supply up-graded equipment.⁴

Each of these programs is trying to solve one or several separate problems. There is a need to develop an umbrella for a comprehensive strategic program. Understanding that the problem of the Armenian Environmental Management System is rooted in the Soviet legacy and continues to have a resource-consuming approach instead of a preventive one causes this concern.

The environmental management in the country is characterized by:

- a) lack of a revised/adjusted environmental management policy in the new market conditions;

- b) scarcity of data, information, and analysis to set up updated realistic and achievable goals and priorities for further development of a new integrated environmental management strategy and system;
- c) incomplete and unenforceable legislative framework and underdeveloped and inefficient regulations framework to set up new economic incentives for the environmental protection liabilities and fund raising, including an inefficient tax and pricing policy, and outdated standards and norms;
- d) highly centralized and inefficient management systems with overlapping responsibilities;
- e) scarcity of financial resources available for environmental protection.

Analysis shows that even having advanced pieces of legislation, the mentality of regulators has not changed as a result of training provided. There is no complete understanding about the things to be changed.

3.4 Identification of Newly Emerged Regulated Community

Transition toward a market economy and, following this, toward privatization of land and enterprises, dramatically changed the regulated community. The community is changed not only in terms of activities but also in terms of people's attitude toward the environment.

Three major steps have to be conducted by government to identify the regulated community and set up the environmental enforcement priorities.

The first step has to be the development of a program on information collection about existing and acting facilities. The information currently available is based only on the following data:

- the name of facility;
- address;
- type of business and operation (incomplete); and
- any existing license, permit, or product registration numbers (incomplete).

The information on regulated materials or emissions is collected for only some of the facilities. No information exists on risk associated with the releases at restructured or newly established facilities. Moreover, there is no information on compliance status, schedules, violations, and status of responses. For some facilities, certain information could be in the Government, but not collected on a regular basis or analyzed.

The second step has to be the development of the Monitoring and Inspection Concept in Armenia. Until now, these approaches are under consideration and discussion. The inspection structure and functions have been recently developed and the State Inspectorate, separate from the Ministry on Environment, has been established. However, interrelations with the Ministry and the monitoring approach are under discussion.

The third step has to be the development of compliance incentives and assistance programs. This step could be the most difficult for both public and private actors due to the Soviet legacy and lack of experience. Mutual suspicion has to be overcome by targeted government programs and the development and implementation of public relations programs.

4 MAIN PROBLEM TO BE URGENTLY ADDRESSED: LACK OF PUBLIC INVOLVEMENT IN DECISIONMAKING

Before independence, Armenia had a strong but an extreme environmental movement fighting for the closure of all hazardous industrial enterprises in the country. The impact of the movement was so strong that it could initiate shutting down many units crucial to the economy in Armenia. On that wave, many leaders got to power. That extremism has caused the collapse of the economy and has led to environmental disasters. These include: widespread poverty of up to 80% of the population; the overuse of Lake Sevan water for energy generation; and cutting down of three percent of Armenia's forestland for cooking and heating (eleven percent of Armenia is forestland). After independence, due to energy and economic crises, new leadership has been strained to reopen those units. As a consequence, the Armenian environmental movement has lost credibility. While there exist hidden environmental concerns, the distrust toward environmentalism is a widespread attitude among the public, as well as the leadership in Armenia.

During the last two years, along with energy supply increase and economic revival, a new environmental movement has emerged. Unfortunately, as is common for environmental activists, the movement has to deal with the lack of access to environmental information (Soviet traditions in government attitude are still in place?), the lack of support and funding and, what is the most difficult task, regaining credibility and public trust. Transition hardships, the lack of experience to act in new circumstances, and the lack of public support create an unfavorable climate for an environmental movement to raise public awareness and involvement in decisionmaking to shape environmental reform toward enforceability and sustainability. Despite these problems, environmental NGOs try to contribute to the formation of new environmental reform and public attitude.

Positive signs from the environmental NGO community growth in Armenia can be seen. Today there are more than 1700 NGOs registered at the Ministry of Justice of the Republic of Armenia. Two hundred of them claim to focus on environmental issues. However, the Armenian Assembly of America's NGO Training and Resource Center (NGO Center) believes that only about 20 of these are considered actively working in the area.⁵

These NGOs realize the necessity of forming a legislative basis for environment protection and promoting sustainable development, as well as advocating for public participation, and linking concerned groups with decisionmakers. They have worked to establish cooperation and develop collaboration with the ministries and the government, i.e., the Ministry of Environment, Ministries of Education and Social Welfare and Academy of Sciences. This has met with some success, and the NGO community has participated at seminars and meetings at the Ministry of Environment, and vice versa.

Although, with one exception, none of the NGOs have funding either from domestic (public or private) or international resources, their number, membership, activity, and cooperation are rising rapidly. The financial and organizational conditions of the Armenian NGOs have a long way to go for improvement. Government support is almost nonexistent. The overwhelming majority of these organizations cannot be self-supporting, since income generating projects are just starting. Usually they do not have membership fees, and the members' contribution consist of volunteer work, knowledge, and skills. Sources for funding for NGOs are limited, mainly dependent on grants from international organizations. That phenomenon creates strong competition between NGOs and prevents them from forming associations by the focus of activities, or umbrella centers with common technical facilities.

Out of the total number of registered NGOs, fewer than 30 percent have office space. The majority of them are located in the apartment of a member. Only five to ten percent of the total number have their own equipment; the rest mostly rely on equipment available at members' work places, and 80 percent use the equipment services provided by the NGO Center (computer access two hours per day, printing/copying limited to 50 pages per month, fax machine, mailing service). Since local NGOs generally do not have access to computer networks, they are unable to establish themselves and expand contacts with counterparts in other countries.⁵

It is worth underlining that from the beginning, there was almost no training provided on the conceptual and structural basis of such NGO organizations. Ninety percent of Armenian NGOs are club-based organizations that lack knowledge about the real function, structure, recruitment policy, and mission of a public organization. The exceptions are a few professional associations.

A few environmental NGOs have received training on NGO operation and management and funds for small projects from the NGO Center. Activities were not sufficient to meet the growing needs of environmental NGOs in information flow, and experience exchange. That is why environmental organizations in Armenia are one of the weakest NGOs (along with Women's organizations).

Weak collaboration between environmental NGOs is another obstacle in their work, particularly given financial constraints and competition for sharing grants from international donors. The majority of them are still at a consumers' level with short-term strategic plans for their own benefits. That issue prevents environmental NGOs from forming associations in which they could jointly work on their concrete objectives and tasks (*i.e.*, scientific, educational, legislative, energy, forestry, etc.). It is still early to expect any environmental association with a global idea, but an idea of a center with common technical facilities might be realistic.

The most discouraging reality is the lack of access to either domestic or international environmental information. The first is caused by the legacy of Soviet era traditions, which, having access to international information and lobbying experience, is not too rigid to breakthrough. The second is caused by the lack of access to communication to gather international information and be aware of current events and emerging problems and solutions. The insufficient experience in running NGOs and lobbying hampers the organizations' involvement in both decisionmaking and/or raising public awareness to enhance and shape reform.

In fact, the state of public involvement in decisionmaking gives a clear idea of the lack of public involvement. The NGO community, whose role in society cannot be underestimated, should be given an opportunity to take part in training and projects oriented toward the development of their management skills in mass media activities. The lack of cooperation between environmental NGOs in Armenia has prevented them from carrying out their main function - to control and monitor the activities of the government. Another deficiency of their activities is their limited involvement in the discussion of the national environmental management programs and other strategic decisions. In general the public of newly independent countries, and Armenia's public in particular, is concerned about environmental issues and can be active in decisionmaking on a local level. Despite this, the public's opinion is not taken into account by authorities. Unfortunately, lack of experience, training, and funds leaves that powerful public group an almost unutilized force for environmental control and management.

This underutilization certainly may make development of the enforcement stage of environmental reform inefficient or even fail. In the current stage of political, economic and social development in Armenia, the country is not ready either to understand fully the vital power of public involvement in constructing a sustainable statehood, or to provide capacities for promoting it. It is obvious that only joint actions of the public and its changed attitude can bring essential

improvements in the state of the environment through involvement and utilization of the human potential. This factor forms a basis for enabling the public to participate in a country's decisionmaking and orient it towards the future in a sustainable direction. In this sense, the role of international organizations' intervention is crucial in supporting the strengthening of environmental NGOs. Unfortunately, an obvious disparity in supporting all transitional reforms is recorded in Armenia. The share of support to the government is overwhelming. This raises an imbalance in the development of any reform. Still, efforts of any international organization are more than welcome to enhance Armenian environmental NGOs.

5 CONCLUSION

The ultimate goal, to develop compliance and enforcement programs, could be reached by intensive information inflow, experience, and management skills from abroad. The officials are receiving some information, training and they are gaining experience. Somehow, this gap is being filled but not in a comprehensive way. In the area of environmental compliance and enforcement reform, the Armenian public, however, is neglected by the government and receives little international technical assistance. Although public participation is a practicable working mechanism capable of improving the state of the environment and ensuring environmental compliance and enforcement in Armenia, an effective working of participatory mechanisms requires the fundamentals of environmental education for each and every person involved at all stages of the environmental management scheme. This participation can, in turn, influence decisionmaking. If environmental education is not promoted, the reforms could fail.

ENDNOTES

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