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DETERMINATION AND ACCOMMODATION: ISRAEL'S ENVIRONMENTAL PROTECTION SERVICE

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Origin of the EPS / Transfer to the Ministry of Interior / A Role in the Planning Process / Environmental Protection Units / Environmental Impact Statements / Search for a Larger Role / Protecting Israel's Air Quality / Water Quality and Hazardous Wastes / Education and International Role

This March marked the fourteenth anniversary of the founding of the Israel Environmental Protection Service (EPS). Although not a name common to most Israelis, this small governmental unit of less than twenty professional employees has succeeded in slowing the rate of environmental deterioration in the country, and in some areas such as marine pollution, actually reversing the trend. It has introduced the concept of environmental assessment to Israel and has enhanced the capacity of local governments to deal with their environmental problems. It has recorded these accomplishments with virtually no active support in the Knesset or the cabinet and in a system in which aggressive coalition politics makes integrated and coordinated decision-making difficult to achieve. Its relative effectiveness has come about in a political system in which environmental quality has not been an issue

of significance in a single national election and in which the advocacy of environmental policies by organized interests is rare.

Although low in priority on the government's decision-making agenda, Israel's environmental difficulties are manifest. The cumulative effects of industrial growth, agricultural modernization and urban development have taken their toll on the country's air, streams, aquifers and landscapes. Much of the nation's environmental legislation dates back to the 1960s and does not reflect the environmental policy advances made elsewhere during the past two decades. Thus, Israel continues to lack national emission standards to control air pollution and national effluent standards to halt the flow of pollutants into its rivers and streams. Nor is there a comprehensive policy to deal with the problem of toxic waste. It is within this overall and historic framework of

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political indifference and environmental neglect that the Environmental Protection Service attempts to carry out a largely self-defined role of protecting the quality of the Israeli environment.

Origin of the Environmental Protection Service

The EPS was founded in March 1973, following the 1972 United Nations-sponsored Stockholm Conference on the Environment, and at a time when environmental issues were not of significant concern to the Israeli public. Pressure to establish a governmental agency concerned with environmental matters came primarily from the academics and scientists on the National Council for Research and Development. The EPS was organized within the office of the Prime Minister and given the tasks of collecting and distributing environmental data, preparing an environmental impact statement program, and coordinating the environmental efforts of the various ministries.

To head the new agency, its organizers chose Dr. Uri Marinov, a former kibbutznik, a veterinarian, and a member of the National Council for Research and Development. Over the next few years Marinov surrounded himself with a small staff of primarily new immigrants from America or England and Israelis, like himself, who had received their professional training abroad. Like its director, these recruits tended to be activists, aware of the serious environmental difficulties facing the country and eager to take part in their solution. Although justified by neither legislation nor resources, they looked upon the EPS as more than an advisory unit, indeed, as *the* environmental authority in Israel. They fully expected their agency to assume a role in protecting the country's environment not unlike that played by the Environmental Protection Agency in the United States.

Transfer to the Ministry of Interior

In 1976 after a slow start, due in part to the dislocations effected by the Yom Kippur War, the EPS was transferred to the Ministry of Interior. Along with the move, the mandate of the agency was expanded to include additional advisory and data gathering responsibilities: the establishment and operation of a national air monitoring system, the development of environmental educational materials, participation in the Ministry's preparation of national development plans, and the rendering of assistance to local governments.

Its increased mandate and shift to Interior, however, brought the EPS only slightly closer to its desired goal of playing an influential role in the establishment and implementation of environmental policy. Responsibility for key areas of environmental decision-making such as toxic wastes, pesticides, stream pollution, ground water contamination, and vehicle emissions was diffused throughout the bureaucracy, and frequently located in ministries which had no intention of offering either a supporting or coordinating role to the EPS. Moreover, within Interior itself, control over industrial air pollution was shared with the Ministry of Health, a noncooperative partner whose reluctance to regulate deprived the EPS of an opportunity to play an independent policy role on behalf of its home ministry.

A Role in the Planning Process

Nonetheless, the move to Interior was welcomed for it brought the new agency into the ministry responsible for supervising both the administration of the country's local governments and its system of land use planning. Determined to take full advantage of the opportunities offered, the EPS quickly established itself as the environmental expert on the National Planning and Building Council. The Council, made up of representatives of various ministries and public and professional organizations, is chaired by the director-general of the Ministry of Interior. The Council stands at the apex of Israel's three-tiered planning structure (national, regional, local). Its responsibilities include the preparation of national development plans and the review of regional land use decisions; in general, no major development can be built in the nation without its approval.

As the environmental delegate on the National Council, EPS representatives sit on most of the steering committees for the national plans. They have made significant contributions to the development of the Kinneret Drainage Basin Master Plan, the Lamed Area Plan, the master plan for Ben Gurion Airport and the national solid waste plan. The EPS planners view their roles as expanding traditional planning criteria to encompass environmental objectives and corresponding implementation measures. At the behest of the EPS, Israel's first environmental impact statement was prepared and made part of the national master plan for power stations. The document subsequently played a key role in

establishing the location and operating conditions for the country's first coal-fired plant at Hadera.

EPS has also used its location in the Ministry of Interior to gain influence at the all-important regional planning level. In the mid-1970s, with the consent of Interior, the agency began to place Environmental Advisers with the country's six district planning commissions. The commissions are in charge of the preparation and implementation of district land use plans and the review and approval of local outline plans and zoning schemes. The task of the advisers is to counsel the district commissions on the environmental implications of plan and development proposals. Whether or not their advice is taken, the advisers also function as an early warning system, alerting EPS officials to potentially harmful plans or projects which they may then attempt to halt or mitigate at the national level.

Environmental Protection Units

The supervision of local government administration in Israel by the Ministry of Interior has enabled the EPS to undertake what many think is its most significant achievement: the creation of the Environmental Protection Unit program. Originated almost ten years ago, such units are presently located in eight cities and six major regions (encompassing ten to fifteen localities) throughout the country. The units are jointly funded by the EPS and the localities and bring a professionalism and expertise to an area of decision-making in which Israeli local governments have been historically deficient. The number of staff members in every unit varies and each is headed by a director knowledgeable in environmental matters. The size and expertise of the staff has increased considerably over the years as Israeli universities have begun to graduate students equipped with the requisite environmental skills.

To encourage local acceptance of the units, the EPS is able to award environmental grants to localities in which units are established. The EPS remains in close contact with the units and provides legal and other expert advice to staff members. In recent years the EPS has sought to improve coordination between local units and the Environmental Advisers who are placed with the district planning commissions. Besides leading to a sharing of skills, it is an effort to establish the

same early warning system that is in effect between the Environmental Advisers and the EPS.

Because the units lack independent legal authority, their effectiveness is largely conditioned upon the willingness of local officials to accept advice and to delegate responsibilities to them. Success frequently depends upon the competence and personality of a unit's director and his ability to gain the cooperation of local decision-makers, especially the mayor. Many localities, individually or as part of a regional grouping, have turned over air and water pollution control tasks to the units along with solid waste disposal, beautification and anti-noise efforts. The units have been somewhat less successful in gaining influence in the land use management process where, *inter alia*, they have tried to influence local authorities to use their control over business licenses to impose conditions on new and established enterprises for the purpose of protecting the environment.

Environmental Impact Statements

It was not until 1982, nine years after its creation, that the EPS succeeded in fulfilling one of its original mandates - the development of an environmental impact statement (EIS) program binding upon all levels of the planning process. An EIS program is both an assessment tool and a decision-making procedure. It requires officials to identify the anticipated environmental impacts of proposed projects and to condition their approval on the removal or mitigation of impacts found to be detrimental to the environment. The EPS initially proposed the EIS in a legislative amendment to the 1965 Planning and Building Law, the basic planning and development law in Israel. Detailed regulations would then be drawn up by the EPS and issued by the Minister of Interior. The EPS would develop guidelines for particular EISs and determine their adequacy, although the decision to confirm or to deny a plan or project would remain with the plan review agency.

The attempt to get an EIS law through the Knesset fell victim to coalition politics. Unless the agreement among the ruling coalition clearly anticipates the possibility, it is extremely difficult for one governmental agency to initiate a law perceived to have negative impacts on another. In this case, a number of governmental ministries, e.g., Commerce and Industry, Transportation, Housing, and Energy, viewed an EIS requirement

as adding complications and delays to their missions and opposed its enactment. The Ministry of Health, an agency that viewed the EPS as a rival in its role of controlling pollution, was also opposed. Because the leadership of the opposing ministries was in the hands of the dominant party in the coalition, but Interior, the home of the EPS, was under the control of a smaller coalition partner, and an EIS law was not part of the coalition agreement, the legislation failed to pass.

The EPS now turned to its political sponsor, the Minister of Interior, and asked that the EIS be instituted by regulation, under Section 265 of the Planning and Building Law. Section 265 authorizes the Minister, after consultation with the National Planning and Building Council, to make regulations "as to anything relating to the implementation of this law," including the documents and supporting information to accompany proposals submitted for planning agency approval. The National Council, however, is in part made up of representatives from the same ministries that had prevented passage of an EIS law in the Knesset. Approval was therefore only slowly and reluctantly given. After meeting for almost one year, a special subcommittee recommended approval of a much watered-down version of the EPS proposal, and this was, for the most part, accepted by the full Council.

The final regulations gave no special role to the EPS in the administration of the EIS program, a disappointment to the agency, although it was later assigned the responsibility of preparing guidelines for particular EISs. Nonetheless, the issuance of the regulations is viewed by EPS officials as a significant achievement in their efforts to incorporate environmental considerations into the planning and development process. District Environmental Advisers and local Environmental Protection Units are encouraged by the EPS to insist upon the preparation of EISs in appropriate cases.

Search for a Larger Role

With the issuance of the EIS regulations by the Minister of Interior, the EPS had gone about as far as possible toward taking advantage of its placement in the Ministry in order to direct or influence national environmental policy, at least under existing legislation. Three times, in 1973, 1975 and 1977, at the urging of MK Joseph Tamir, the Knesset passed resolutions calling for the centralization of authority for environmental

concerns in an expanded Ministry of Interior and Environment; the resolutions were not, of course, implemented, and it is questionable whether a majority of their supporters ever intended that they be so. Although the then Minister of Interior supported the resolutions, he did little to push for their implementation.

The failure of the cabinet to carry out the three resolutions played a role in bringing EPS director Marinov and his staff to the realization that, if the agency's environmental agenda was to be increased, they would have to be the ones to do it. They would have to bring into the Ministry of Interior additional environmentally related responsibilities which the EPS would be called upon to administer. Accordingly, the EPS adopted a strategy of accepting whatever tasks other ministries were willing to surrender and proposing new areas of activity for it to manage. Within this framework, the EPS has generally attempted to acquire policy-making and enforcement authority in the areas of air and water quality, marine pollution, solid waste, hazardous waste and noise.

An early EPS success in acquiring additional duties took place in 1979 with Knesset approval of a voluntary decision by the Minister of Transportation, Meir Amit, to transfer to Interior his ministry's authority over the prevention of marine pollution. The transfer included a team of inspectors empowered to conduct criminal investigations. This was later supplemented by passage of the 1983 Dumping of Waste Law; together, they provided the EPS for the first time with enforcement and, through the Minister of Interior, regulation-making responsibilities. Although some control continues to be shared with the Ministry of Transportation, the marine pollution section of the EPS exercises a scope of authority which the agency envisions as a model for its future environmental management efforts.

A further increase in EPS' administrative role occurred in 1984 with Knesset passage of the Maintenance of Cleanliness Law, legislation designed to reduce incidences of littering and illegal dumping throughout the country. EPS' administration of the law includes two innovative practices designed to deal with the serious problem of lack of enforcement resources. Under an arrangement with the Minister of Police, an officer is assigned to the agency to investigate reported violations and to issue notices of fines in appropriate cases. Under an agreement with the Attorney General, the EPS may use a private

attorney to prosecute serious offenses on behalf of the state. This latter arrangement is similar to one the EPS had previously made with the Attorney General concerning the prosecution of oil spills.

Protecting Israel's Air Quality

The most complex and frustrating assignment for the EPS has been in the field of air pollution control. Non-vehicular air quality in Israel is regulated under the 1961 Kanowitz Law for the Abatement of Nuisances. Until 1982, administration of the law was shared jointly by Interior and the Ministry of Health. The two ministries found it difficult to cooperate in the implementation of the law and little was accomplished under their joint administration. As a result, the EPS sought to convince the Ministry of Health to place full responsibility for the law in the Ministry of Interior. The Health Ministry finally agreed to the reorganization and for the past four years the EPS has had the major responsibility for controlling air pollution from stationary sources. (Pollution from vehicles remains the responsibility of the Transportation Ministry.)

However, the inadequacy of both legislation and enforcement resources has prevented the EPS from making more than a token contribution to the reduction of existing pollution sources. National ambient air quality standards, established in 1971 under the Kanowitz Law are, by today's standards, exceptionally permissive. They are also largely irrelevant, used primarily as a guide for monitoring regional air quality and, for "alert" purposes, sulphur concentrations around power plants. Unlike the Clean Air Act in the United States, there is no legal obligation on the part of local authorities to meet the ambient air quality standards, nor even to prevent them from licensing new enterprises which will add to the pollutants. National emission standards, which would be directly enforceable against polluters, exist only for black smoke and particulates, with the latter (issued pursuant to a court order) applicable primarily to cement plants.

Under the circumstances, the EPS has found it necessary to treat air pollution as a statutory nuisance under the Kanowitz Law and to go against industrial violators one-by-one through Administrative Orders. This is an infrequent, time-consuming and inefficient process, begun only after years of negotiation have failed to bring about a voluntary solution. The Orders are primarily directed against the country's largest

polluters - power plants, cement and phosphate works, oil refineries and chemical factories - organizations with considerable influence in the government. As a result, the final Orders, signed by the Minister of Interior, are usually modest in their requirements. The Minister hears from sources other than the EPS before deciding upon whether or not a particular Order should be issued and the form which it should take.

Moreover, once an Order is issued, compliance becomes a serious issue. Before an offender can be brought into court, the case must be investigated and developed by the national police, which then turns it over to the Attorney General's office for prosecution. But the police are barely able to keep up with their traditional responsibilities and have had virtually no training in the technical field of environmental enforcement. As a result, emission limits set forth in the Orders are frequently disregarded by the industries involved. The EPS is seeking to have the police delegate investigative authority to EPS inspectors, so far without success.

It thus appears that there is relatively little that the EPS can do concerning air pollution from existing industries. An EPS committee is currently working on revising the ambient air quality standards, although under present law it is not clear what role such standards can play in the pollution control process. For political reasons, the agency is reluctant to propose national emission standards which, in any event, would be difficult to enforce. Out of necessity, therefore, EPS strategy is directed toward utilizing its influence on the various planning boards which grant permits and licenses to new factories or to existing plants which wish to expand; the EPS, its Environmental Advisors and its Environmental Protection Units, all attempt to ensure that such development or expansion is conditioned upon the observance of strict, if ad hoc, pollution control standards.

Water Quality and Hazardous Wastes

The EPS is involved in various other areas of environmental administration, usually in an advisory capacity, although efforts to obtain additional authority are constant. This is particularly true in the areas of water quality and toxic or hazardous wastes, two major environmental concerns which EPS officials believe belong under their administration.

Water quality in Israel has improved

considerably as a result of the country's national sewage project. But industrial wastes still find their way into the nation's streams, frustrating clean-up attempts. Control of industrial effluents lies in the Office of the Water Commissioner in the Ministry of Agriculture. The Commissioner, however, has refused to promulgate national effluent standards. After repeated requests by the EPS, the Commissioner has recently agreed to allow the Haifa region Environmental Protection Unit to prepare Administrative Orders against industries polluting the Kishon River. However, so long as the police remain the sole enforcement authority, the degree of compliance with the Orders must remain in doubt.

Hazardous or toxic wastes may be Israel's most serious environmental problem. Ittamar Vilner of the EPS estimates that between 30 and 50 thousand tons of such waste are generated in the country each year. Almost a dozen different and sometimes contradictory laws control the handling, transportation and disposal of these wastes, administered by almost as many ministries and local authorities. The laws are loosely enforced and there is a lack of information concerning existing practices. The EPS has advocated the development of a comprehensive policy on toxic substances, somewhat similar to the "cradle to the grave" approach found in the United States, but the proposal has not generated much support. Instead, the agency must once again rely on its role in the planning approval process, this time to ensure that the operating conditions imposed on new or expanding industrial plants include requirements for the safe treatment and disposal of hazardous wastes.

The rational administration of a toxic substances program is constrained by the reluctance of established ministries to turn over their environmental responsibilities to the EPS or to anyone else, a disinclination supported by both the Knesset and the Cabinet. This was recently evidenced following the 1984 Bhopal disaster. The gas leak in a pesticide plant in India which killed over 2,000 people prompted the EPS to begin discussion of a plan for avoiding and coping with a similar disaster in Israel. The Prime Minister, however, responded by establishing a thirty-five member interim committee to investigate the question and to draw up proposals. The EPS representative on the committee soon resigned, contending that the committee was made up of

non-experts who spent much of the time arguing over which ministry or agency should receive what responsibilities under any new law.

Education and International Role

Environmental education and international programs are two areas in which the EPS has long-standing and well-accepted mandates. The agency has prepared educational materials for use in schools and community action programs and works with the Ministry of Education, citizen groups and local Environmental Protection Units toward their implementation. EPS members are active representatives at international environmental conferences and the agency is a full participant in international pollution control, coastal planning and historic preservation programs for the Mediterranean region.

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After 14 years of operation, the Environmental Protection Service can lay claim to a fair number of accomplishments in its efforts to protect the Israeli environment. But the agency continues to stand at the margin of the decision-making process, politically distant from the power and resources necessary for effective administration. There is little likelihood that it will be transformed into a central environmental body. Rather, policy-making and implementation authority will remain fragmented, with a corresponding loss of rationality and accountability.

Nonetheless, pursuing a combined strategy of determination and accommodation, the EPS can be expected to continue efforts to widen its role and increase its effectiveness in the area of environmental policy.

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