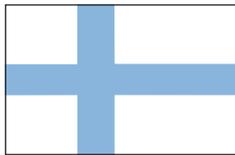


# A Guide to Afghanistan's 2007 Environment Law



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# Afghanistan's Environment Law

In January 2007, the final version of the Environment Law came into force. The Law, which has been approved by the National Assembly, is based on international standards which recognize the current state of Afghanistan's environment while laying a framework for the progressive improvement of governance, leading ultimately to effective environmental management. It is now binding on both the government and the people of Afghanistan.

The purpose of this brochure is to give the Afghan people, and other interested persons, a basic overview as to why and how the Law was developed, and the implications of the Law for the ordinary person and the government. This brochure should therefore be read in conjunction with the Law itself (see Official Gazette No. 912, dated 25 January 2007).

# Why does Afghanistan need the Environment Law?

For many people the term “environment” refers only to flora and fauna, such as trees, animals, birds and insects. It is in fact a much broader concept than this. The environment refers to almost everything around us, as well as the interactions and processes that link these different elements. It includes tangible environmental resources (such as water, land, minerals, forests, rangeland, crops, wildlife and air), as well as the problems and issues resulting from the inadequate management of these resources (such as disease from polluted water, respiratory problems from air pollution, displaced populations as a result of drought, and loss of livelihoods and income as a result of degradation of land and the resources on it).

Afghanistan is a predominantly agrarian-dependent country of farmers and herders. Approximately 80% of the population relies directly on the country’s environmental resources to meet its daily needs. However, this resource base has been seriously degraded and damaged and is no longer adequately meeting the basic survival needs of many people, let alone their development needs.

The sad reality is that, in its current condition, Afghanistan’s environment is negatively impacting on generations of livelihoods; is adversely affecting the health of the Afghan people; is entrenching the poverty cycle in which many Afghans are caught; and is constraining Afghanistan’s post-conflict reconstruction and development.

If the current environmental problems in Afghanistan are not addressed, the following impacts could be expected:

- Unequal distribution of water resources may lead to severe water scarcity in some regions – which could threaten livelihoods, create environmental refugees, compound adverse humanitarian conditions and increase regional tensions;
- Continued deforestation combined with livestock grazing and water scarcity could lead to increased soil erosion, desertification and reduced fertility and ecosystem services. It could also lead to floods, mudslides and rapid water drainage during the wet season;
- Land degradation and resource scarcity could lead to the creation of environmental refugees;
- Existing chemical contamination of some air, soil and water resources would continue to threaten human health and undermine workforce stability and economic productivity.



*A girl scavenges for metal, plastic and food in a huge pile of waste in a construction area where a foundation for a new building has been dug, Kabul, Afghanistan.*

With this in mind, it was clear that an appropriate law to govern environmental management issues was an immediate need for Afghanistan's post-conflict Government. For this reason, the newly-established National Environmental Protection Agency (NEPA) with the support of the United Nations Environment Programme (UNEP) regarded the development and promulgation of the Environment Law as a necessary and urgent priority.

## What is the purpose of the Environment Law?

The Environmental Law creates a regulatory framework for the sustainable use and management of Afghanistan's natural resource base, and provides for the conservation and rehabilitation of the environment towards achieving specified social, economic, reconstruction and ecological goals.

Sustainable development is one of the key objectives of modern international law and policy. It is commonly defined as development that meets the needs of the present generation without compromising the ability of future generations to meet their own needs. What this means in practice, for example, is that communities using local water, forest, rangeland and wildlife resources should not over-harvest them, to ensure that their children, and grandchildren, will also have access to such resources.

# How does the Environment Law affect the Afghan people?

The Law grants the people of Afghanistan the following rights:

- To use natural resources in accordance with sustainable customary practices;
- To establish and participate in environmental non-governmental organizations (NGOs);
- To have access to information held by the government about the environment;
- To participate in environmental meetings and demonstrations, and participate in environmental decision-making processes that affect local communities;
- To lobby the government regarding environmental issues;
- To voice their concerns regarding the environmental impacts of infrastructure and development projects;
- To refuse to undertake environmentally hazardous work, or work that threatens human health without the appropriate safeguards in place.

At the same time, the Afghan people have a legal duty:

- To comply with the provisions of the Environment Law;
- To use environmental resources in a sustainable manner;
- To avoid causing pollution or harm to the environment;
- To obtain a permit or license before undertaking activities regulated under the Law (see below for a list of these activities).

# What obligations are imposed on the Government under the Law?

The Law also imposes substantial obligations on the Government of Afghanistan, in order to encourage the relevant authorities to promote and implement the Environment Law. These include:

- To apply the fundamental principles of environmental management listed in the Law when making any decisions or exercising any power under the Law;
- To involve the public in relevant environment-related decision-making;
- To develop policies, laws and regulatory instruments which seek to conserve and restore the environmental resource base of the country;

- To coordinate government and other stakeholder activities relevant to environmental management;
- To raise public awareness of environmental issues;
- To implement the international environmental conventions of which Afghanistan is a member;
- To monitor environmental indicators and collect and make available environmental information;
- To prepare regular State of the Environment (SoE) and National Environmental Action Plan (NEAP) reports; and
- To enforce the Environmental Law.

## Which government institutions are responsible for environmental management?

The integrated nature of environmental concepts necessitates a coordinated multi-institutional system of governance, involving numerous different stakeholders at the national, provincial and local levels of government, as well as local communities.

While the National Environmental Protection Agency (NEPA) is the lead government authority, other national institutions also play an important role. These include: the Ministry of Agriculture, Irrigation and Livestock, the Ministry of Water and Energy, the Ministry of Mines, the Ministry of Rural Rehabilitation and Development, the Ministry of Urban Development and Housing, the Ministry of Public Health, the Ministry of Transport, the Ministry of Education, the Ministry of Foreign Affairs, and the Ministry of Public Works. Other national institutions are also key partners, such as universities and the Afghanistan Independent Human Rights Commission.

NEPA, at both the central and provincial levels, is responsible for overarching environmental issues of national relevance, including development of national policy, regulatory aspects, coordination between line ministries, collection and management of environmental data and information, development of environmental standards, monitoring of environmental indicators, coordination of licensing of sector-specific activities, development of environmental training, education and awareness-raising.

Line ministries are responsible for the management of sectoral resources. For example, the Ministry of Agriculture, Irrigation and Livestock is responsible for managing rangelands and forests, while the Ministry of Energy and Water takes responsibility for management of water resources, and so forth.

The Government of Afghanistan has recognised that in an agrarian, natural resource-dependent, developing country like Afghanistan, it would be more appropriate and effective to manage resources at a community-level, rather than implement centralised resource management. The Environment Law therefore clearly states the environmental functions and powers that are vested in the subnational authorities – namely, the Provincial, District and Village Councils established under the Constitution.

## Is the Law an obstacle to the reconstruction and development of Afghanistan?

The Law articulates the use of environmental impact assessment (EIA). This is a system of procedures used to evaluate the likely environmental and social impacts – both positive and negative – of proposed projects, plans, policies or activities where there is a possible significant adverse effect on the environment arising as a result of their implementation.

For example, the construction of a dam might result in the following: The destruction of homes and resettlement of 500 households, the loss in agricultural lands and therefore livelihoods of 200 households, the desiccation of wetlands and seasonal waters downstream from the dam, the extinction of a type of endangered frog species, loss of irrigated water supply for 100 farmers, and so on. These social, economic and environmental impacts need to be identified in the design phase of the project and taken into account in the project planning and implementation in order to minimise the impacts.

Some argue that EIA creates an obstacle to development. However, when properly utilised, EIA results in the mitigation of environmental harm at the project inception phase (and consequent economic, social, financial and environmental costs, which can be vast) and is therefore an important development planning tool – particularly for a country entering a phase of post-conflict reconstruction.

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