

CSO CASE STUDY 2

Title: The influence of Kenya Association of Manufacturers on Environmental Law and Energy and Environmental Policies in Kenya

Country: Kenya, East Africa

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Introduction

This is a case study that explains the way in which a civil society organization (CSO) can influence policy formulation processes. It examines the process through which the Kenya Association of Manufacturers (KAM) influenced Energy policies, the industrialization process and the environmental law in Kenya

KAM is a CSO that acts as a representative organization of industrialists in Kenya. It was constituted as a corporate body in 1959 in order to unite industrialists in a powerful organization to encourage investments and develop the industrial potential of Kenya. The period covered in this case study is between the years 1994 to 2002 and the policies and laws considered are:

- The Industrialization Policy
- The Energy Policy
- The Environment Policy and
- The Environment Management Co-Ordination Act.

KAM was a partner in the policies and law formulation in conjunction with the Government of Kenya and other CSOs such as the Federation of Kenya Employers, international and local non-governmental organizations such as Energy for Sustainable Development, the African Centre for Technology studies, and others.

Type and extend of the policy change

As of 1990 Kenya had a weak Energy Policy and no policy at all in the field of industrialization process and environmental protection. Environmental protection was covered through 77 scattered legislations, which were weak and difficult to enforce. Poverty level was getting worse as Agriculture could not create enough jobs to sustain the population growth. There was urgent need to create employment opportunities and hence, reduce poverty. The Government of Kenya thought it wise to plan to make Kenya a Newly Industrialized Country (NIC) by the year 2020. This meant increasing the capacity of existing industries and possibly increasing the number of industries. As such, the rate of environmental degradation due to environmental pollution would worsen. There was therefore need to have the three policies in place and some form of legislation to govern environmental protection.

Some thoughts on the explanation of the policy change

a) The Political Context and International Factors

After independence there was not enough local expertise to manage the economy, hence the government became involved in almost all sectors. This involvement developed into serious inefficiencies. At the same time, the government was under great pressure, particularly from the World Bank, to roll-back its influence in the economy and take a

regulatory role. The energy sector was of the sectors that the World Bank had in mind in its recommendations.

This move was aided by the fact that Kenya was one of the first African countries to implement the outcome of the Rio Conference of 1992. It was also one of the first African countries to sign the United Nations Framework Convention on Climate Change (UNFCCC). The changes in policy had to bear in mind the multilateral agreements Kenya was a signatory to.

b) The ways CSOs tried to affect policy change/ mechanisms to get the evidence into the policy process.

Up to the early 1990s the Kenyan Government considered policy formulation and the enactment of laws as its main domain. However, due to the pressures mentioned above the government was forced to open up and include other actors in policy and legal reforms. This is how KAM and other CSOs were invited to take part in these activities. Other CSOs involved in this exercise included the Kenya Federation of Employers and a number of local and international non-governmental organizations (NGOs). Each CSO had its own strategy to influence the policy process.

The invited institutions representatives were allowed to sit in implementation committees. Unfortunately, KAM had no experience in this area of policy formulation since its experience so far. The government controlled all commodity and services prices. KAM was very experienced in negotiating for price increases. Hence, KAM approached the United Nations Industrial Development Organization (UNIDO) for help. UNIDO recruited an expert in the field of industrialization, energy and environmental protection to help KAM through this process. On behalf of KAM the expert attended the appropriate committees and carried out the necessary background research and lobbying actions.

In comparison, other CSOs, failed to take a systematic approach to this opportunity and did not plan a lobbying strategy. In most cases these other CSOs failed to do the appropriate research or both.

c) Type of evidence/research used

Desk Research on Energy Policy

It was necessary to find out what the country Energy deficit was and how this deficit was going to be influenced by the industrialization process. It was necessary to know who uses what amount and type of energy, how much they use, and how much it costs them. It was also necessary to know the annual demand growth rate and how this would be influenced by the industrialization process and the degradation of the environment.

On behalf of KAM, the appointed expert approached the World Bank through writing and visiting its offices to obtain funding for both the desk research and the field survey on Energy Demand and Energy Use. At the end of 1995, the Energy Support Management Assistance Programme (ESMAP), a technical assistance wing of the World Bank, was asked to formulate a project to educate the industrial energy customers as they would be hardest hit by a unilateral energy price increase. The industrial energy consumers were considered most important for industrial growth.

Data was difficult to come by in the form that was useful. In most cases, energy data was in bulk form. In industries it was in the form of cost and not necessarily the actual quantities that the research required. This meant that some conversion had to be done. Various government agencies such as the Kenya Bureau of Statistics, the Ministries of Energy, Environment and Industry were approached. From the private sector, oil marketing companies, the Kenya Oil Refineries Limited, the Kenya Power and lighting Company and individual major industrial energy users such as the Cement, Paper & Pulp and Steel were also consulted. In this way, the country's Energy Balance was computed. Since there was no other suitable and accurate data available the results were used by other agencies such as the Government and the World Bank (see World Bank's Kenya Staff Appraisal Report of 1997). The results of the research also formed the basis of the 'First National Communication to UNFCCC'.

Field Research on Energy

With instruments provided by UNIDO a field survey was conducted to understand the energy demand by region. The questionnaire used was divided into three parts:

- Energy Use and Energy Demand to be used in Energy Policy
- Technology and Capacity utilization to be used in the Industrialization Policy
- Environmental issues to be used in the Environmental Policy and Law

The questionnaire was sent to all major energy users by regional area. Along with this tool, sensitization workshops on energy and environmental conservation for major energy users were held in Kisumu, Eldoret, Kericho, Nakuru, Nairobi and Mombasa. During these workshops the questionnaire was explained in details and some industrialists were actually helped to respond them.

Out of 2000 questionnaires sent out, a total of 350 were answered, and 145 establishments were audited. Fortunately, all the major industrial energy users answered the questions comprehensively. This gave the research results very useful information. For example, it came out that industrial users account for 68% of electricity consumption and 80% of fuel oil usage.

The results of the research were presented by the expert at various workshops in which all the stakeholders, including donors and KAM members participated. The expert also recorded the views of the stakeholders.

Some of the CSOs had strong cases about the use of more alternative or renewable energies. Unfortunately, they had not done enough research to take care of cost implications.

The KAM Board then presented the outcomes of these consultative workshops officially to various government departments and other stakeholders. The research results have been taken on board resulting in some interesting developments.

Lessons Learned from the Research on Energy Use in Kenya

The following lessons were learned either (either?) from research on Energy Use:

1. Energy Demand in Kenya rises by about 6 per cent annually. This is far greater than the rate of growth in Gross Domestic Product.

2. There is need for a national energy efficiency programme as it was found that industry wastes as much as 30% of the primary energy supplied.
3. The cost of energy should reflect the cost of production/supply of energy. At the time of study the cost of energy was controlled or negotiated by the government
4. There was need for an independent body to regulate energy pricing/tariff setting etc.
5. In view of the industrialization commitment the government was requested to invest more in energy development to ensure that energy supply was adequate both for industry and domestic use.
6. Energy use/generation causes environmental degradation

d) The ways in which they got evidence into policy/Lobbying on the Policy Process by KAM

KAM did very well in influencing the policies and the law in question. The draft policies were followed up to Parliament to confirm that there were no major changes along the way. The energy policy is now out as part of the Sessional Paper No 2 of 2002, on Energy.

The issues raised in the research have been sufficiently addressed in the energy policy.

e) Evaluating the Advocacy Process

In the 8 years of this experience KAM members constantly evaluated the process using meetings, seminars and workshops. The workshops and seminars were well attended by KAM members and other stakeholders, whose views were constantly communicated to the decision-makers. This constant evaluation ensured that the lobbying process remained on-track. It is difficult for most CSOs to keep track for so long.

Conclusion and Overall Lessons learned

1. Though the government considers policy formulation as its prerogative, CSOs can influence policy formulation by winning the confidence of the government. Certain institutions, like KAM, that have access to policy makers can use such connections. In case a CSO does not have this advantage then it may use political influence at the local or international level. KAM was lucky in this case because it had connections with UNIDO and the World Bank at the international level through the expert. This strengthened their case.
2. Appropriate research is critical to be able to influence policy. It is because KAM did very good research that it was able to influence the Energy Policy. There are instances where KAM has influenced policy formulation by lobbying alone without good research. Unfortunately, in all such cases the policies have turned out to be very bad and un-implementable. In some cases such poor policies have turned out to be against some of the KAM members themselves.
3. Resource mobilization is necessary for good research results. KAM did not have all the necessary resources, however, by engaging with donors it was able to mobilize all the resources it needed to do appropriate research and influence the policy. To win donors' confidence it is important to present a well prepared proposal that answers most of their concerns. It also helps if one has worked with donors before.
4. Researchers must have a way to communicate their findings. Many CSOs do research in Kenya but for various reasons the findings never get beyond the research sphere. For instance, although various donors have sponsored research

on the necessity to upgrade Kenya's sugar industries to generate electricity to feed the national grid, the research is either incomplete or is not appropriately presented to the policy makers for action. The researchers must be ready with briefs for lobbying purposes, say for policy makers, ministers and parliamentarians. Normally, these briefs are not identical.

5. It is important that policy formulation is all-inclusive: Industrialists can be bought to buy laws such as the environment act, which may appear to be punitive to them. Kenya's industrialists have welcomed the Energy and Environmental policies that were originally considered to be against them. However, due to well researched evidence KAM members were convinced that the policies were good for them and for their mission.

Further, due to 'globalization' it was necessary for Kenyan industrialists to be aware of environmental requirements in the world market.

6. Lobbying is both a science and an art. Many CSOs fail to plan the lobbying process. Though lobbying by itself alone can result in policy change it is necessary to support the lobbying process with quality research.

It is normally assumed that the research results will have been prepared in suitable forms for various groups to be lobbied. There will be reference material and books for technocrats. There will be briefs for the Minister responsible. There will be some brief material for parliamentarians.

Researchers who cannot reach policy makers are unlikely to influence policy even if they have very meaningful results. It is important to note that many policy makers have no time to read detailed research findings. CSOs that do research and can successfully lobby are able to influence policy.

References

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Basic information about the author

Peter Orawo did Engineering at a number of institutions locally (in Kenya) and abroad (Italy, United Kingdom and United States of America) He has a Diploma in Mechanical and Electrical Engineering Higher Diploma in Electronics and Bsc. in Electrical Engineering. He has worked as a researcher at International Insect Physiology and Ecology and as an Engineer in a number of national and international companies. He is currently an Environmental Impact Assessor and an Environmental and Energy Auditor. He is registered with the Kenya National Environmental Management Authority as a Lead Expert.