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## RESEARCH ARTICLE

### The Environmental Impact Assessments in Morocco: Strengths and Weaknesses.

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#### Abstract

Morocco, with the enactment of the law on impact studies, has set itself the priority task to ensure the preservation of the environment and water resources. But the adoption of this law is also part of wide and varied national legal and regulatory field, grouping a multitude of sectoral laws relating to the environment. The first part of the paper has examined the contributions and limits of the legal framework by reviewing the national legal system and drawing the necessary conclusions regarding the interference arising between Moroccan Act on Environmental Impact Assessment and other laws or regulatory practices. The second part of the paper has reviewed regulatory and institutional framework in order to draw conclusions about their contributions and limits in the field of EIA. Finally, we concluded by proposing a strategy for capacity building and efficient implementation of the Act on Environmental Impact Assessment.

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#### Introduction:-

The environmental law is based on major legal principles. They result either from conventional or customary international law, either from national law through the constitution or framework legislation on the Environment. The construction of this international environmental law is justified by the awareness that allowed understanding that actions and human activities are far from being no effect on the environment. Indeed disasters of Bhopal, Seveso and Chernobyl have reinforced the concern of states and citizens with regard to the consequences that could result from activities that we did not take the merit to measure the potential effects on the environment and health.

The binding or non-binding instruments have facilitated the normative consecration of a number of principles; they appear as a guideline for any person or entity concerned to consider environmental concerns in the implementation of its business, and even of his project and its programs, policies or strategies. Of all these principles, the principle of prevention takes great interest, because it invites each other to common sense "to think before acting". In fact, it is from this principle that environmental assessment stems.

When we refer to the many international texts on the protection of the environment, we quickly notice that if the environmental assessment is repeated in almost all non-binding text, it is hardly mentioned in value texts legal. We can easily realize that most countries have adopted texts on the environmental assessment and, more generally, the impact study.

The Convention on Biological Diversity, at the 8th session of the Conference of the Contracting Parties adopted as an annex to Resolution VIII.9 makes guidelines for integration of biodiversity questions in legislation and/or processes on Environmental Impact Assessment (EIA) and in strategic environmental assessment. At the 6th Conference of the Parties of the Ramsar Convention, we discussed the need for a greater emphasis on EIA of wetlands policy (RMS, 2010).

If the environmental assessment is not always formally set out in the body of rules of the aforementioned international conventions, it should be noted that it was a subject of a convention that is specifically devoted to it.

Thus, the first multilateral treaty concerning the impact assessment in a transboundary context: The Convention on EIA in a transboundary context was adopted February 25, 1991 in Espoo (Finland) and entered into force six years later. The Convention on EIA (EIA) in a transboundary context stipulates the obligations of Parties to assess the environmental impact of certain activities at the start of planning. It also stipulates the general obligation of States to notify and consult each other on all major projects that could have a significant detrimental transboundary environmental impact.

Later, the Strategic Environmental Assessment (SEA) has emerged as an important aid element in environmental decision conscience, especially in Europe when the European Directive on SEA was promulgated in 2001. This acceptance of SEA was also reflected in the Aarhus Convention on Access to Information, public participation in decision-making and access to justice in Environmental Matters, signed June 25, 1998 (Craik, 2008). In 2003, the Protocol on Strategic Environmental Assessment, which “obliges its Parties to evaluate the environmental consequences of their official plans and programs”, was created. With remarkably importance, the SEA identifies and evaluates the effects on the environment and supports the existing planning procedures. The SEA is an instrument of strategic planning composed of several stages and destined to accompany the planning procedures and to involve the relevant authorities and the public (OVEV, 2013).

Of international law embodied in the various conventions, taking account of the environmental assessment by the national law turns out is not the same from one country to another. In a large majority of developed countries, the impact assessment procedure was not born under the impulse of international environmental law; on the contrary, it seems that this is the environment law who is nourished from the internal rules in the matter.

If we regret the fact that the consideration of the environmental assessment is rarely constitutionalized, we cannot deny that it was a subject of an important legislative development. In this regard, it appears that in France for example, the construction of the legislative and regulatory framework of the EIA began in the 70s with the adoption in 1976 of Act N° 76629 of 10 July 1976 on the protection of nature (Nanfah, 2006).

Regarding developing countries, the integration process of standards relating to the environmental assessment is reversed. Indeed, it is the major conferences organized under the auspices of the United Nations, and the Declarations which have arisen, which have acted as a catalyst for the introduction of provisions on environmental assessment in the national law of those States.

In this respect, Morocco has made of national environmental assessment a compliance with the commitments it has signed internationally. Morocco has made international undertakings to use the environmental impact study by adopting (Damghi and Benzahra, 2010) at the Rio Conference:

- Rio Declaration and Agenda 21 of the United Nations, the Convention on Biodiversity (Morocco signed the Convention on Biodiversity in 1992 and ratified it in 1995),
- The Convention on the fight against desertification and the Framework Convention on Climate Change (Morocco signed the Framework Convention on Climate Change at the Rio Summit in 1992 and ratified it in December 28, 1995),
- It has also ratified the Kyoto Protocol on 25 January 2002.

Despite the fact that the Kingdom of Morocco has ratified many treaties, agreements and international conventions on environmental protection, which include provisions on the obligation to use the EIA, there is no reference to transboundary and global impacts considerations in Moroccan legislation.

The EIA system has been implemented in Morocco in a progressive way through several stages:

- Between 1994 and 2003, an EIA studies were carried out on a voluntary basis by the promoters of projects, requested by international donors, or for reasons of particular sensitivity of the receiving environment of a project.
- The second stage, between 2003 and 2008, began with the adoption of Act N° 12.03 on the EIA, became the principal legislative reference of the impact study. Even in the miss of application text of this Act, an EIA review procedure has been established at national level.

- With the enactment in 2008 of the implementing decrees of Act N° 12.03 on the EIA, the EIA system has entered a new milestone marked by the deconcentrating of the EIA review process and the consideration in the opinion of the population in the environmental assessment of projects. This required great efforts in organization, adopting a structured approach of the EIA review process and sustained support for strengthening capacities of stakeholders in this process.

The analysis of the various stages of the birth of a consciousness in the need of an environmental impact study on any project also helped to reveal a multitude of definitions of this concept. ISO norm N°14001 defines environmental impact as *'any change to the environment, whether adverse or beneficial, wholly or partially resulting from activities, products or services of an organization'* (Sorokine, 2008). The United Nations considers the assessment of the environmental impact as *'a study in which the potential effects: physical, biological, economic and social of a proposed project on the environment both near and far are identified, analyzed and predicted'*. The principle 17 of the Rio Declaration states: *'Environmental impact assessment, as a national instrument, shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a competent national authority'* (Mwalyosi et al., 2008).

It is the Chapter V of the Act N° 11.03 who gave the first definition to the EIA as one of the instruments that facilitate both a rational and balanced use of natural resources and fight against pollution and degradation environment. The EIA is defined in Moroccan law as an environmental management tool. So Section 58 of the Act N° 11.03 poses the principle that: *'Where facilities, works or projects can, because of their size or their impact on the natural environment, harm the environment, Directors may require the petitioner or the project owner, the establishment of a prior impact assessment to assess their compatibility with the environmental protection requirements'* (WB-CEF, 2011).

Moroccan legislation by the Act N° 12.03 on the EIA, has defined it as *'a preliminary study to assess the direct or indirect effects up to the environment in the short, medium and long-term, resulting of achieving economic and development projects and establishment of basic infrastructure, and identify measures to eliminate, mitigate or compensate for adverse impacts and enhance positive effects on the environment'*.

From these multitude more or less similar definitions, we can be inferred that the EIA is an anticipated review procedure of both positive and negative consequences of a project on the environment, with the aim of ensuring that these consequences are duly taken into account in this project (André et al., 2010).

The impact study environmental instruments play an increasingly important role in contemporary political culture. According to some authors, these EIA(s) are not only components of political systems, but they themselves are also highly politicized, clearly and often secretly (Cashmore et al., 2010).

Morocco, with the enactment of the law on impact studies, has set itself the priority task to ensure the preservation of the environment and water resources, subscribing all projects likely to generate negative impacts an impact study. But the adoption of this law is also part of wide and varied national legal and regulatory field, grouping a multitude of sectoral laws relating to the environment. Therefore, questions arise: What are the inconsistencies, overlaps and possible incompatibilities arising between 12.03 and other laws or regulatory practices and national institutional arrangements? And what is the best strategy for the improvement of an EIA in Morocco at the legal, administrative and technical level?

Currently, Morocco, like almost all countries which have a committee, commission, agency, an agency or a department, appointed a responsible entity environmental issue, namely the delegated Ministry for the Environment.

The institutional framework of the impact assessment is an essential first step in the consideration of the environment. Moreover, even when studied, there is no evidence that includes appropriately in the process of decision making. Practice has shown that simultaneously need to adopt legal and institutional mechanisms to ensure the effective application of the EIA. Such mechanisms should provide assurance that development projects with significant environmental impacts are automatically subject to EIA process and that the recommendations arising from the analysis are applied (André et al., 2010).

The objective is to review the national legal system and to draw the necessary conclusions regarding the interference arising between Act n°12.03 and other laws or regulatory practices and national institutional arrangements. The search for inconsistencies or lack of synchronization between Act n°12.03 and the operative legal and institutional framework imposes a systematic scan of this arsenal.

The analysis of the legal, regulatory and institutional framework will allow us to draw conclusions about their contributions and limits in the field of EIA. Thus, a first analysis of the legal framework will be very helpful, before seeing the various stakeholders and EIA management process in Morocco.

#### **Contributions and limits of the legal framework:-**

The first national regulation referring to EIA was mentioned by Act N° 11.03 on the protection and enhancement of the environment. The latter introduced the obligation to conduct a study to assess the impact of environmental projects and their compatibility with environmental protection requirements.

Thus, Section 6 of the this Act stipulate that any parceling permission may be refused if the structures are likely to lead to harmful consequences for the environment, safety, well-being and health of habitants, and can present a hazard to the neighborhood and monuments.

Referring to a specific Act for the realization of an EIA by the Law N° 11.03, there has been the enactment of the EIA Act N° 12.03.

It should first of all refer to the elements introduced by the EIA Act, and eventually its implementing legislation, before analyzing the other sectoral laws that provide the need for authorization and which plus the obligation the use of impact assessments.

#### **The Act N° 12.03 on EIA and its implementing texts:-**

These new elements are highlighted through the presentation of Act No 12.03 already adopted, and it's implementing two decrees: decree N° 2.04.563 on the powers and functioning of the national committee and regional committees of EIA, and decree N° 2.04.564 fixing the modalities of organization and conduct of the public inquiry for projects subject to EIA.

#### **Introducing of Act N° 12.03:-**

Divided into four chapters, this Act has made its priority task to ensure the preservation of the environment, by subscribing all projects may generate negative impacts to an impact assessment. We report that the Act through his Section 4 excluded projects under the authority of the national defense. However, these projects must be executed so as not to expose people and the environment to danger.

The Act through Section 6 mentioned precisely all the documents who must contain each EIA, in order to have an environmental acceptability decision, which is one of the documents who must be presented for the authorization of the project. Projects subject to the procedure for EIA are submitted for advice to a National Committee or Regional Committee (as applicable) and the projects subject to EIA give place to a public inquiry. But, unlike 9th Section, public opinion or his information are not reported in the 7th Section, it deserves to be adapted in this sense.

In Chapter IV, it is specified offenses that may be and dispositions to take, but Section 15 does not specify the time limit that the offender should not exceed to comply with the law. Also, the Act 12.03 establishes a list of projects and activities subject to a prior impact assessment at the beginning of realization. The law does not specify if the projects and activities that are not in the list must undergo any environmental analysis (WB-CEF, 2011).

The system set up by Act n°12.03 (6th Section) requires the evaluation of positive and negative impacts with a central goal to eliminate, reduce or compensate the adverse impacts. The preparation, adoption and implementation of mitigation or compensation measures is covered by the Act n°12.03 which also requires institutional strengthening measures to this end. It is also provided in the same Section to maximize the positive impacts. However, reference is made to the overall cost of the project but there is no explicit mention of an obligation to set a budget for the implementation of preventive measures including control and monitoring.

**Implementing texts of Act n°12.03:-**

As provided by the 8th Section of Act n°12.03, a national committee and regional committees of impact studies on the environment are established by the delegated Ministry for the Environment. These committees have the task of examining the EIA and give their opinion on the environmental acceptability of projects.

Is the responsibility of the national committee, examination of the EIA projects including the investment threshold is more than 200 million dirhams, and regardless of the amount of investment for projects that execution affects more than one region of the Kingdom, or projects of international concern. However, the regional committee - present in each region of the kingdom – is charged to review and advise on the environmental acceptability of the impact studies on the projects whose amount is less than or equal to 200 million dirhams (13th Section).

The composition of the national committee is regulated by the dispositions of 4th Section, which stipulate that the chair of this committee is provided by the Secretary General of the delegated Ministry for the Environment, with as members any governmental authority involved either directly or indirectly by the study. Here it's reported that the chair may invite, in an advisory capacity, any competent person or entity, including the petitioner. This is an advantage to allow well-crafted and adequate impact study about the project. For the regional committee, the composition is described by the 14th Section, which charges the Wali of the region of the presidency of this committee, with participation of the same representatives of governmental authorities as the national committee. As for the national committee, the Wali may invite any person whose presence is considered useful, including the petitioner (Skim, 2011).

A critical analysis of these items leaves appear many limits that relate to the majority of times shortcomings. Thus, the 10 day period required to transmit the impact study to the committee may seem very short, given that the examination of some studies may take longer depending on the importance of the project. The pronouncement period of notice by the committee which is 20 working days seems too short considering the importance of some projects. As is the case for the national committee, the 10 day period required to transmit the impact study to members of the regional committees and the pronouncement time of the notice by the committee which is 20 working days are very short, and probably deserve to be reviewed (GIZ, 2007).

The 9th Section of Act n°12.03 provides for the obligation to conduct a public inquiry for any project subject to EIA in order to inform the population and associate this inquiry for the assessment for effects of the project (positive or negative). This inquiry must be accompanied by a full description of the main technical characteristics of the project, a comprehensible summary by the public of information contained in the EIA including those related to the impacts and the mitigation measures, and a site plan. The organization of this public inquiry is entrusted to a committee chaired by the local authority of the location of the project.

The disposition of this Dahir seems very inadequate. In fact, nothing is reported when the opening of the investigation will be held. The 5th Section specifies the content of the public inquiry file, or it should be noted that this file does not contain the impact study. Also, the 8th Section sets the duration of the investigation, which should not exceed 20 days; however this time seems short to receive the opinion of the population. And the 9th Section does not specify whether and how the public will have the report of the investigation sent to the committee concerned, with the objective to keep the traceability and transparency of the public inquiry.

**The legal texts providing for the need for authorization, and therefore an EIA:-**

The areas listed in the annex of Act n°12.03 are around sixty. So it is very useful to make an analysis of the most important legal texts covering the above fields that provide for the need of authorization and plus the obligation to use impact assessments.

**Act n°13.03 on air pollution control:-**

Look for the prevention and the fight against emissions of air pollutants likely to affect the health of humans, wildlife, soil, climate, cultural heritage and the environment in general. The dispositions of this Act shall not apply to installations under military authority, neither activity subject to the dispositions of Act n°005.71 of 12 October 1971 on the protection against ionizing radiation (Mehdi, 2009). This is perfectly consistent with the 4th Section of Act n°12.03.

**The Dahir of 25 August 1914 on the regulation of institutions unhealthy, uncomfortable or dangerous**

Adopted to protect the neighborhood of dangers, unhealthy or inconvenience posed by industrial establishments. This text stipulates that establishments are divided into three classes according to the nature of operations conducted or disadvantages they pose to the neighborhood. Since the authorization procedure involves carrying out a public inquiry (5th Section). In all likelihood, Act n°12.03 can join with the Dahir of 25 August 1914 without any significant problem (GIZ, 2007).

**The rules applicable to the quarries**

This area was regulated until recently by a Dahir of 5 May 1914, whereby any career cannot be opened, abandoned or reversed if there has not been sent a statement to the Director General of Public Works. To modernize the legal framework for the exploitation of quarries, a law n°08.01 was adopted in June 13, 2002, which in the 2th Section provides that the dispositions of this Act apply only careers for commercial exploitation, while annex of Act n°12.03 on the EIA do not distinguish as to the purpose of the career (commercial or not), neither its size. Thus, 'career' as listed in the Annex of Act n°12.03 would benefit from being harmonized with the Act n°08.01 on quarrying, specifying the nature of these (commercial or not).

**The rules applicable to nuclear**

The basic legislation on nuclear matters in Morocco is Act n°005.71 of 12 October 1971 on the protection against ionizing radiation. A decree of 7 December 1994 n°2.94.666 on the authorization and control of nuclear installations was adopted. Thus, the construction license application must be accompanied, according to the second paragraph of 7th Section with an impact study (Nabil, 2003). The annex of Act n°12.03 also includes 'nuclear center' as being subject to EIA. It therefore seems that there is no redundancy or overlap. However, we see that the decree of 7 December 1994 referred to 'nuclear facility' while the annex of the Act n°12.03 uses the term 'nuclear center'.

**Decree n°2.03.727 of 26 December 2003 on the organization of Regional Investment Centers**

To realize the contents of the above letter and step over Royal denounced difficulties, Regional Investment Centers have been established under the authority of the walis of regions. Now the wali is endowed with legal and regulatory powers needed to take the place of members of government, administrative acts necessary for the realization of investments. The Regional Investment Centre, under the authority of the wali. It animates and directs a regional commission comprising delegates of the regional administrations concerned by the investment and the relevant local authorities. This way distracts investment records management, which remains the responsibility of the state, but their management is taking place in the regions. Does this affect the EIA procedure as defined by Act n°12.03? Apparently, there is no interference or inconsistency between the two texts, since it is always the Wali of the region, which is in charge of the presidency of the regional committee (GIZ, 2007).

**Contributions and limits of the institutional framework**

The procedures provided in the Moroccan legislation on EIA management opposed common practices induced by different institutions in charge of environmental issues or investment. A comparison of the management process as described by law and decrees with the current process adopted can target failures in order to seek a better match and adaptation of the existing procedure with the requirements of the law and decrees.

**Various stakeholders in an EIA**

Several stakeholders operating on the various steps of impact studies, with missions more or less different and complementary to each other:

**The delegated Ministry for the Environment**

Coordinate and involved in the whole procedure of EIA and ensure its successful implementation: by developing the sectoral directives on which the supervising ministry base to prepare the terms of reference of the EIA, by preparing the review of the project upon receipt of the notice and defines the environmental issues of the project, by identifying the partners to be consulted and evaluates the necessary expertise for the review of the EIA, by ensuring coordination of the EIA and it's exam by the national committee, by pronouncing the decision of environmental acceptability of the project and exercising environmental monitoring of the project (Skim, 2011).

**The national committee and regional committees of EIA**

The national committee works on projects with the investment threshold exceed 200 Mdh, projects involving more than one region, and cross-border projects. The regional committees work on projects with the investment threshold is less than or equal to 200 Mdh, with the exception of multi-regional or cross-border projects.

The national committee examines the EIA, give his opinion on the environmental acceptability of projects, participate in the development of EIA related guidelines prepared by the delegated Ministry for the Environment, support and advise regional committees in the performance of their duties. The regional committees examine the EIA and give his opinion on the environmental acceptability of projects.

It's the delegated Ministry for the Environment or its representative who assures the presidency of the national committee, and it's the Wali of the region of the project or its representative who assures the presidency of the regional committees.

#### **The project's supervising ministry**

Plays a very important role in the progress of the EIA procedure, a many number of tasks assigned to it: he received the project notice and he developed the specifications of EIA in collaboration with the investor. He receives at first the impact study, he transmits it to the delegated Ministry for the Environment, he organizes the public inquiry and he participates in the review of the EIA within the national committee of EIA and participates in the surveillance and monitoring of the project.

#### **The petitioner**

He is primarily concerned by the EIA procedure, because he cannot obtain the administrative authorization for the project if the EIA management process leads to a decision of no acceptability of the project. His role consists on: Transmit a notice of proposed to the supervising ministry and the delegated Ministry for the Environment, participate in the development of terms of references, make the EIA in accordance with legislation and the specifications provided by the supervising ministry, provide supplementary information to the delegated Ministry for the Environment, provide reports on monitoring of the project on request of the supervising ministry and the delegated Ministry for the Environment and take over the financing of the EIA and of the public survey.

#### **The design office**

The design office is a firm of environmental professionals, licensed or not, who is responsible for performing the studies and produce the EIA report or related documents. Often these offices recruit, as required, other professionals to complete their teams (André et al., 2010).

#### **Population**

There are generally the public affected by the project and the interested public, who feel enough interest in the matter to intervene. The affected public is concerned mostly with short-term effects in a space generally limited in the vicinity or neighborhood, while the intervention of the interested public will focus on the medium and long term and will apply to a larger scale in space. For giving his opinion on the draft, the EIA procedure provides its consultation as part of the public inquiry. The inclusion of the public in environmental impact is crucial to the success of the EIA. Policymakers and petitioners must consider the attitudes and opinions of the public concerned by the project. Despite the non-inclusion of public consultation in institutional practices of some countries, nevertheless it there's several reasons to do (Morgan, 2002).

#### **The management and review process of EIA**

Management procedures of an impact study as advocated by the 12.03 Act is:

- Checking the project liability to EIA by the investor,
- Filing the notice of proposed to the supervising ministry and the delegated Ministry for the Environment,
- Establishment of terms of reference of the EIA by the supervising ministry, in collaboration with the investor.
- Realization and filing of the EIA by the investor including: the project and its implantation site, all environmental impacts of the project, compensation or mitigation measures, monitoring and supervising project program.
- Public inquiry prepared by the petitioner and submitted to the secretariat of the EIA committee, including: a descriptive sheet highlighting the main technical characteristics of the project, a clear and understandable summary of project and the limits of the expected impact zone of the project.

A committee chaired by the supervising ministry of project is charged of the public inquiry. After that, the commission prepares a report summarizing the observations of the population about the project and forwards it to the national or regional committee of EIA.

Review of the impact assessment by national or regional committee according to the specificity of the investment project or the amount of his investment. In three stages:

- Review of the admissibility of the study, conducting an audit of its compliance with the Act n°12.03 and the implementing decrees.
- Review of elements of information contained in the study, making sure if it describes satisfactorily: the initial state of the environment, the impacts generated by the project, mitigation measures and/or compensation negative impacts and monitoring and surveillance program (André et al., 2010).
- Assessing the compatibility of the project with environmental protection.

After, the committee drafts a report on the environmental acceptability of the project, taking into account the report of the public inquiry.

Environmental acceptability decision pronounced by the delegated Ministry for the Environment, taking into account the report prepared by the committee of impact assessment and advice on the environmental acceptability. According to case:

- Acceptable subject to present a set of environmental specifications.
- Acceptable subject to complete the EIA.
- Stay the proceedings on the project pending further clarification.
- Unfavourable opinion.

### **Surveillance and monitoring of the environment**

In accordance with the 6th section of the Act n°12.03, the investor must establish a monitoring and follow-up plan that serves to offset or mitigate the impacts of the project on the environment. This phase applies to both periods of construction or operation of the project. The monitoring results are rarely made public, which is unfortunate because if they were, people and affected or interested groups would be more reassured about the protection of the environment by the client. In addition to some major projects, the establishment of monitoring committees bringing together various stakeholders is advocated (André et al., 2010). The supervising Ministry and the delegated Ministry for the Environment ensure control of surveillance and monitoring plan through the Department of Regulation and Control in collaboration with external services and local authorities. It consists of periodic verification of the legal and technical requirements to ensure that all requirements set out in legislation and regulations related to environmental protection are applicable and respected (Adad, 2011).

### **Institutional framework: Limits to overcome**

An analysis done by the GAZ as part of the evaluation of the EIA system in Morocco in 2007 on selected EIA showed that they include major chapters of an EIA but do not present all of the other chapters. As an indication, approximately 30% of aspects of an EIA fail or are treated implicitly. The most aspects are treated worse: The time horizon of the EIA, the synthesis of elements enhancing the environment, the environmental impact and residual impacts and their compensation.

Regarding the capacity of members of the national committee, it should be specified that the representatives of different departments can properly judge the aspects within their specialty. Also, members of the national committee changes frequently, which slows down the accumulation of EIA practice analysis and strengthening the capacity of the committee members (WB-CEF, 2011).

Design offices and companies do not always have within them all the experts to carry out an EIA. This leads us to question the relevance of studies. The Act n°12.03 does not specify the EIA preparation conditions, leaving it to the discretion of the investor. He could for example prepare himself the EIA or be prepared by the same entity responsible for preparing the initial study or the project, which would adversely affect the quality of the EIA, who should be carried out by an independent expert of the promoter.

If this rule could be accepted for projects that do not present a major environmental risk, it does not hold true for projects that present significant risks or can generate substantial negative impacts on the physical or social environment. International good practice, including in emerging countries such as Brazil, Thailand, India or South Africa, the EIA is prepared by independent experts because they are obliged to respect the laws, environmental



regulations and standards and to provide an independent judgment on the options available to the project, taking into account all project parameters (WB-CEF, 2011).

Regarding the document itself of the EIA, it is always for improvement and for more detail, divided it into three shares with different levels of detail : Volume 1 with a complete and concise document compiling all the important information concerning the proposed development, A non-technical summary with a brief report of Volume 1 in non-technical language that is easily understood by the public and volume 2 with a volume containing a detailed assessment of significant effects on the environment.

### **Environmental Impact Assessment improvement strategy**

The practice of EIA is almost institutionalized given the number of studies already conducted and sectors of activities concerned. Despite this institutionalization, it is noted weaknesses in the implementation of the practice of environmental impact studies, instead of responding to the expectations of political will, will allow these studies a simple legal formality. Among these weaknesses, there is a regulatory framework that remains to this embryonic day, despite the enactment of the legal text based and decrees. Also comes in these weaknesses, limited public participation. It finally emphasized the qualitative and quantitative inadequacy of national capacities to carry out EIA as indicated by the predominance of foreign design offices. The proposed strategy for capacity building and efficient implementation of the Act n°12.03 on EIA is structured around three axes:

- Legal and institutional;
- Technical ;
- Organizational and procedural.

### **On the legal and institutional plan**

The fact for a country to have acts and administrative and public structures of EIA does not necessarily mean that its institutional and legislative framework is functional. We say of an institutional and legislative framework of the EIA it is actually functional (Koassi, 2001), when flexible structures responsible for EIA are established with qualified working staff, legal and regulatory acts relating to EIA are developed and applied, an EIA procedure exists and tools are available and easily used by local specialists, the development stakeholders are informed and aware of the importance of the environmental assessment and the national structure responsible for the EIA has a capacity building program enabling it to ensure the development and sustainability of the existing institutional framework and the promotion of the EIA.

The EIA management in Morocco seeing the legal and institutional analysis discussed above clearly shows that much remains to be done in the legislative and regulatory field.

### **Legally: Towards a broadening of the application field**

The analysis of the list of projects subject to EIA showed that it did not include a class bearing environmental impacts such as oil pipelines or gas projects. Also, the Act n° 12.03 does not require specifically an analysis of alternatives to the proposed project. The requirement for additional analysis of alternatives during the preparation of the EIA may be, in some cases, unnecessary for public projects, but should be part of the requirements for private sector projects to demonstrate the environmental qualities project/activity proposed in terms of positive and negative impacts and describe the conditions of the final choice (WB-CEF, 2011).

### **Institutionally: towards greater complementarity**

In recent years, the four directions of the delegated Ministry for the Environment (Legal, Monitoring, Planning and Spatial Planning) systematically involved in the review of all EIA. These directions should guide further their contribution to the EIA review, according to their prerogatives and powers they exercise and they must develop:

- The Legal Directorate: This department, responsible for the development and promotion of national environmental regulatory framework should take into account the needs for standardization, legal and regulatory gaps for priority setting, include this EIA process in a global legal strategy and will develop skills and expertise in environmental law.
- The Surveillance Directorate: Should focus its review on the verification and validation of data on water, air, soil, relying on its various technical services.
- The Planning Directorate: Its contribution in the EIA review could be directed towards the search for compatibility, better coherence and harmonization of projects, large-scale structuring programs with the

policies, plans, programs and sectoral policies (National Water Plan and Plan of Integrated Development of water resources, protected areas, agricultural policy, tourism, equipment, etc.). Can also play a fundamental role in Strategic Environmental Assessments, and therefore benefit from developing skills for planning and the coherence of sectoral policies and programs (agricultural areas, tourism, industry, infrastructure, etc.), sometimes in conflict situations can be a source of significant and irreversible environmental damage.

- The management of Land Directorate: This department, which has initiated several regional and national studies of Territory Planning, but for lack of legal supports cannot win in front of major infrastructure projects or the planning documents nor to new cities, can through the EIA process encourage integrate this dimension upstream developmental projects and infrastructure in the early stages of the EIA.

### **On the Technical and capacity building plan**

Analysis of programs and outlook for various economic development projects in Morocco, given the incentives and the economy's internationalization conditions allow seeing a significant increase in impact studies. This increase will challenge the committees for the treatment of this large batch of projects submitted. So an organizational and technical improvement is needed.

### **Technically: Towards a lightweight and efficient process**

Improving EIA will be supported by:

- The Terms of Reference: The terms of reference serve as a roadmap for the preparation of the EIA and should ideally encompass the issues and impacts that have been identified in the project scope definition process. But the terms of reference currently used are often too general and not adapted. These could be reviewed in order to orientate the authors of the EIA to the most critical aspects of the project and its environment. They should commence with a brief description of the program or project. This should include a plan of the area that will be affected either indirectly or directly. They also should contain explicit references to which safeguard policies may be relevant and which legal requirements should be applied (Pacifica, 2007).
- Improving the process of review and decision-making: The installation of a set of procedures describing the activities of each entity, its horizontal and vertical relationships between the various entities is more than necessary to (GIZ, 2007): achieve traceability of most acts, establish traffic patterns and information secure and to define and formalize the links between the various entities.

### **Capacity Building: Towards a participation of all sectors**

The delegated Ministry for the Environment needs to develop human resource profiles tailored for new specific missions, and organize to acquire the skills needed to: protect the flow of the resource, protect the quality of the resource, monitor and control the implementation of the project and carry out the necessary training, upgrading of the delegated Ministry for the Environment managers to meet the needs of the missions.

Capacity building would concern both the central and regional levels and must also affect public and private sectors, universities, non-governmental organizations, associations, and information and awareness:

- Public sector: involved as development project promoters subject to EIA, the public sector has all the necessary assets to be exemplary and provide case studies of good practice.
- Private sector: bridges must be directly established to educate, inform and assist investors directly involved in this process.
- Non-Governmental Organizations: the role of non-governmental organizations can be critical to guide and assist the population, particularly at public inquiries.
- University: strengthening the partnership with the university in each of the regions and strong ties must be woven taking into account the respective interests of both parties.
- The information and awareness of development actors: as development actors, the national decision must be aware of the need and benefit of the impact assessments in the overall process of sustainable development. A program of seminars and information sessions must be developed in this regard for them (Koassi, 2001).
- Support for the creation and strengthening organizational capacities of professional associations in EIA: the exchange of professional and scientific experiences is an important aspect of this building. Several national associations in EIA in the Francophone world have acquired a certain maturity over time. These could support the national Moroccan associations.

## Conclusion:-

Each policy on the environment is based on the precautionary principle. It is then important to identify impacts of a project on the environment as soon as possible and draw the conclusions necessary to avoid negative impacts. Hence the idea of already subject of plans and programs prepared for a number of sectors and which set the framework for future decisions authorization projects to an environmental assessment, and that's the Strategic Environmental Assessment (SEA).

In a long term perspective, the SEA will be a suitable instrument also for Morocco to identify in advance the impact which constitute later and in a more concrete manner, the EIA of a field project. We must of course avoid duplication of assessments. That is why the results of the SEA could be also used for the preparation of the EIA.

To have real influence and facilitate policy formulation, planning and decision making, the SEA must establish clear objectives, be integrated into existing policy and planning frameworks, be flexible, iterative and adapted to the specific context, involve key stakeholders and encourage public engagement, be transparent from start to finish and ensure the diffusion of results and build capacity to undertake and use the SEA (OECD, 2006).

But in the future, it is important to work in the following directions:

- The training of design offices: design offices should fully understand the objectives of the EIA, its progress and the elements it should contain. Their competence depends largely on the reliability and relevance of impact studies that will be conducted in the future.
- The development of relations with the university: universities are reservoirs of valuable skills for the development of impact assessments, which require the collaboration of multiple disciplines.
- The involvement of the entire Ministry of Environment in the management of EIA and the development of capacities for impact studies within each ministerial department.
- The legislator machine is brought to exercise self-controlling by inventing the concept of 'law project's impact assessment'. This is to write a systematic analysis of the problem and to demonstrate why its resolution requires the adoption of a law or not, and why such a law rather than another.

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