
SUSTAINABLE DEVELOPMENT GOALS AND THE NEED TO FORM EFFECTIVE ENVIRONMENTAL ENFORCEMENT: EFFORTS TO BUILD INSTITUTIONAL CAPACITY THROUGH AN INTEGRATED APPROACH

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Honorable members of the head table, distinguished participants, I would first like to thank our partners and co-sponsors of this event, the Secretariat of Social Development of México, the Ministry of Housing, Spatial Planning, and the Environment of The Netherlands, the World Wildlife Fund, and the United States Environmental Protection Agency, for giving me the opportunity to address you this morning.

Elizabeth Dowdeswell, the executive director of UNEP, and my colleagues from the industry and environment and environmental law centres have asked me to address you on their behalf, on the goals of sustainable development and the need to build institutional capacity for environmental enforcement.

The work of this conference is eminently practical: it focuses on hands-on workshops to familiarize participants with the fundamental principles of environmental enforcement and the design of compliance programmes. Therefore I would not like to burden you with too many words.

Much has been said in the past years about the emerging paradigm of sustainable development. At the earth summit in Rio, more than 100 heads of state and government, and representatives of industry and the world's non-governmental community, recognized the need to adopt a different development strategy to ensure a more equitable and viable world for future generations.

However, as we now try to define the sustainable development creature, we seem to be faced with the same dilemma as the blind men in the indian fable when they were trying to describe an elephant. Perhaps in our efforts to adopt the new paradigm we are falling prey to a new fad called sustainability, without really understanding what it is all really about.

And we are in danger of believing that because we have changed our rhetoric (giving it a little green coat) we are changing the objective conditions that have brought humanity to one of its most profound crisis in history.

And one thing is certain. We are a world in crisis. The economic development models of the past have failed to deliver a fair and sustainable society. The natural resource base continues to be degraded at an accelerated pace and social inequality has reached today its height. The poor are becoming poorer. In 1960, as stated recently by the Secretary General of the United Nations, 20% of the world's population had 5% of the world's income, whereas the richest had 63%. In the 1990's the share of the poorest had fallen to an abysmal 1.3%. Our house is much smaller today, as we have become many. And in less than sixty years our scientific oracles are predicting a world population doubling the present one. We know that our national and international institutions—engineered in the eighteenth and nineteenth century—are not capable of responding to the multidimensional challenges of the post-industrial, post-technological civilization.

We need new thinking to reshape our institutions, our economic theories, our social ethics. We have to move, on a global scale, to a state of law, which recognizes not only the rights of the existing members of society but also those of future generations.

As stated in 1992 by Dr. Mostafa K. Tolba, "sustainable development is not a ready made policy menu. It is a demanding series of concrete, costed and draconian measures which confront failed economic programmes and instigate new structural reforms of the world's institutions and governance." These reforms must aim to bring about the alleviation of poverty and the rational utilization of natural resources through the construction of a more equitable society.

Ladies and gentlemen, sustainable development does not really represent a new paradigm, it is the re-statement of the ancient longing of mankind for a world of peace based on true respect for the rights of others, including the next generations.

If sustainable development is to be achieved, the social environmental costs and benefits of any development process must be evaluated, and laws and regulations must be enacted to ensure the protection of the community rights.

Khalil Gibran tells us about the answer given by the prophet to the question "but what about our laws, Master?" posed by an orphalese lawyer.

The prophet replied:

"You delight in laying down laws, yet you delight more in breaking them. Like children playing by the ocean who build sand-towers with constancy and then destroy them with laughter."

We have to move into a global and national state of law in order to regulate the multidimensional interactions that shape-up the human and natural environment and enable the protection of society's well-being. Laws have to be efficient but also effective. To enact lofty legislation that cannot be enforced is like building sand-towers by the sea side. To subscribe international treaties for the protection of the world resources, without a real political will, or the technical or financial capacity to undertake their implementation, create the dangerous illusion that the problem has been tackled while it is still rampant.

Since the environmental awakening of the 1970's many governments have established legislative and regulatory frameworks for the implementation of their environmental policies. There has, however, been a notable dislocation, in most countries, between the promulgation of laws and regulations and compliance with and enforcement of such laws and regulations. This is particularly true of developing countries where existing economic constraints, social priorities, and inadequacies in institutional and technical resources have largely impeded the effective implementation of environmental laws and regulations.

There is need to evolve strategies that will promote compliance and ensure effective enforcement. To enhance the capacity of many countries enforcement agencies to inspect and monitor, to investigate violations, and to compel compliance.

Political democracy is an essential ingredient for environmental enforcement. Public participation at all stages of development actions is the only way to guarantee that the rights of the community are protected. Compliance with laws and regulations, on environment and in other areas, is in effect a measure of the democratic maturity and the ethics of a society.

The subjects of legal regulation need to be sensitized to the demands of laws and regulations through the dissemination of information and the provision of advisory services. Industry needs to be encouraged towards compliance through technical assistance and technology development and transfer.

This is one of the reasons why this conference is of great significance. It will help to enhance public awareness; provide information to governments, the private sector and non-governmental organizations; and sensitize the international community to the imperative of environmental enforcement.

Agenda 21, mandated international organizations to promote environmental compliance by helping to provide an adequate institutional capacity for monitoring and enforcement.

But how to achieve this capacity building. Is it by funnelling additional financial resources to aging governmental institutions? By creating new bureaucratic structures? An out of tune engine does not respond better by adding more gasoline nor a higher octane grade.

We feel that the way the international system must proceed is by providing, on a step by step basis, the information that governments require to develop efficient and effective legislation, and its implementation mechanisms, and the information that the private sector requires to comply.

This is a major task. One that requires action based in partnerships of the public and private sectors with an active participation of citizen groups. For the international system to effectively abide

by the mandate of Agenda 21 it must act in a coordinated fashion. Let us not however forget that international institutions are also undergoing a crisis of purpose and structure. We still have to learn to work together around the common agenda of sustainable development. The effervescence generated after the Rio summit has yet to settle in well thought international assistance programmes which offer a coherent response to the multitudinous problems associated with enforcing sustainable development.

We are beginning to move in that direction. In the case of UNEP its capacity-building activities in the field of environmental legislation and machinery are being re-oriented. This re-orientation emphasizes the integration of the programme within the general framework of endogenous capacity-building for sustainable development established by Agenda 21; a regional approach to programme design and implementation in order to respond to geographical specificities; a result orientation in programme design, delivery and implementation; and partnership with relevant international organizations in the implementation of projects.

Building the institutional capacity of governments is to help them define policy and set the regulatory framework for sound and sustainable development. Chapter 8 of Agenda 21 on "Integrating Environment and Development in Decision Making" indicates in detail the needs for providing an effective legal and regulatory framework including provision of mechanisms for promoting compliance, as well as utilizing economic and market incentives should be used to encourage industries, for example, to voluntarily comply with standards and regulations. If such standards regulations and laws are not applied fairly, systematically and effectively then the governments run the risks of losing their credibility and the same time rendering the laws useless.

Ladies and gentlemen, the whole process of development, implementation, monitoring, enforcement and revision of environmental policy and legislative framework is an evolutionary process. A step by step approach should be taken. It is better to set long term goals with intermediary measures which can be complied with, that to set immediate stringent standards which will not or cannot be complied with (as a result of one limiting factor or another, be it technical, financial or otherwise).

The UNEP Workshops which will take place on Wednesday, are organized with the support of the Ministry of Housing, Spatial Planning and the Environment of the Kingdom of The Netherlands and the United States Environmental Protection Agency, and will go in depth into the above mentioned points. The general areas to be covered include: development of a compliance and enforcement programme; determination of human and financial resource requirements; permitting; and inspection, self-compliance monitoring and enforcement response. I cannot omit mentioning the 8 other excellent workshops which will also be held on the same day.

UNEP, with the support of the government of The Netherlands, intends to organize additional workshops on industry compliance and enforcement in various parts of the world and is looking forward to further cooperation with the United States Environmental Protection Agency and other organizations in this endeavor.

The search for sustainability in our social and economic actions is the only path to follow. It is a long road, we know, but as stated by a wise man from the east, a hundred mile journey starts with the first step.

Let us walk. Let us build sand-towers that last, so that our childrens' children might also be able to enjoy.

I wish you a pleasant and productive conference. Many thanks.