
COUNTRY EXPERIENCES IN DESIGNING ELEMENTS OF AN ENVIRONMENTAL ENFORCEMENT PROGRAM: CASE OF EL SALVADOR

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SUMMARY

A general picture is presented of the process followed in El Salvador to optimize the efforts of environmental improvement through the formulation of a National Environmental Strategy which includes the establishment of a System of Environmental Management containing several instruments. The most notable is the National System of Environmental Complaints (Denouncements), which ties together the environmental administrative institutions, the Public Prosecutor's Office of the Republic, and the National Civil Police through the Division of Environment, which will act in a coordinated and sustained way with a Law of Environmental Protection. This unique and modern model has successful characteristics.

1 THE IMPORTANCE OF THE NATIONAL SYSTEM OF ENVIRONMENTAL COMPLAINTS (DENOUNCEMENTS)

The task of preparing and coordinating actions to solve the problems that affect the environment is a difficult one, and it is under the shared responsibility of the people and the government. The latter carries it out through institutions whose purposes are to conserve and protect the natural resources and the environment.

The draft of a bill called "Protection of the Environment" establishes the creation of the "environmental management system," and identifies the need of readjusting the institutional structures, sketching out the functions, responsibilities and fields of action according to the role which each institution and members of institutions are to play.

One of the several functions which characterize the system is that of achieving an adequate coordination of intersectoral activities.

The Executive Directorship of the National Environmental Council (CONAMA), led by the Executive Secretariat of Environment (SEMA), has believed that it is of great importance to establish a system of complaints (denouncements) of an environmental nature, which has as its objective the promotion of actions which will lead to the knowledge, evaluation, and treatment of environmental problems which affect the community.

The creation of the national system of complaints is justified by the immediate need to give an answer to the petitions of the population. The population is worried by the observable deterioration of natural resources and of the environment of the country and the growing pollution, but has not had a place to which to address its petitions. This would fill that need. This does not mean there is a lack of institutional attention, but only a lack of orientation to the user.

The complaints are a tool of great importance, since they define public opinion and are converted into a type of permanent consultation, which also enriches the work carried out by institutions related to the environment. In this same way, the complaints are taken as the basis of the elaboration of national strategies to be carried out in the conservation and protection of natural resources.

Due to the complexity and diversity of the environmental problems of the country, it is important to coordinate the technical cooperation between the institutions who are responsible for conserving and protecting the natural resources and environment, trying, in this way, to achieve effectiveness

and rapidly in setting forth solutions. This coordination will be more effective if the complaints are channeled through the dedicated units given this responsibility.

In the context established by SEMA, purposes are set forth which contribute to the strengthening of environmental management, and especially for this project with the sectors where a Sectoral Environmental Unit (UAS) exists or should exist, which strives for integral development.

2 OBJECTIVES OF THE NATIONAL SYSTEM OF ENVIRONMENTAL COMPLAINTS

- To take advantage of the experience of the institutions that work with natural resources and environment, and try to give immediate attention to the complaints through institutional coordination, without interfering in the work areas of proper competence.
- To apply sanctions of several types established in environmental legislation.
- To let the population know of the existence of the National System of Environmental Complaints through the media.

3 INSTITUTIONAL ROLES

The proposal for the definition and organization of the System of Environmental Management makes reference to the levels of interaction of the participants in the System. It is structured into: a) the level of counseling and consulting, b) the level of coordination, c) the operational level.

It is important to point out that at the level of coordination the field of surveillance and environmental monitoring stands out, since in this field and through SEMA (as the catalyst of the relations between sectoral environmental activities) the relationships of coordination are established between the rest of the institutions of the System, the corresponding bodies of the Public Ministry (the Environmental Units of the Attorney General's and the Public Prosecutor's Office), and the Environmental Division of the National Police.

The responsibilities of the Public Ministry in the System of Environmental Management are: (i) represent administratively and legally the interests of the state and society in environmental matters; (ii) receive complaints concerning violations to the legislation in effect and typifying environmental crimes; (iii) acting as plaintiffs in the courts of justice in representation of the interests of society through the prosecutors of the national courts, (iv) carry out civil and penal suits in environmental matters; and (v) apply corresponding sanctions when environmental laws, regulations and environmental norms, or the contents of the same in sectoral laws, are not complied with.

SEMA will ask these bodies for their participation when the operational mechanisms of environmental quality control have not achieved success in enforcing the corresponding laws and regulations.

The Environmental Division of the National Police will act on two levels; (a) as a support to the system of monitoring environmental quality in investigating environmental crimes; and (b) as an authority with responsibility for making operational the sanctions established by the corresponding judicial bodies.

The complaints of environmental crimes will be made by the sectoral agencies themselves, by individuals, by the NGOs, or will be generated in SEMA itself through the monitoring, evaluation, and control network. The sanctions established will be of an administrative, pecuniary, or penal type, according to the corresponding norms. In the cases which warrant it, the means for the reparation of damage will be established.

The results of a survey of different institutions carried out by SEMA reflect that all of the environmental areas identified have a unit for the reception of complaints, which facilitates the work required for the installation of the system and for the joining of efforts in coordination by areas, without falling into duplication of efforts.

It was shown that the institutions which make up the system have environmental protection mechanisms and tools. However, several inconveniences were manifested, such as:

- The lack of effective application of the laws.
- The lack of trained personnel in environmental issues.
- The lack of equipment: transportation, communication and furniture, among others.
- Bureaucratic procedures (institutional coordination).

With the objective of working intersectorally, since it is one of the characteristics identified with environmental problems, four types of institutions were classified that monitor the protection and conservation of the natural resources and environment. They are the following: a) Implementors, b) Services in Support of Integral Defense, c) Norm Sanctioning, d) Norm Regulating.

Table 1. Institutional Identification of the Different Legal Instruments Used To Give Attention to Environmental Problems

Institution	Instruments
Center for Fishing Development	Law of fishing activities. Article 11. The center for fishing development is a dependency of the Ministry of Agriculture, in charge of the administration of fishing activities.
Direction of Environmental Health	Health Code. Has as its objective the development of constitutional principles related to the health of all inhabitants of the Republic. Also: Decree 50 and its regulations. Others: Municipal Police Law, municipal ordinances in coordination with the towns.
National Council for Culture and Art	Transitional law in cultural resources. The Law of Cultural Patrimony has not yet been passed.
National Park and Wildlife Service	International agreement on the commerce of flora and fauna -CITES- and its regulations. Decree of forest seasons (management of reduction zones).
Forestry Service	Forestry Law.
National Navy of El Salvador	Marine and Navigation Law, Organic Law of National Defense, Regulatory Marine Law, General Law of Fishing Activities.
Municipality of San Salvador -Urban Development Control	Municipal ordinance and regulation of urban development control and of the construction of OPAMSS.
National Administration of Aqueducts and Sewers (ANDA) -Specialized Water Unit (UEDA) -Division of Urban Development	Law of ANDA and technical norms. Decree 50, regulation on water quality, sewers, and protected areas. Articles 100 and 101 of the law of irrigation and drainage, water quality, and supervision of waste disposal and protected areas, with the objective of avoiding, controlling or reducing the pollution of water resources.
Vice-Ministry of Housing and Urban Development	Urban and construction law (direction, control, norms, and permits) and its regulations and decrees, law of regulating plans, law of the institute of liberty and progress, cemetery law, law of fuel deposits and petroleum derivatives, and others.
Planning Office of the AMSS	Ordinance of the control of urban development and construction, regulation of the ordinance of the control and urban development and construction.
Executive Committee of Water Protection	Executive Decree No. 50

3.1 Implementing institutions

These institutions develop environmental and natural resource protection and conservation projects and programs, including urban and rural development. The institutions listed have been identified according to the area of attention. Not all of them receive complaints, but their objective is to control and monitor environmental phenomena. Such is the case of the Center of Meteorology and Hydrology, which counts on basic information to prevent disasters.

In the following table, the relationship of the implementing institutions with the areas of action in natural resources and environment is described.

Table 2. Table of Institutional Relationships With Areas of Attention

Name of Institution	NATURAL RESOURCES					HEALTH				PHYSICAL SPACE		
	Forestry	Fauna	Water	Soil	Fishing	Non-renewable	Water	Air	Soil	Environmental Health	Cultural Patrimony	Urban Development
ENVIRONMENTAL LABORATORY (*)							**	**	**			
METEOROLOGY DIVISION (*)							**	**				
HYDROLOGY DIVISION (*)			**				**					**
DIRECTION OF ENVIRONMENTAL HEALTH							**	**	**	**		
NATIONAL COUNCIL FOR CULTURE AND ART (CONCULTURA)											**	**
CENTER FOR FISHING DEVELOPMENT					**					**		
NATIONAL PARK AND WILDLIFE SERVICE	**	**	**	**						**		
SERVICE OF PLANNING AND HYDROGRAPHIC BASINS	**		**	**			**	**				
NATIONAL NAVY	**	**	**		**		**			**		
URBAN DEVELOPMENT (Municipality of San Salvador)											**	**
SPECIALIZED WATER UNIT (ANDA)			**				**			**		**
URBAN DEVELOPMENT (ANDA)			**				**			**		**
CONTROL, NORMS AND PERMITS (VMDU)	**	**	**	**			**	**	**	**	**	**
OFFICE OF PLANNING OF AMSS (OPAMSS)											**	**
EXECUTIVE COMMITTEE PROTECTOR OF WATER RESOURCES (CEPRH)	**		**	**			**	**				**
GENERAL DIRECTION OF TRANSIT								**				
UNIT OF ENERGY, MINES, AND HYDROCARBONS				**		**						

(*) Does not address complaints. Could provide support in inspection and diagnosis, since within its objectives are vigilance and control of atmospheric phenomena and quality of natural resources.

(**) Areas of competence.

3.2 Service institutions supporting integral defense

Each one of the institutions listed below monitors the protection and conservation of natural resources, enforcing existing laws and regulations supporting the integral defense of a damage caused to the interests of the population.

Given the fact that the conservation and protection of the environment is a right and an obligation, and as an effort to fulfill this mandate, various governmental institutions have been created. Of these, a special mention should be made of the creation of the National Civil Police, which has projected in its structure the formation of the Environmental Police. These activities are integrated among four institutions:

- Attorney General of Defense of the Environment.
- Ministry of National Defense.
- National Navy.
- National Civil Police.

3.3 Norm sanctioning institutions

These are institutions which because of their structure can apply corresponding sanctions for a damage caused to natural resources and the environment and which also affects the population. The support of these institutions will be come effective when an investigation of the complaint has been carried out and the damage caused has been diagnosed. These institutions will then proceed to enforce the specific legislation. This group is made up of the:

- Public Prosecutor of the Republic.
- Supreme Court of Justice.
- Municipal Authorities (courts).

3.4 Norm regulating institutions

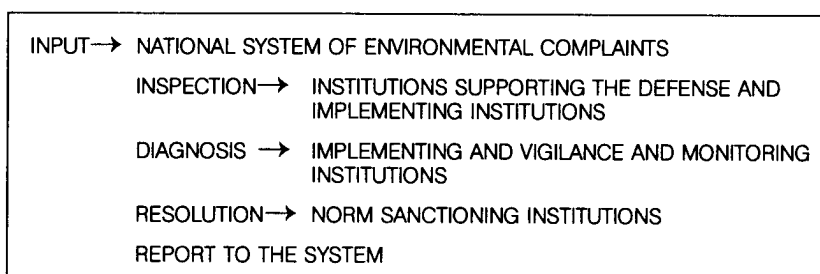
The objective of the norm implementing institutions is that of establishing and reviewing guidelines for the conservation and protection of natural resources and the environment. This group is made up of:

- Executive Secretariat of the Environment.
- Health and Environmental Commission (Legislative Assembly).
- Salvadoran Institute of Municipal Development.

4 MECHANISMS OF RECEPTION

Complaints are defined as the notification or warning to the competent authority of a damage done to, or about to be done to, the natural and cultural patrimony. This can be communicated in writing or verbally (including telephone calls). It can be attended to by any of the institutions which make up the system.

It is important to establish a mechanism which makes viable the reception of complaints, which will avoid a bureaucratic attitude in paying attention to them. Therefore, the following scheme is proposed:



The system should be made public through the means of communication of the country, with clarity in its text so that the population can identify the places to which it can direct its complaints.

The communiqué cannot be published until it is approved by the institutions involved.

The dissemination will be an instrument of classification of complaints, since the institutional directory would be published with the identification of each one of the areas of attention.

5 INSTITUTIONS RECEIVING COMPLAINTS OF AN ENVIRONMENTAL CHARACTER

The following are service institutions in support of the integral defense:

- National Civil Police.
- Attorney General for Environmental Defense.
- Ministry of National Defense.
- National Navy of El Salvador.

The following table lists institutions by the type of complaints they handle.

Table 3. Attention to Complaints Based on Resources

Problem	Institution
Air pollution	Direction of Environmental Health
Environmental health	Direction of Environmental Health
Damage to cultural patrimony	Concultura
Fishing resources	Center for Fishing Development
Flora and fauna	National Park and Wildlife Service
Soil deterioration	Vice-Ministry of Housing and Urban Development, Office of Planning of AMSS
Water pollution	CEPRHI
Exploitation of mines and quarries	Unit of Energy, Mines and Hydrocarbons
Forest exploitation	Forestry Service

In addition to these institutions, all of the municipalities of the country receive complaints of an environmental character.

6 MECHANIZED SYSTEM

For the establishment of a bank of complaints a design is required of a structure that responds to created needs. Therefore, a proposal is advanced for the design of a data bank which will allow a continuous and easy-to-manage registration for all of the institutions which make up the system (see Figure 1).

Due to the needs defined by the system, it is recommended that this be added to the informational unit of SEMA, without omitting the important role which could be played by the technicians of the different areas of attention in the Secretariat. This depends, of course, on the scale presented by the problem, given more attention to the problems of great scope operating under the concept of technical proposals.

The proposed design is oriented towards the final user. Therefore, the structure will be based on menus, with four large sections: a) the management of principal masters, for example the identification of the complaint in the departments of the Republic, municipalities, affected area, etc.; b) management of the archive of complaints itself, covering also the maintenance of this archive; c) definition of the type of report for the users, frequency of issue of the number of copies, etc. and d) A process of supports

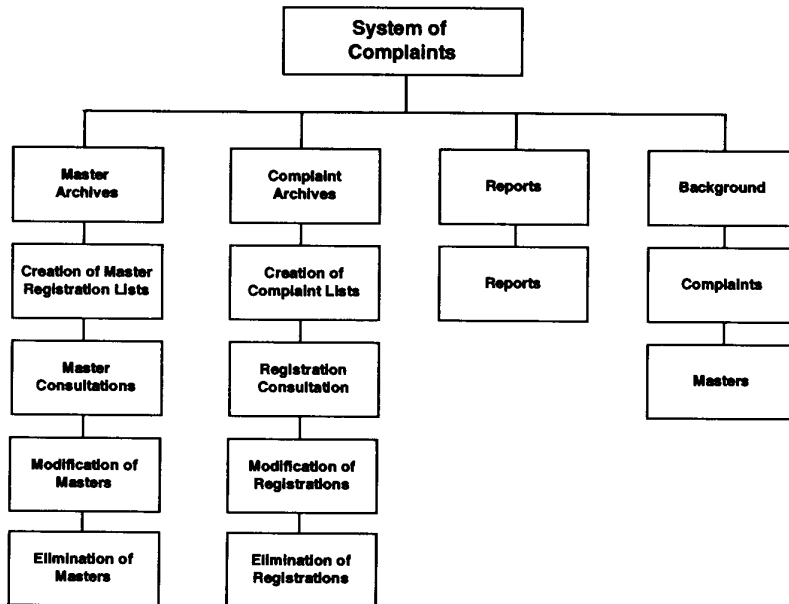


Figure 1. National system of environmental complaints.

to the masters and to the archive of complaints with the specific end of assuring the due functioning in any emergency.

6.1 Description of a questionnaire for the monitoring of complaints

It is important to establish a model of typifying or classifying the complaints for an easy management at the level of institution and area. This format could be functional, with the advantage of summarizing all of the information necessary for the problem identified, and at the same time would be the official document of application for attention (see Figure 2).

CODE:	
AREA:	DATE OF ENTRY:
CIRCUMSTANCES:	
LOCATION:	
SCALE:	
COMPLAINANT:	
SENT TO:	DATE:
FOLLOW-UP:	DATE:
OBSERVATIONS:	
RESULTS:	

Figure 2. Questionnaire for monitoring environmental complaints.

Figure 2 Key:

Code	Identification of the complaint within the system and completed by the system of mechanization.
Area	Identification of the problem within the affected resource.
Date of entry	Date of input of the complaint into the system.
Circumstances	Development of a brief description of the general content of the complaint.
Location	Corresponds to the exact location of the problem, including the address, municipality and department.
Scale	Identification of the scope of the problem in time and space.
Complainant	Name of the person or institution presenting the complaint (this should remain anonymous).
Sent to/Date	Name(s) of the institution(s) to which the complaint is sent; date of the sending of the complaints to the different institutions which make up the system.
Follow-up/Date	Consultations with the institutions of the system to which the complain was sent in a period greater than eight days; date of the consultations, carried out in the follow-up.
Observations	Specific comments on the problem.
Results	A brief description of the resolution.

7 ADVANTAGES OF THE CREATION OF THE NATIONAL SYSTEM OF ENVIRONMENTAL COMPLAINTS

- More linkage with the institutions involved in environmental matters.
- Identification by institution of capacity for resolution, with the definition of appropriate actions based on competence.
- Establishment of mechanisms of exchange and information and analysis of the problems.
- More and better capacity for resolution.
- More accessibility for the denouncing population.
- Establishment of a database.
- Existence of an institutional and professional directory, accessible to a communication network.

8 RECOMMENDATIONS

- Incorporate a system of directly, free and exclusive communication for the institutions that make up the system (fax, telephone).
- Given its functions of its physical presence in all of the country, uninterrupted work hours (from Monday to Friday), with specific personnel for functions of environmental protection and as an objective of its creation, it is recommended that the National Civil Police cover the function of the system of environmental complaints.

- The implementing institutions of the different sectors should make the diagnoses of the problems and determine the damage caused, supporting the resolution to apply the corresponding sanction.
- Each institution of the system should be able to count on transportation for necessary field visits, and/or at least support should be given between institutions when this is lacking.
- Each institution should designate a person responsible for giving attention to the complaints.
- The Executive Secretariat of the Environment should have a database of the complaints as a tool of the system of information, and should keep informed those who request it on the national system of complaints, according to the information received by the sectoral institutions.
- Continuously train the personnel of the system in issues of environmental management.