
THE ENVIRONMENTAL ENFORCEMENT CHALLENGE IN DEVELOPING NATIONS

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First of all, let me convey the greetings from Mr. Carlos Rojas, Secretary of Social Development, SEDESOL; he apologizes for not being here this morning, but he was instructed by President Salinas to attend another important meeting today; he asked me to present his paper. He thanks the Executive Organizing Committee for having chosen México, in particular the city of Oaxaca, to host this meeting.

Oaxaca, as its Municipal President explained to us, is a beautiful city with a large traditional culture, in which several meetings have been held to analyze environmental topics, both at the local and international level; this is an indication of the interest of its people and its Governor, Mr. Diodoro Carrasco.

We hope that this particular event will contribute in the capacity building of our people and our country; we welcome you all and wish you the best success in this Conference.

In the last years, discussion and incorporation of environmental topics on national policies has been strengthened. One of the significant results of the world's Conference on Environment and Development is the deepening of the analysis of the effects of development on the environment; there is practically no country in the world that has not considered, in some way or another, deep thoughts on how to achieve what until now has not been: how to reconcile the objectives of social and economic development with the conservation of natural resources.

In global processes, environmental topics increasingly play a protagonist, and consequently, are the subject of a number of binational and international meetings. In México we are involved in deep reflection and analysis in the context of the North American Free Trade Agreement and the incorporation of our country to the OECD.

How to solve the challenges that we face? How to consolidate economic and social development? How to increase production in order to increase economic growth and, at the same time, reduce social inequalities; how to make it sustainable without affecting natural resources as source of development, without imperil future generations? These questions are not only of academic or intellectual interest; they are included in the debate for policy formulation.

Until recently, economic growth had not taken into account social and environmental effects, with the result of increased poverty and environmental degradation. The challenge is to accelerate a fair increase of income and promote access to financial resources and clean technologies, to join economic growth with improvement of the environment and social well-being. At the same time, we cannot forget that natural resources are finite and could become non renewable if we do not use them properly. The challenge is more complicated when we take into account the fast rate of population growth and the need to resolve past social inequalities. To us, rational economic growth and social justice are the objectives of planning and implementation of different stages in the process of sustainable development.

Policies and strategies for improvement of the environment require continuous strengthening of an institutional and legal framework in nations. In México, advances have been important, we have strengthened the legal framework with official environmental standards, and we have subscribed to important international cooperation agreements. Nevertheless, there is much to be done to enact

codes of regulations, as a basis to define secondary standards; this will facilitate its permanent revision to update and improve its content, as well as its enforcement.

In the last twenty years, there have been important changes in Mexican institutions; the Environmental Protection law of 1971, highlighted the effects of pollution on human health, without considering causes of pollution. The General Law on the Ecological Equilibrium and Environmental Protection, in effect since 1988, is a modern, comprehensive statute on the environment, that gives priority to preventive aspects for conservation of natural resources, rather than corrective. This law considers several instruments, that include prevention of environmental damage by development activities, for planning environmental policies; we can mention, among others, the ecological ordering of the territory based on features of land and natural resources, the environmental impact assessment to prevent negative impacts of production activities and construction works, and the management plans for protected areas. More importance is given to preventive than to corrective actions, as correction, if it is possible, has a higher social cost than prevention.

The law also points out that environmental protection is not a topic exclusively for the public sector, but a matter that requires full social participation to assure successful results. Today we are promoting active participation of different groups of society, universities, associations of entrepreneurs, farmers, citizens and environmentalists, in order to, together, propose better concerted solutions to the environmental problems that we face. The law requires concurrence of the three levels of government—municipal, state and federal—in prevention of pollution and restoration of the environment; this points out to a radical change in environmental management, as before, states and municipalities were not empowered to deal with environmental problems even when they affected their population and natural resources.

Today every state in the country has enacted its respective environmental law, and the municipalities have some sort of institutional structure to deal with the ecology. Another change in terms of environmental law is that ecological standards have evolved towards standards of a sectorial nature: several laws have been updated in the last two years, like those that regulate forestry, fisheries, tourism, water, human settlements and the rural law. Even though the main reason for change was not updating to the new environmental context, some new elements in that direction have been included, though we recognize those changes are not sufficient; it is not an accomplished task, yet.

As a complement to federal laws, there are codes of regulations on environmental impact assessment, on hazardous waste, atmospheric pollution, water, noise and on waste disposal on seas, as well as regulations on forestry and fisheries; there are also some 71 Mexican official standards related to the environment.

Inclusion of the environmental dimension in the development of the country has been favored with the changes in institutions, that took effect two years ago. SEDESOL, Secretary of Social Development, is the government office in charge of social and regional development, as well as housing and urban development. It has two agencies, the National Institute of Ecology, in charge of the definition of environmental policies and regulations, and the Office of the Federal Attorney for Environmental Protection, in charge of the strict enforcement of regulations. The conception of this Secretary improves the planning of development, as it includes environmental criteria, but we still have to strengthened some weak links, improve coordination of actions and find suitable tools, to better decentralize environmental management to the different levels of government.

This institutional and legal framework represents an important advance in the country. Regulations attempt to solve very old problems and transform production processes in clean processes; enactment of standards have to take into consideration the different factors and actors involved, and the possibilities of compliance for large and for small industries. Enactment of standards is a complex process, has to be concerted and has to establish compromises.

What is most significant is not the number but the comprehensiveness of standards. The ideal scheme is to combine regulations with what I call a decentralized or coparticipative management, that does not rely only in the compulsory compliance of a number of regulations; this system allows application of other set of instruments, such as economic incentives or disincentives, and different forms of sectorial participation to improve the environment.

The objective, in other words, is to define an environmental policy, that is complied with not only by force of law, but also through adoption of different mechanisms, that operate as part of the economic performance of the enterprises and as part of a code of social responsibility.

We have some advances in this direction too, but there are some compromises we need to fulfill. We are conscious of the need to improve regulations, to adapt them to the attainment of sustainable development, but we have to be aware of the risk of establishing a regulatory framework as a result of external pressures. Those pressures appear when a country is open to external surveillance and when governments are pressured by a society that openly demands standards to counter environmental problems; in such conditions, states have to equalize laws or regulations to those of a certain country or, at least, eliminate those standards not compatible with a regime of free market, and introduce specific standards, similar to those to be complied by some economic activities in their country of origin.

There is a risk if we adopt in a very short time a number of regulations; this will have as one of its consequences, an accelerated transformation of the legal framework that defines policies, in this case environmental policies. We realize that other countries have gone through a long way to create a legal framework to regulate relations between human activities and the environment. But we must be aware of the risk that the indiscriminate adoption of standards could prevail in front of the definition of our priorities and our environmental policy, that may be different from those existing in a complex framework of environmental standards and regulations.

In other words, we have to avoid the risk that the environmental policy, if it evolves from specific standards and regulations, be limited by them; with this, I do not mean that we have to delay the process of legislative modernization we are involved in with many countries, but to accelerate the process of redefining the strategies for development to approach sustainability. This will be the guide for the regulatory framework.

The challenges are not simple at all: that is why we meet together, to thoroughly analyze problems and search for solutions; our commitment is great.