



# The Legal and Institutional Framework for Environmental Management

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# The Role of National Environmental Law

- Rules at the national level that protect the environment.
- Such as legislation, regulations, institutions and administrations adopted to control activities damaging to the environment and to human health and well being.
- Most countries have a framework env. Legislation, various sectoral legislation and incidental legislation.

# Foundations of National Environmental Law

- Sources of law of most countries include common law, civil law, customary or traditional law, canon law and Islamic law.
- The types of legislation, sectoral laws, framework environmental laws, comprehensive codification of environmental laws; penal codes, constitutions, laws developed to implement various international environmental legal instruments.

# Environmental Laws and Sustainable Development

## Agenda 21, Chapter 8,

- the need for laws and regulations to be suited to country specific conditions.
- In addition to command and control it is important to use economic and market based instruments.
- Law making is however adhoc and piecemeal;
- In some cases it is not endowed with the necessary institutional machinery and authority for enforcement.

# Environmental Laws and Sustainable Development

- Agenda 21, Chapter 8,
- It is important to implement:-
- integrated, enforceable and
- effective laws and regulations;
- based on sound social, ecological,
- economic and scientific principles.

# Environmental Laws and Sustainable Development

- The 2002 WSSD Plan of implementation called for enacting and enforcing clear and effective laws that support sustainable development.
- It also calls for coherent and coordinated institutions as well strengthening the capacity of institutions to enable them enforce laws.
- There is a need to promote public participation through measures that provide access to information regarding legislation, regulations, activities policies and programmes.

# The Prerequisites for Effective National Environmental Law.

- Adequate regulations and institutional regimes;
- Reflection of policy with desired goals;
- Establishment and equipping the institutional machinery Adequate financial and human resources;
- Empowering institutions to work efficiently;
- legislative techniques and regulatory approaches eg, command and control, use permit and licence system, labelling, economic incentives and land-use planning and zoning.

# The Prerequisites for Effective National Environmental Law.

- Before drafting legislation assess the situation;
- Determine the environmental problem;
- Evaluate the adequacy of existing laws;
- Review the legislative option and prescribe the legislative components that will prevent or correct the identified problem;
- Comparative information on how others are managing the environmental problem may be useful;

# The Prerequisites for Effective National Environmental Law

- **Command and control** emphasises deterrence and punishment.
- In this regard the regulation will establish specific environmental standard;
- a detailed inspection and enforcement scheme control;
- To be able to effectively protect the environment
- the sanction has to deter other violations

# The Prerequisites for Effective National Environmental Law

- The use of **economic instruments** to control environmental behaviour is another way of regulating the environment.
- The main incentives or disincentives used for environmental management and regulation include pollution charges (including emission charges, user charges, product charges, administrative charges, and tax differentiation)
- They need to be evaluated to determine effectiveness

# The Prerequisites for Effective National Environmental Law

- User charges (fees for direct cost of collective or public treatment of pollution, paying for units discharged in surface water);
- Product charges, administrative charges (paid to authorities for such fees as chemicals use, or mining registration to finance the licensing and control activities),
- Tax measures (charges used to encourage or discourage the use of environmental friendly products.
- Others are market creation, tradable permits, env liability insurance; subsidies, EIA fees, deposit refund systems enforcement incentives

# The Prerequisites for Effective National Environmental Law

- Land use planning and zoning is another legislative approach, to ensure that Eg. Industries, airports, and other facilities in cities are located away from residential areas, to avoid noise pollution, air pollution, and to manage waste disposal.
- Effective management requires forest reserves to be located far from growing human settlements.

# The Prerequisites for Effective National Environmental Law

- It is important to have well trained staff in environmental institutions; Officials must understand the task before them or seek help in the form of advisory services, specialised training and institutional capacity building.
- Good coordination of different sectors including Government ministries handling environmental issues in planning and management of various environmental resources.
- National legislation can streamline this coordination.

# The Prerequisites for Effective National Environmental Law

- Setting up compliance programs
- Promoting and monitoring compliance, and
- reviewing and evaluating the effectiveness of national legislation to ensure adequate enforcement mechanisms are in place, institutions have capacity, laws are deterrent and are enforceable.

# The Prerequisites for Effective National Environmental Law

- Implementation, Enforcement and compliance of national laws. Further regulations where required must be made;
- Govt must put in place the right structure, systems, tools, skills, incentives, strategies, coordination and partnerships for all stakeholders and assign clear roles.
- Also important is to promote and monitor compliance
- The Role of case law in enforcement of laws. The civil and common law approach.,

# Template for Elements of National Sector Legal Regimes

- Need for clear general objective of the legislation;  
Pollution prevention and control (reduce risk, improve maintain and restore environmental quality, prevent and control pollution, sustain environmental uses, clean up past pollution);  
Protection, conservation and sustainable use of resources;

# Template for Elements of National Sector Legal Regimes

- Scope or relevant areas of regulation (selected example);
- Selection of environmental management approaches;
- Types of national actions and laws;
- Ensuring compliance and enforcement of laws.

# Implementation of International Environmental Instruments

- Different countries apply two ways of adopting treaties;
- Actions depend on the requirements of a treaty;
- Measures range from adoption/ strengthening of national legislation, adoption of policy and taking up the required administrative action;.

# Legislating on chemicals

- Management of chemicals is the process of assessing and reducing risks of substances that harm human health and environment. It includes:-
- control of consumer products;
- measures to protect workers from exposure to chemicals; prevention of pollution and accidents;
- Reduction of hazardous emissions into the environment;
- Better regulation of production and distribution of unregulated substances

# Legislating on chemicals

- Env sound management of a chemical requires monitoring a chemical throughout its lifecycle from production to disposal
- Kinds of chemicals should be determined and their danger (agricultural, consumer, industrial?)
- Where they come from production, import?,
- How are they used (major facilities, purposes, processes)
- Where do they go (export, disposal?)

# Legislating on chemicals

- Which aspects (production, import, transport, storage, distribution, export, use, disposal) are already controlled?
- Which agencies and which laws regulate chemicals (producers, distributors, and users bear responsibility for proper management?)
- How are sectors (ministries agriculture, health, industry, labour, trade, customs and transportation) involved in the sound management of chemicals;
- Are there any obligations for the management of chemicals under international agreements?

# Legislating on chemicals

- Listing of existing chemicals, and notification of new chemicals being manufactured ;
- Classification of chemicals by hazard and assigning priority for control;
- Laws aimed at assessing risk and preventing H & Env problems;
- Laws on phasing out CFCs
- Screening chemicals before entering the market,
- standards of quality,

# Legislating on chemicals

- Legislation controls these chemicals;
- It creates the administrative framework and procedures for managing those chemicals;
- It authorises the collection and evaluation of relevant information and the making of decisions;
- It places obligations and restrictions on the handling of chemicals & provides incentives;
- It encourages proper use, monitors compliance and punishes illegal practices;

# Legislating on urban environmental management & waste

Laws which address environmental impacts:-

- land use and town planning,
- regulating buildings,
- solid waste management,
- managing storm water (drainage facilities,)
- Pollution prevention and control,
- Environmental health and sanitation,
- Provision of water, regulating discharge of effluent, sewage treatment etc,

# Legislating on coral reefs

legislative action requirements on issues and problem areas)

- control of direct human impacts such as overfishing, destructive fishing practices, coastal pollution and uncontrolled development are priorities for action.
- These need a multi-disciplinary kind of regulation. The following legislation may need to be developed and/or strengthened:-

# Legislating on coral reefs

- (=Enforce sustainable fisheries legislation and legislate on marine protected areas to curb overfishing;
- (=Strengthen and enforce laws against destructive fishing practices such as dynamite fishing;
- (=Use law to combat marine pollution. Prevent and control pollution of coral reef ecosystems;

# Legislating on coral reefs

- (=Develop and/or strengthen laws relating to land use planning, and enforce laws to restrict the population from exerting pressures on coral reef ecosystems by living or doing business near coastal waters where they cause sedimentation, pollution and physical alteration and destruction of habitats in coral reefs;
- (=Strengthen land use planning laws including zoning and town planning regulations to site industries and agricultural fields a distance away from the sea to protect coral reefs from agricultural run off and industrial effluent and other waste and pollution from industries;

# Legislating on coral reefs

- (=take action to reduce CO<sub>2</sub> to combat Climate Change.
- Encourage parties to take action to implement the CBD, UNCLOS, and UNFCCC Conventions to tackle negative impacts on coral reefs and related biodiversity including invasive species.
- This includes taking legal action where appropriate.

# Legislating on coastal ecosystems

- (=Strengthen legal and institutional frameworks towards ‘integrated coastal management’, and
- linking watershed management with coastal zone management.
- Integrated zone management in this regard seeks to involve every user, stakeholder and decision-maker in taking measures to manage the coastal area sustainably.
- (=The law on land use planning and town planning as well as laws that are enacted to protect the marine and coastal environment need to continue restricting coastal development and to ensure respect of areas designated to protect mangroves, and combat degradation of coastal ecosystems.

# Legislating on coastal ecosystems

- (=The law can be used to restrict the diversion of freshwater and ban construction of aquaculture facilities that affect coastal ecosystems;
- (=There is a need to strengthen regional efforts and initiatives under the regional seas framework and other initiatives that take into account the shared benefits of coastal ecosystems.
- Review work done by analysis of legislation by Regional Seas Programme, UNEP, FAO.

# Legislating on freshwater resources management

- (=In most countries the law on the management of freshwater resources is well developed. There is room for improvement of water governance and to enhance compliance and enforcement of existing legislation to combat water pollution and to protect water catchment areas.
- (=Freshwater resources are threatened by deforestation as well, thus the need of strengthening the whole legal framework as countries balance competing needs and the need to protect the environment .

# Legislating on freshwater resources management

Further developing the legal framework to focus on ecosystem based watershed management and integrated water resources management approaches can strengthen the governance structure.

Integration of measures for the protection and conservation of potential sources of freshwater supply, including the inventorying of water resources, with land-use planning, forest resource utilization, protection of mountain slopes and riverbanks and other relevant development and conservation activities;

# Legislating on freshwater resources management

- (=Payments for environmental services by using a permit system is an incentive to improve water management.
- Review work done by FAO, and UNEP , they have legislative and policy guidance materials that can serve to guide Governments on strengthening their legal and institutional framework relating to water resources management..
- Desired outcome: Sustainable management of freshwater resources



# The Role of National Environmental Law

Many thanks