

GUIDELINES FOR LEGAL TRANSFORMATION TO ENHANCE ECOSAN

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Water and sanitation in Mexico

- 73% of waters are polluted
- 77% sanitation coverage in urban areas
- 39% sanitation coverage in rural areas
- 80% of the people live where 20% of water is available
- 102 aquifers overexploited - out of 653
- 3 levels of government: federal, state and municipal
- 3 term year period of municipalities

Mexican Laws and the Environment

- Incorporates the need to prevent pollution
- Planning must respect environmental use and conservation
- To conserve and protect the environment
- Polluter pays principle is applicable
- Regulations prescribe the need for water treatment before residual waters are discharged to water bodies

Legal obstacles for Ecosan implementation

- Permits discharges with the payment of a duty
- Conventional sanitation is generally the only type acknowledged
- Excreta and urine are seen as wastes to be disposed of
- Limited recognition of Ecosan in some state and municipal norms
- Contradiction between different levels of regulation

The need to change the rational of The Law

- Legal reform must be viewed within a paradigm shift

- Conventional scenario

Current trend: \$13,200 MP needed per year

Desirable: \$29,000 MP needed per year

Mexican Government's investments in the water sector: \$7,800 MP in 1999; \$9,995 MP in 2000

Important elements for legal reform

- 1 Gaining legal foothold
- 2 Emphasising rules that assign rights and obligations
- 3 Coupling legal change with institutional reform
- 4 Tackling non-compliance

Gaining legal foothold

- Legal recognition requires minimal definition of Ecosan in the norms
- How should Ecosan be regulated?
- Inclusion of basic Ecosan elements, systems and processes must be acknowledged

Gaining legal foothold

- It is fundamental to identify key norms that must be reformed or created and start translating Ecosan concepts into a juridical language
- Legal issues must be dealt with from the beginning and not at the end of the process
- Concurrent and conflictive jurisdictions must be addressed beforehand

Coupling legal change with institutional reform

- Mainstreaming Ecosan requires strong and efficient institutions.
- It is not so much about making new regulations. It is more about building new institutional arrangements at the different levels of government

Building new institutional arrangements

- Separation of political and administrative issues
- Inclusion of different partnership schemes
- Including horizontal and vertical mix of stakeholders involved in Ecosan system implementation

Tackling non-compliance

- There is a strong dichotomy between formal law and practice
- Law enforcement is very weak
- Changing the paradigm means relying on a strong commitment of self-compliance
- Bottom-up participatory legal construction is required
- Legal empowerment of the community in the protection of the common goods

Areas of regulation

- **Health:** Collection, transport, reuse
- **Water:** Confronting sanitation paradigms
- **Soil:** Applications in agriculture
- **Urban Development:** Housing regulations
- **Air:** Gas emissions
- **Economic and fiscal laws:** Incentives
- **Procedural norms:** Better enforcement

Conclusions

- It is fundamental to work more strongly in the legal-institutional field to upscale Ecosan
- It is a key issue to identify where and how Ecosan must gain legal foothold
- Specific guidelines for legal transformation under the stated parameters could strongly help Ecosan pursuers