



Environmental Law in Chile: History, Present and Trends

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,

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History of Environmental Law

1. First Norms: 1550-1964
2. Import Substitution : 1964-1973
3. Free Market: 1973-1989
4. New Constitution 1980
5. Transition to democracy: 1990-1994
6. Birth of institutionalality: 1994-1997
7. Development of institutionalality : 1997-2010
8. New institutionalality : 2010-Present



The traditional approach to development has been:

- The more, the better
- Economic Growth vs. Development.
- The objective is employment
- Fumes were a sign of growth



But something happened in 2004



And everything started to change



¡SIN REPRESAS!



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But this was not an isolated event; the world was changing...



And the change started to be reflected in people's life

MUNICIPALIDAD PUCHUNCAVÍ



Why are projects brought to Courts?

1. Magnitude of the projects?
2. More Public Participation?
3. More environmental conscience?
4. Implementation of the ILO Convention N°169?
5. Wrong environmental Assessment?
6. More interest from judges?
7. ONGs?
8. All of the above?



Supreme Court Rulings

Granted

1985 – Lago Chungará

1990 – Bahía Chañaral

1997 – Trillium

2002 – Itata

2009 – Campiche

2010 – Expo Pork

2012 – El Morro

2012 – Hidroaysén

2012 – Rio Cuervo

2012 – Bocamina II

2012 – Castilla

2013 – Pascua Lama

2013-14 – Punta Alcalde

2014 Maitencillo

2014 SQM

2014 Sierra Gorda

2014 Los Pumas

2014 CA Caserones

2014 Rio Cuervo

2014 Neltume

2014 CS El Morro

Not Granted

Change in the development paradigm?

- Nimby: Not in my back yard
- Nope: Not on Planet Earth
- Banana: Build Absolutely Nothing Anything Near Anything
- Cave: Citizens against virtually Everything





The lack of clear regulation generates:

Instability

Confusion

Uncertainty

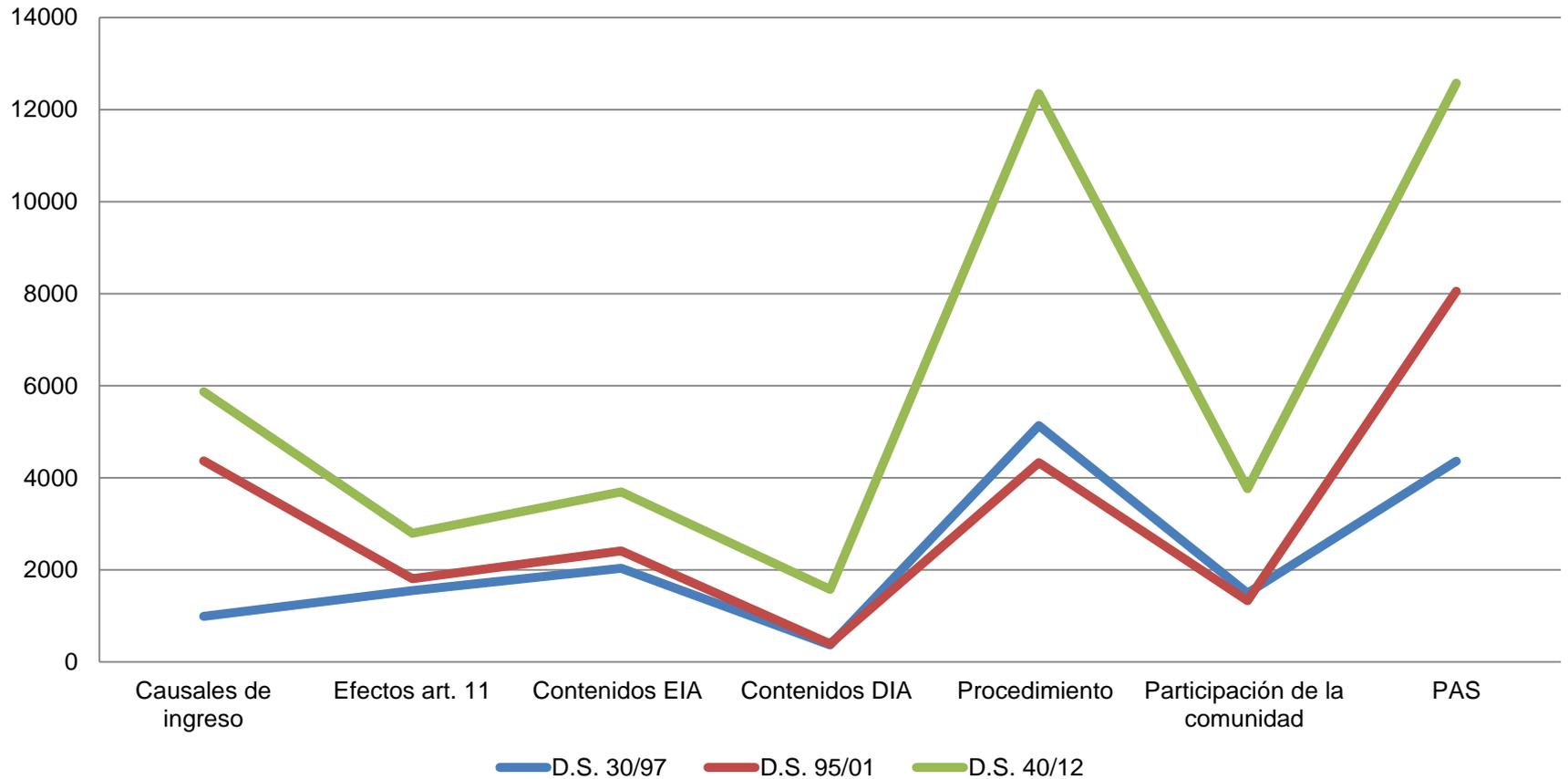
Feeling of astonishment

New Institutional (2010)

- Result of a political agreement
- Same principles.
- Reform:
 - Institutional (Ministry; Counsel for Sustainability, EA, Agency of Compliance and EC).
 - SEIA : Technical process; increased public participation.
- ME, CfS and EA: 2010
- AC: 2012
- EC required a new law: 2013



Density of environmental regulations



Changes in the decision making process:

Preventive approach

Inclusive to communities

Top Down – Bottom up

It is NOT enough to comply with the law

Self-regulation

Best practices

The gap between what the law
mandates and what society
requires must be bridged

Achieve legitimacy

Improve competitiveness

**Provide Substantive
legal certainty**



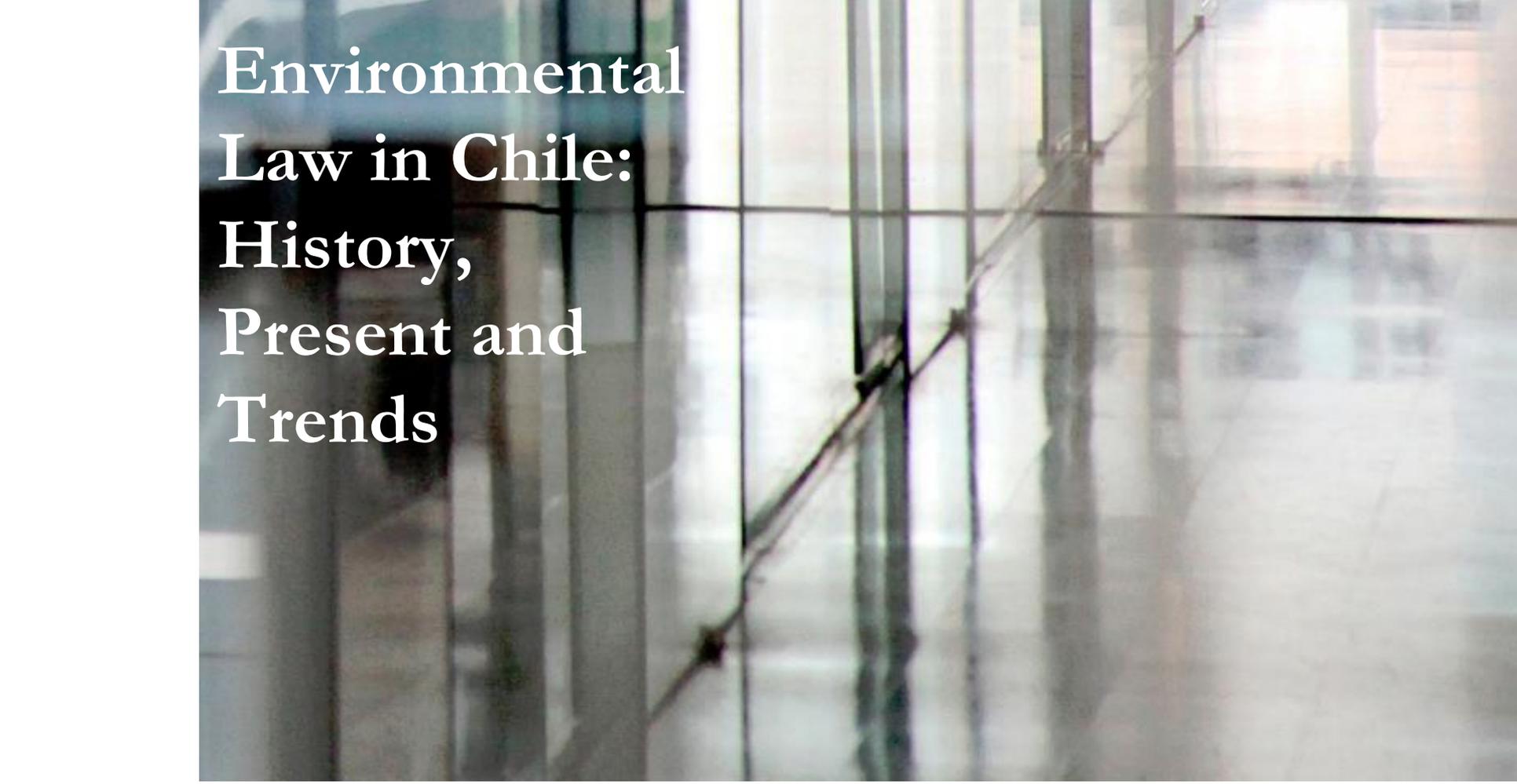
Obtain Social License



The Road Ahead....



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