

TOOLS FOR IMPROVING COMPLIANCE WITH ENVIRONMENTAL LAWS IN ARAB STATES

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STATEMENT OF FACTS

- All Arab States (AS) have passed laws for the protection of their environment with various but chiefly modest degrees of success.
- Unfortunately, compliance does not occur automatically once requirements are issued.
- Overlooking noncompliance with environmental laws in AS is spreading a culture implying that “noncompliance is tolerable & compliance is probably not important”.

WHY SOME REGULATED COMMUNITIES DON'T COMPLY WITH ENVIRONMENTAL LAWS IN AS?

Because they are either:

1. Not aware and/or don't know how to comply with the law, or
2. Will reap economic gains by non-complying, or
3. Think that no body there to watch (inadequate inspection & monitoring), or
4. Believe that, if caught, they can always raise doubt about the credibility of the evidences in the court of law.

Compliance can only be achieved through:

1. Properly prepared & issued environmental laws.
2. Promoted compliance through communication of legislation, publication of relevant information, etc.
3. Enforced laws through:
 - Development of inspection capacities, credible monitoring & accredited measuring systems.
 - Preparation of procedures for investigating violations & rules for assessment of penalties.
 - Identification of measures to compel compliance without resorting to formal court action.
 - Development of measures to compel compliance through court action.

OBJECTIVES OF THE PRESENTATION

1. To overview the general state of compliance.
2. To identify tools to improve compliance.
3. To identify the capacity needed to ensure compliance.

FACTORS AFFECTING ENVIRONMENTAL COMPLIANCE IN AS

1- DETERRENCE:

- It is the phenomenon of people changing their normal behavior to avoid a predictable sanction.
- Deterrence is considered at its infancy stage in most AS.

2- ECONOMICS:

- To eliminate any economic gain reaped by violating the requirements, the monetary penalty would ideally at least equal the amount the facility would save by not complying.
- Technical capacities & methodologies needed for penalty calculation is nearly nonexistent in the region.

3- INSTITUTIONAL CREDIBILITY:

The history of noncompliance in some AS can be attributed to the following:

1. The enacted environmental laws are unenforceable due to defects in their design.
2. The implementing institutions lack adequate monitoring & inspection capacities for enforcement.
3. Some production sectors or corporate with heavy contributions to the national economies, are considered to be beyond the need to comply with regulations.
4. Some large-scale national development projects with significant socio-political ramifications are politically exempt from complying with some environmental laws particularly **EIA**.

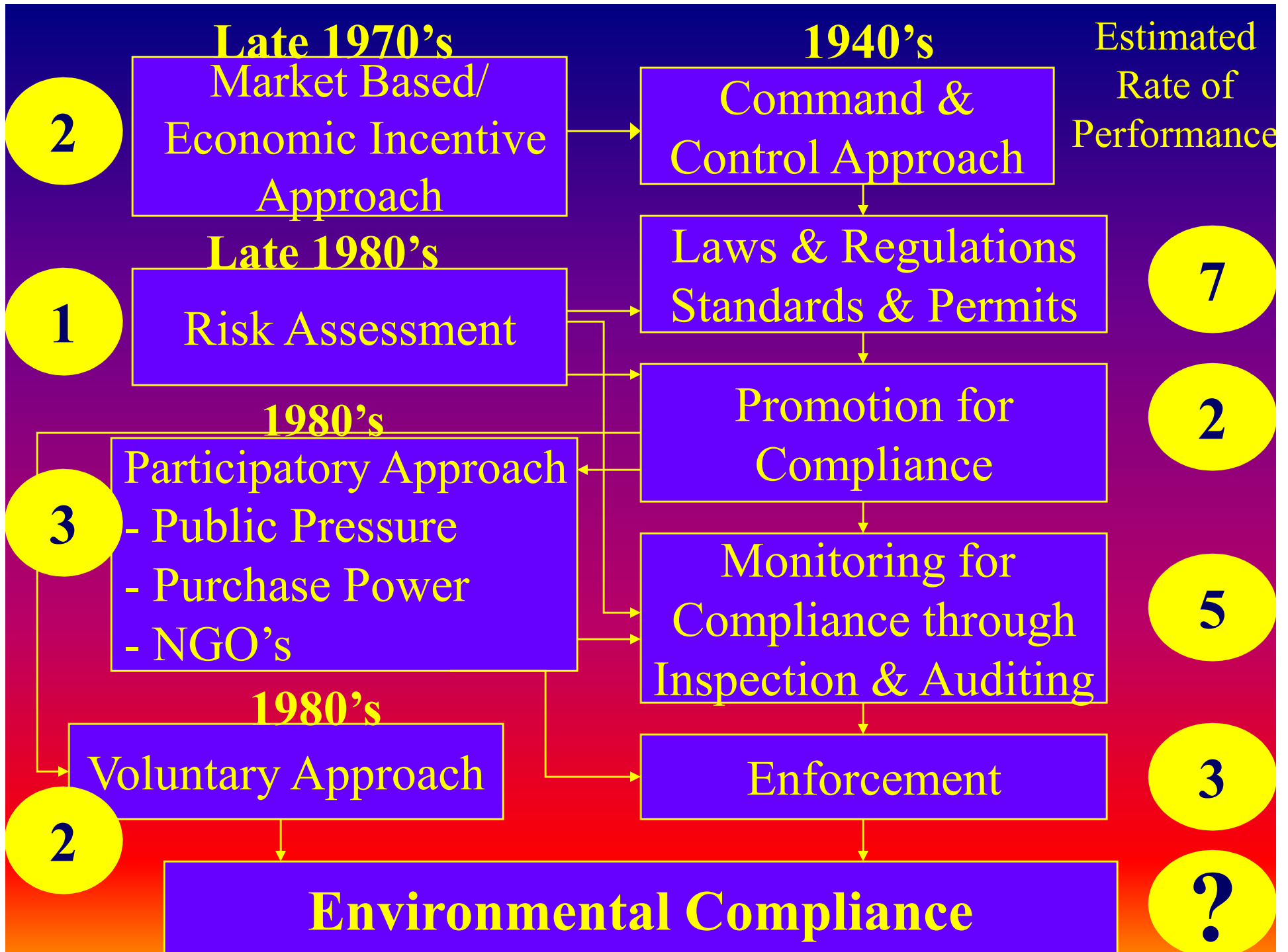
4- SOCIAL FACTORS:

- In AS, social status, connections & relationships play a pronounced role in compliance with environmental laws.

5 - KNOWLEDGE & TECHNICAL FEASIBILITY

- In many cases, the regulated parties do not know about requirements, and the steps needed to achieve compliance.





IMPROVING COMPLIANCE WITH ENVIRONMENTAL LAWS IN AS

- Compliance promotion is any activity that encourages compliance with environmental laws.
- Promotion alone (carrot alone) is often not effective.
- In this case, enforcement (stick) is equally important.
- Enforcement alone is also not as effective as enforcement combined with promotion (carrot + stick).

THE TOOLS AVAILABLE TO IMPROVE COMPLIANCE WITH ENVIRONMENTAL LAWS ARE AS FOLLOWS:

1- EDUCATION, INFORMATION DISSEMINATION & TECHNICAL ASSISTANCE

They lay the groundwork for voluntary compliance & overcome barriers of ignorance or inability that lead to noncompliance.

HOW?

Through

1. Publications
2. Training Programs
3. Conferences
4. Hot-lines
5. Technical Assistance
6. Cooperative Arrangement (central treatment plants)

2- BY BUILDING PUBLIC SUPPORT & PARTNERSHIP

- The public can be a powerful associate in improving compliance. They (through citizens complaints) alert officials to undetected cases of noncompliance.
- NGOs may also become involved in enforcement by detecting noncompliance & where the law allows, taking legal action against violators.

3- BY PUBLICIZING SUCCESS STORIES:

- Positive publicity about a firm's compliance success can enhance its reputation & public image.
- In some AS, publicizing success stories in environmental compliance is practiced for marketing purposes.

4- BY DEVELOPING ECONOMIC INCENTIVES

- Economic incentives might include:
 - Fees
 - Tax Incentives
 - Subsidies for Complying Facilities
 - Facility or Operator Bonuses
 - Promotion Credits
- Banking & insurance industries in AS are becoming increasingly aware & directly involved by requiring assurances of compliance with environmental laws, before they would issue a loan or insurance policy to a facility.

5- BY IMPROVING TECHNICAL CAPACITIES NEEDED FOR MONITORING COMPLIANCE WITH ENVIRONMENTAL LAWS:

- Monitoring is the most important element of any program designed to improve compliance with environmental laws, for the following reasons:
 - It detects & corrects noncompliance
 - It assesses the enforcement program progress
 - It provides evidence to support enforcement actions.

CREDIBLE EVIDENCES FOR THE INDICTING NONCOMPLIANCE WITH ENVIRONMENTAL LAWS

- Indictment for noncompliance with environmental laws necessitates the submission of unchallenged indictment evidences to the court of law.
- Most of the evidences of indictment will be based on results generated from monitoring systems to either establish or disprove that the environmental law was breached.

MEANS OF ENSURING CREDIBILITY OF EVIDENCES

Traditionally, prosecutors & judges are very fond of analysis & measurements. These are considered as “hard facts or evidences” provided that they are:

1. Carried out by an accredited laboratory.
 2. These laboratories have staff who can provide indisputable Certificates of Analysis (COA) & serve as expert in testimony for prosecution.
- Unfortunately, these capacities are not readily available in AS.

- Issues that might affect the court decision in accepting the evidences, include the following:
 - ❑ Precision, accuracy, reproducibility, sensitivity, & detection limit of the analytical method.
 - ❑ Reliability including routine maintenance & operation of sampling gears & measuring instruments.
 - ❑ Adopted Quality Assurance (QA) and Quality Control (QC) programs including chain of custody.
 - ❑ Qualifications, training & competence of inspectors, field & laboratory operators.

THANK YOU