



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:

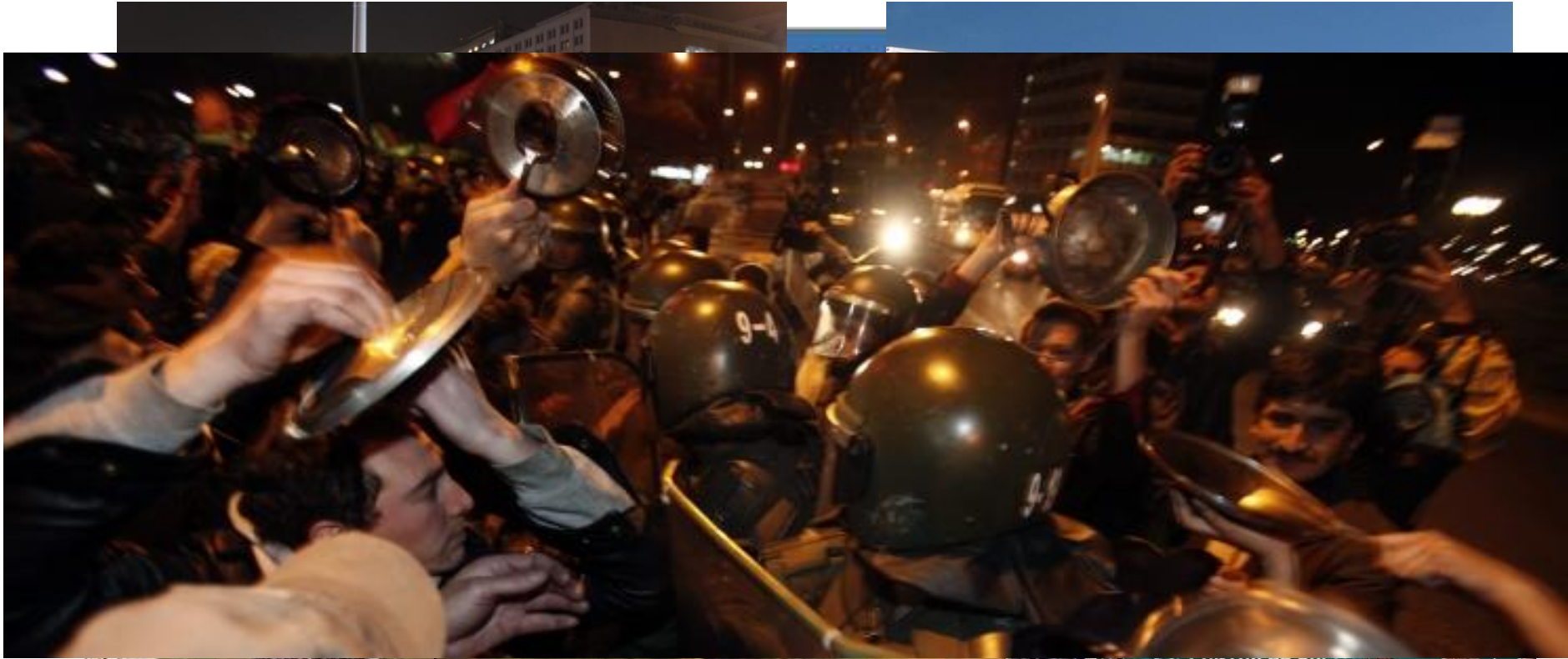
- The more, the better
- Economic Growth vs. Development.
- The objective is employment
- Fumes were a sign of growth



But something happened in 2004



And everything started to change



¡SIN REPRESAS!



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



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

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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

Not 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

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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:

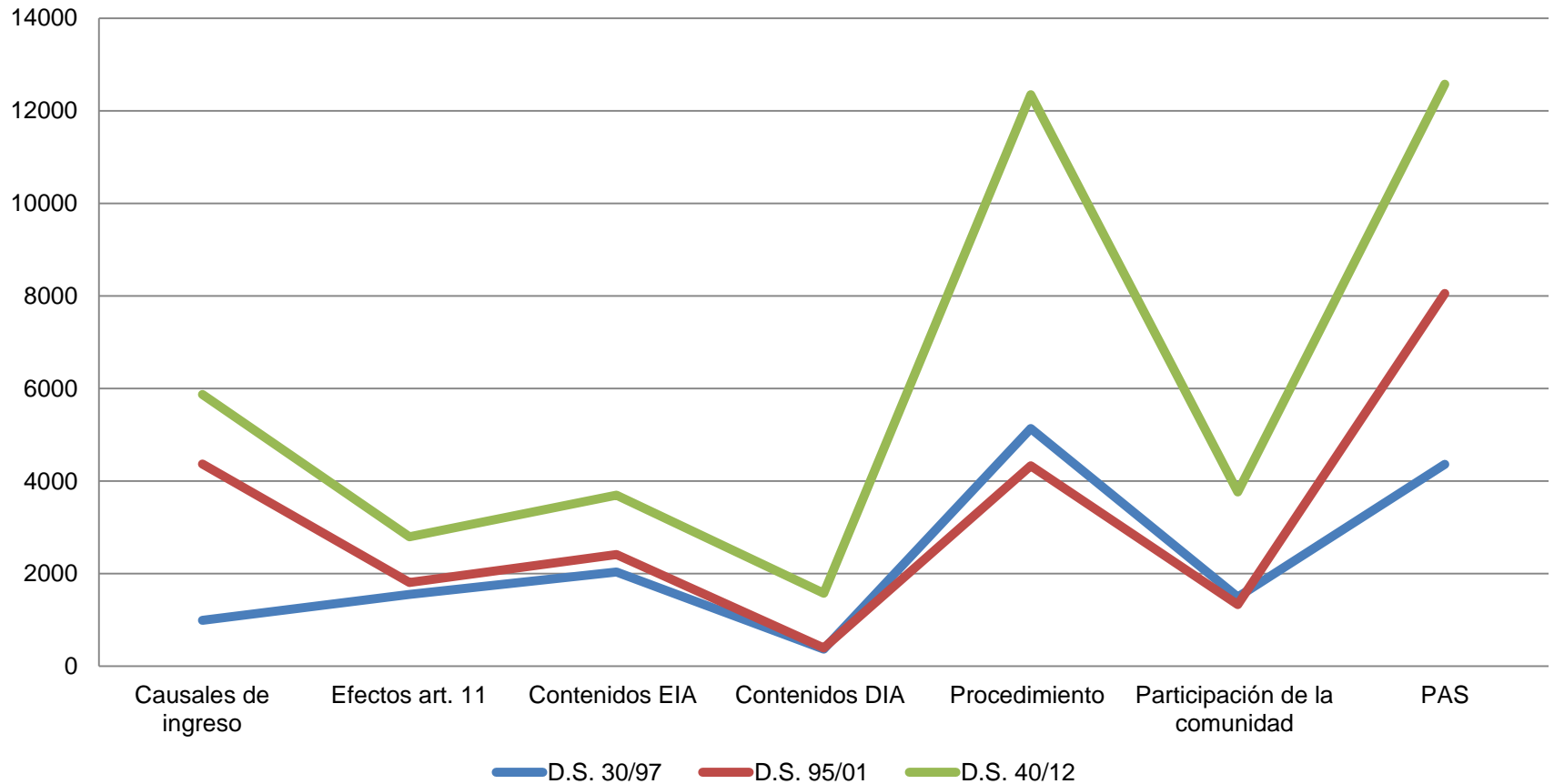
Instability
Confusion
Uncertainty

Feeling of astonishment

New Institutionalality (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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