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INTRODUCTION

The 1972 United Nations Conference on the Human Environment at Stockholm confirmed not only the emergence of environment protection as a new focus of legal activity (with at least 10 of the 109 conference recommendations specifically calling for legislative action or comparative legal research), [1] *but also emphasized the close interrelationship between development and environment—particularly in its final recommendations (Nos. 102 to 109, based on the so-called "Founex Report").* [2]

The International Association of Legal Science has always paid special attention to the problems and needs of developing countries, as illustrated by the 1966 report on "Legal Aspects of Economic Development". [3] *It is in this perspective that the new subject of environmental law is viewed here—not in terms of the alleged economic conflict between development and environmental policies, but as an integral part of modern legal methodology for the rational use and management of natural resources. The Mexico Colloquium of the Association on 24-27 August 1974 thus provided an opportunity to review and compare recent national experience, especially from developing countries, in reconciling the objectives and techniques of "Environmental Law" and "Development Law". Three topics were selected for discussion:*

1. The Legal-Institutional Framework for Environmental Resources Management

Most contemporary legal systems in dealing with the natural environment appear to have undergone a significant change, from the old "use-oriented laws" (designed for the maximum exploitation and development

[1] See *Report of the United Nations Conference on the Human Environment*, UN-Document A/Conf. 48/14/Rev. 1 (1973); *cf.* Revue Internationale de Droit Comparé, vol. 25 (1973), p. 679.

[2] Report by Panel of Experts Convened at Founex/Switzerland, 12 June, 1971, *Development and Environment*, UN-Document A/Conf. 48/10 (1972).

[3] International Association of Legal Science (A. Tunc ed.), *Les Aspects Juridiques du Développement Économique* (Paris, 1966).

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of natural resources by various human activities) towards new "resource-oriented laws", designed for the rational management and conservation of resources, in order to prevent their depletion or degradation. Developing countries were among the first to translate this new integrated approach into action—partly perhaps because they are most painfully aware of the detrimental consequences of unrestrained resource exploitation as practised during the colonial era, and partly because their modern national instruments for resource planning and development offer a more suitable framework also for the task of resource conservation than some of the more traditional structures in the industrialized areas of the world. Contemporary conservation laws and institutions from a number of developing countries can thus provide useful examples for current law reform elsewhere, particularly in areas with similar economic and ecological conditions. An outstanding illustration of this modern type of legislation is the Mexican "Ley Federal para Prevenir y Controlar la Contaminación Ambiental" of 1971.[4]

The changing scope of laws is also reflected in new institutions at the national and regional level, with broadly defined regulatory functions cutting across traditional sectors of administration, and ranging from river basin authorities to ministerial departments of natural resources and multi-disciplinary commissions for environmental control. While expressing caution against indiscriminate transfer of foreign institutional models, the Colloquium reviewed the pertinent experience of different countries, particularly in the context of existing and draft legislation in Latin America, and emphasized the need for a common methodological approach.

2. The Effects of National Environmental Regulation of Foreign Trade and Investment

Concern has been expressed over certain international consequences of recent national environmental legislation, including import restrictions on specific types of commodities or products considered as environmentally dangerous, rising export prices due to imposed anti-pollution measures, and industry relocation to countries with less restrictive environmental laws.[5] *As the foreign trade of many developing countries is vitally dependent on commodity export to environmentally "restrictive" areas of the world, comparative study and eventual harmonization of national regulations is necessary between producer and consumer countries as regards*

[4] Act of 11 March 1971, *Diario Oficial*, núm. 20, p. 8.
[5] See *Industrial Pollution Control and International Trade*, GATT Studies in International Trade Nº 1 (1971).

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quality and processing standards for specific products, including tolerance limits for environmentally hazardous production aids such as pesticides. Conversely, the recent tendency in some of the same restrictive areas to apply double standards to their own products, depending on whether they are produced for home consumption or for export only, give rise to concern over global environmental consequences. Only concerted international action can remedy this situation, and a necessary first step in this direction would be mutual information on current legal norms and developments in different countries. In addition, innovative legal methods are required to facilitate and promote trade activities favouring environment protection, especially in the field of patents, trademarks and foreign licensing.

3. Legal Means to Control and Avoid Trans-Frontier Pollution

The problem of pollution across national boundaries has traditionally been viewed as falling within the exclusive domain of public international law. Past experience from a number of boundary regions in different continents indicates, however, that a large portion of these pollution cases can be settled more effectively by reciprocal adaptation and harmonization of national laws and procedures between neighbouring countries, particularly as regards the rights and legal status of foreign parties involved. The emerging concepts of "ecological voisinage" *and "good neighbourliness" thus imply recourse to national legislative and administrative instruments, based on thorough comparative studies. In most cases, the causes of environmental problems frontier regions are directly linked with problems of economic development, arising either from the shared use of natural resources*[6] *or from under-development due to the "peripheral" situation of frontier regions. Hence the need for an integrated approach, including common legal standards and planning procedures applicable on both sides of a boundary, and preventive techniques for advance notification and action regarding trans-frontier environmental impacts.*

The three subjects so outlined also reflect three ways in which comparative legal information and research can be brought to bear most directly on the specific needs of the Third World: 1) by comparison of legal methods and institutions that are particularly designed for the socio-economic situation of developing countries; 2) by comparison of legal practices that are likely to affect international economic relations between

[6] See UN General Assembly Resolution 3129 (XXVIII) of 13 December 1973 regarding "Cooperation in the field of the environment concerning natural resources shared by two or more States" (which arose from the notorious Argentine-Brazilian dispute over shared water resources).

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developed and developing countries; and 3) by comparison of legal solutions that have been accumulated in the developed countries for problems which are equally and increasingly relevant also to the developing countries. The Mexico Colloquium of the International Association of Legal Science was fortunate in being able to draw on contributions reflecting a cross-section of national legal experience, not only from the Latin American family of laws but also from other legal systems of the Western and the socialist type.

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