

INTRODUCTION BY THE FACULTY ADVISER

Why a new journal? Aren't there enough international and comparative law journals already? These were questions that supporters of the *Arizona Journal of International and Comparative Law* (the *Journal*) had to answer, again and again, inside and outside of the College of Law. The questioning reader will, hopefully, find many good answers in this, our first issue. Some of the articles, comments and notes will inform him/her of developments of significance both to Arizonans and to our southern neighbors. These developments reflect the increasing vitality of our transnational legal relations, as illustrated by an Arizona workmen's compensation claim by the Mexican concubine of a deceased Mexican worker in Arizona, a personal injury claim by a United States physician who studies in Mexico and was injured on a Mexican highway, new turns in the law that governs the importation of produce, and a multinational convention that could in the near future apply to controversies arising from sale agreements between Mexico and the United States. Other writings will provide a perspective that can only be obtained by comparing the experiences of various jurisdictions with the same legal institution.

The comparative perspective in this issue pertains to the regulation of moneylending. A leading English authority describes the English regulatory experience and, with characteristic sportsmanship, places himself in the firing line of leading Arizona authorities, who try their best at sharpshooting based upon their analysis of the Arizona and United States, as well as the English, experience. Finally, the perspective on moneylending regulation is completed by a living law study of non-institutional credit in Mexico conducted by a trained lawyer with a keen eye and ear for the relevant social data. His contribution is all the more significant because he reports the practices in a world largely foreign to regulation and, through the report, illuminates the role or non-role of regulation.

This mixture of information, analysis and perspective of international issues and developments comes naturally to a college of law situated within eyesight of Mexico. It is also essential in a state whose population is in large measure of Mexican origin and whose familial, cultural and economic ties with Mexico and Latin American nations are a source of reciprocal population movements, investment and gainful employment, including that of lawyers. As is eloquently pointed out by Governor Babbitt in his dedicatory statement to this first issue, the importance of Arizona as a border state accounts for the topical relevance of the *Journal's* coverage. What will be discussed in the *Journal*, then, is not likely to be of interest to the legal

antiquarian or to the seeker of the exotic for exotic's sake, admirable as such discussions may be in their rightful contexts. The *Journal's* scope is the here and now, as well as the hoped-for future, of legal hemispheric relations, with special emphasis on Mexico and Latin America.

The *Journal's* topical approach to public international and comparative law requires that the reader be exposed not only to the views of legal experts but, where demanded by the issue, those of influential politicians, bureaucrats, journalists and social scientists. For example, a feature of an upcoming issue, now in preparation, will be an evaluation of Central America's economic problems as they affect and are affected by the current revolutionary warfare. Such an analysis by a leading Central American economist and comments by United States' authorities will be placed in a legal context by lawyers familiar with Central America's legal institutions. This interdisciplinary approach should contribute to the discussion of the viability of the Reagan Administration's announced Caribbean basin and Central American development policy and the public international law instruments designed to implement such policies.

Comparative law has matured considerably since the nineteenth century, when it was thought that to compare legal institutions was essentially to translate their meaning into terms understandable to an interested foreign lawyer. First came the realization that legal history was essentially a comparative endeavor. As a result of this realization, it also became clear that, to understand a legal institution, the institution had to be placed in its operative context. For example, in order to understand the difference between contemporary and Roman notions of enforceable promises, one had to understand not only the Roman substantive law of promises but also their enforcement procedure and, particularly, their forms of action.

This historical dimension aided the likes of F.H. Lawson in Great Britain and Hessel E. Yntema, John P. Dawson, Max Rheinstein and Rudolph Schlesinger in the United States (to refer only to those scholars whose works are available in English) to shape a new stage in comparative law analysis. A legal institution, whether it was Lawson's analysis of ownership, Yntema's of equity, Dawson's of unjust enrichment, Rheinstein's of succession or Schlesinger's of the general principles of the law of contracts, was examined with a view toward determining its purpose. The relevant questions were: what was the institution supposed to accomplish, and did it in fact do so?

This purposive analysis has acquired a central role in determining the legal contribution to socioeconomic development, because law is, after all, not only an official formulation of developmental goals but

also their main vehicle of implementation. Unless one masters the comparative method and learns the importance of historical and geographical context, as well as of purposive analysis, the evaluation of the performance of legal institutions will suffer, since developmental legal institutions are usually borrowed from the more economically developed jurisdictions by the less developed ones. In this respect, it is one of the *Journal's* main goals to encourage such cross-cultural, development-oriented comparative research as a means of contributing to the common welfare of neighboring nations and states.

In concluding this statement of goals and description of coverage, I must commend a group of students of the University of Arizona College of Law and members of the State Bar of Arizona for their extraordinary efforts in making this *Journal* a reality. Carmen Marriott, Timothy Baker and their student committee made the birth of the idea and initial support possible. Martha Hutzelman and her first board of editors nurtured and defended the idea until it became a viable entity. Paul Karon and, subsequently, Margrit Cromwell, Mary Mangotich, Stephen A. Thomas and Anthony De Prima formed an *ad hoc* committee of supporters from the membership of the Arizona Bar Association in order to enlist the vital support of the Arizona Bar and the Arizona-Mexico Commission for the *Journal*. Finally, I must express my gratitude to Dr. Eugenio Revilla, Foreign Law Librarian & Merits for providing indispensable bibliographical resources.

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