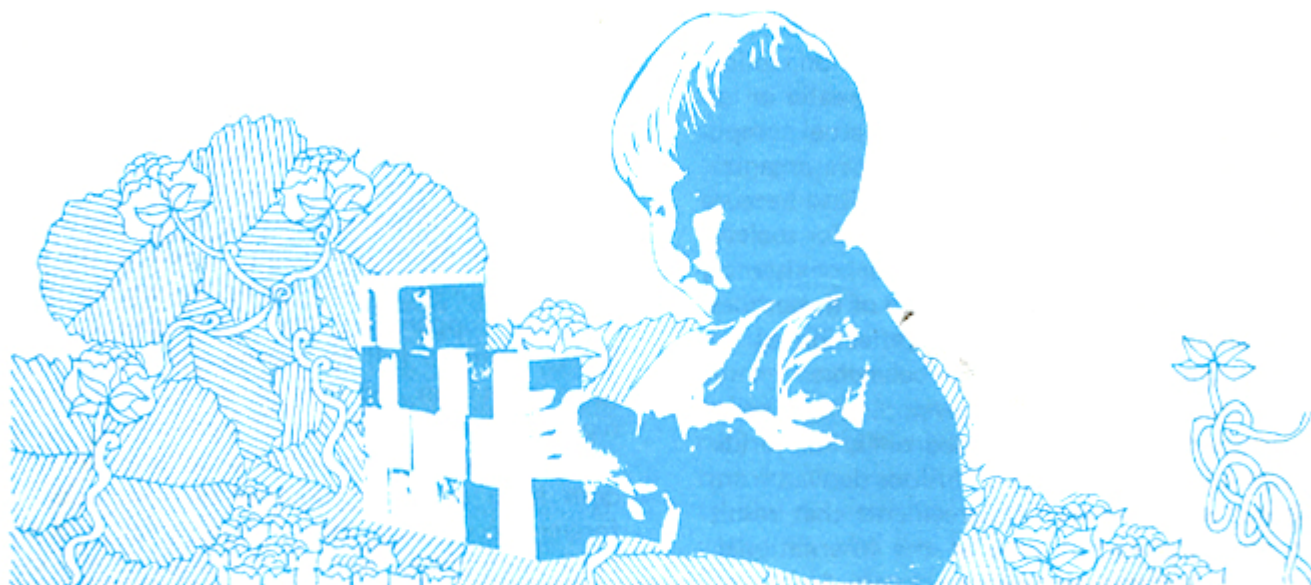


Justice and the role of the juridical institutions within the context of development in Latin America and the Caribbean in connection with ecological problems that influence the well-being of children and families

LA JUSTICIA Y EL PAPEL DE LAS INSTITUCIONES JURIDICAS DENTRO DEL CONTEXTO DEL DESARROLLO EN AMERICA LATINA Y EL CARIBE, EN RELACION CON LOS PROBLEMAS ECOLOGICOS QUE INFLUYEN SOBRE EL BIENESTAR DE LOS NIÑOS Y DE SUS FAMILIAS



ABSTRACT

The author studies the multi-faceted relationship between phenomena arising from unplanned or unharmonious development and crime, in both its traditional and modern forms and dimensions. The study is focused on Latin America and the Caribbean region with special reference to youth and children and within a general ecological framework. Conclusions and recommendations are made.

RESUMEN

El autor examina aquí las interrelaciones entre la problemática planteada por los fenómenos que acompañan al desarrollo no planificado armónicamente y las manifestaciones del delito, tanto en sus modos tradicionales como en sus nuevas formas y dimensiones. El autor focaliza su examen en el área Latinoamericana y del Caribe y con especial referencia a jóvenes y niños, en una perspectiva ecológica global. Formula luego conclusiones y recomendaciones.

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I. INTRODUCTION

This topic is connected through a complex interrelation network to all the others to be considered at this Congress. The main importance of the various perspectives of the problem lies on the juridical institutions, on their double rule-setting and legislative nature, as well as on the values of justice, peace, order, security, cooperation, solidarity, etc. expressed by the rules to a greater or lesser extent, and on the institutional factual components, that is, the judicial administrative organization and its variety of resources. That is so because law constitutes the decisive orientation for society-organizing rules, values that govern coexistence, and the actual implementation form of those rules, fulfillment of those values and reflection of the personal, group and institutional behaviors.

In the specific case of developing countries, without excluding the developed ones, the juridical system is facing profound tensions derived from conflicts, pressures and disagreements that result from the concomitant play at the international, subregional, regional and national levels.

In fact, this topic becomes primarily evident within the structure of a world that is interdependent, but where distances among Northern and Southern countries appear to be permanently increasing, thus challenging such valuable initiatives as the establishment of a New International Economic Order more fair and equitable, where economic factors should not overrule social factors within an integrating process. We consider this New International Economic Order, already legally structured by instruments to be mentioned later on, should include juridical systems and institutions as its main components. The same should happen at the level of subregional and regional cooperation and in the area of national development.

II. THE NEW INTERNATIONAL ECONOMIC ORDER.

The New International Economic Order is based upon some instruments that involve the implementation among the members of the international community of principles that may ensure equity, full sovereignty in terms of equality, interdependence, common interests, cooperation in spite of different economic and social systems, modification of inequalities, redressing of injustices, reduction of differences among developed and developing countries in order to speed up the economic and social development; autonomy of all peoples, cooperation and participation among States, right to full recovering and compensation for exploitation and damage to natural resources, regulation and monitoring of trans-national corporations activities, the right to achieve total freedom from racial and colonial discrimination and foreign occupation, assurance of a fair and equitable relationship between the price of raw material and manufactures, preferential treatment to developing countries for facilitating their access to scientific and technological current findings, technology promotion and transfer, prevention of food lack, promotion of a reform in the international financial system through the obtainment of a more effective participation of developing countries in the decision-making process of the corresponding bodies in institutions dealing with the banking system, investments, international reconstruction and development.

It has been recommended, as a general form of achieving the above mentioned objectives, to intensify international cooperation, to accelerate economic development, to introduce structural

changes in world economy, to formulate an international proceedings code for technology transfer, to increase research cooperation, to prevent interference in national domestic problems, to fulfill in good faith the international commitments, and to respect human rights.

This New International Economic Order, as proposed is a continuous and dynamic process, not only economic but above all indissoluble social and human, where the rights of countries and men, women and children, become fully significant, and ecological variables have a multiple interaction, relating to all the aspects involved.

III. THE RIGHT TO DEVELOPMENT AS A FUNDAMENTAL COMPONENT OF HUMAN RIGHTS.

The importance of the interrelations existing between the right to Development and the New International Economic Order, has been recognized in several studies conducted by the United Nations, particularly in connection with human rights protection at national and international levels. Thus, the United Nations General Assembly has stressed the importance of fulfilling the objectives of the New International Economic Order as concerns the achievements of a full promotion of fundamental liberties and human rights, on the basis of which the human right to development integrates this New Order.

Consequently, the United Nations General Assembly has literally established that the right to development is to be considered one of the Human Rights, and that equality of opportunities to access Development is a prerogative of nations and individuals. Thus, the following components have been identified as part of national development: the imbalance implementation of human potential capacities as a main objective of development. This balance requires an equally full balance between personal and social justice that, as the center of the solar system, is also formed by values of solidarity, peace, order, security and cooperation. Besides, human being is the subject and not the object of development that should be complete, where spiritual and material needs and aspirations should be fulfilled in a balanced form and where social justice should govern the economic variables.

Therefore, human rights become a central factor in an environment of individual and collective autonomy where equality, full participation self-determination will accompany non-discrimination and absence of impoverishment.

IV. INTERNATIONAL DEVELOPMENT STRATEGY.

The International Development Strategy for the Third Decade of the United Nations has established in even greater detail some of the main concepts of the Right to Development. In the first place, the main objective of the promotion of human being is the steady improvement of the overall population well-being, based upon a full participation in the development process and a equitable participation in its benefits.

The specific objectives of this strategy are: 1) to eliminate hunger and malnutrition; 2) to speed up agriculture production in developing countries; 3) to avoid environmental defacement by means of policies aimed to prevent deforestation erosion, soil desfigurement and desertification; 4) to reduce and eliminate poverty; 5) primary health care in the most underprivileged population groups; 6) to achieve a balanced development of human settlements directed to promote higher benefits to low-income groups; 7) to eliminate illiteracy and attain maximum universal primary education for the year 2000; 8) to reduce child mortality and to establish special programs for children under 15 who live in poor rural and urban areas; 9) to make efforts to integrate disabled persons to the development process, and 10) to ensure the participation of women, both as agents and users, in every sector and level of the development process.

These objectives should be achieved through autonomous development efforts at national level, with the support of cooperation actions at the national, regional and international levels.

V. THE INTERNATIONAL DEVELOPMENT STRATEGY AND THE JURIDICAL SYSTEM.

The effective implementation of these ob-

jectives at national, regional and international level, obviously requires the support of the juridical system, in its rule-setting, value and factual aspects. We consider the rule-setting aspect to constitute the level of the juridical rule, its codes and doctrinary and judicial structures. This perspective is usually taken into account whenever the legal system is mentioned, thus disregarding the poles of the triangle, the juridical values, as juridical regulation always expresses values with different priorities, all of which should be organized around the central value of justice. But the juridical system also coexists with its values and rules only through and by the personal, group and social behaviors, and the manner in which those social, political and economic institutions implement such rules and values. This is the factual aspect.

Within the operation of the various institutions, the juridical ones have a regulating central role. This is so, both from the viewpoint of juridical institutions and crime prevention systems and delinquency treatment, and of other institutions in charge of regulation activities related to economy, banking, poverty, ecology, well-being, family, youth and childhood, etc.

This specific institutional operation constitutes the expression of facts, or factual aspect. Besides, either it shows the actual implementation, to a greater or lesser extent, or rules and values in a given order, like those corresponding to ecology, to family well-being, to minors or children, to health or prevention of education or health deficiencies, or it demonstrates that those facts, simply are statements without consistency with a given reality.

To this respect, the importance should be noted of those juridical institutions that have the triple mentioned dimension aimed to facilitate and regulate the various and interrelated processes of an overall development.

The role of juridical institutions does not only consist of prohibitions and penalties, but is fundamentally social, educative, preventive and pedagogical, without disregarding the fact that its penal dimension must serve to the purposes of a greater individual integration to the community.

In spite of its main importance, in its both preventive and penal aspects, juridical institutions generally are not included in national development planning, and its sectorial and inter-sectorial dimensions are therefore inarticulate. This has the highest importance in the regulation of a thorough ecology aimed to facilitate overall development.

On the other hand, the protection of the rights to an overall development has led to the inclusion of offenses performed not only by individuals, but also by corporations, governmental agencies or other non-governmental entities or groups. Among them, offenses against agriculture development, environment, housing, health, women and children, minorities, and human rights, as well as economic and trans-national and/or international offenses.

VI. CONFLICTS AND PROBLEMS OF JURIDICAL SYSTEMS WITHIN A PROCESS OF SOCIAL, ECONOMIC, CULTURAL AND POLITICAL ACCELERATED CHANGES.

a) Access to justice.

In the first place, accession to the protection of a juridical system is not effectively granted to the most underprivileged sectors in several developing countries. In fact, the lack of knowledge of a juridical system, the resources of which are primarily centered in urban areas in detriment of rural or more remote areas, applying a language that is not consistent with the one used by ethnic majorities, of difficult apprehension due to the high indexes of insufficient schooling, with expensive procedures that makes it unavailable to low-income population, determines that a large portion of the population in developing countries does not count on juridical protection for implementing the obtention of adequate housing, to avoid ecological and environmental destruction, and to prevent lack of health, food or labour and education resources. On the other hand, juridical assistance to the indigent, whenever available, only covers these primary integration needs in an insufficient and even neglectful manner, due to the absence of human and economic resources.

b) Legislation and culture.

Likewise, in many countries legislation does

not adequately respond to actual social processes, due to its concept and origin that are often alien to the culture itself. Thus, in several countries the formal juridical system has been supported by mediation, arbitration and community justice systems, duly able to provide for an urgent and local solution to the community problems, always protecting the fundamental liberties and the human rights.

c) Sectorial partiality.

As far as development concerns, one of the main characteristics of a juridical system is that it constitutes an effective instrument of social justice that establishes a healthy and harmonic relationship of spiritual and material promotion between the State and the Society, and the various social and economic sectors, thus allowing to benefit from fundamental rights and liberties.

Nevertheless, social contradictions and conflicts generated by a non-equitable and unbalanced process of unilateral development may determine a juridical system to be one more agent in the increasing of obvious inequality, in the deepening of social oppression in the support given by the State to the most powerful sectors and in an increasing victimization of the most underprivileged sectors and groups, due to their ethnic origin, their political trends, or simply their cultural vulnerability due to the action of structural or immediate circumstances.

In this case, it is not possible to implement a clean and advantageous environmental policy. Option appears to be easily predictable when decision is to be adopted between the interest of corporations with enormous power that often create or handle huge influence networks or foster corruption, counting on professional advise at high level, or those of a majority of citizens that sometimes unite without financial resources to defend their habitat that is being threatened by doubtful projects. The most powerful interests will surely predominate. It is therefore essential to establish supporting State and social policies aimed to ensure decision-making on the basis of objective impartiality and in favour of the most respectable interests, supplying them the adequate means of defense.

On the other hand, the case has also arisen that State institutions promote such state of affairs and carry on mass violations of human rights in order to hinder the process of harmonic development.

At other times, criminal organizations with enormous economic and political power deeply alter the requirements for a safe coexistence through, for example, drugs traffic, for a mass victimization of both the developing and developed worlds.

Thus, they reach to establish integrated systems of land use to cultivate their sources of products for drugs traffic, taking advantage of the depression of rural areas and lack of profit in the international market of some agriculture products from developing countries. These organizations must of course be the target of an urgent and joint action at the regional and international level aimed to diminish its enormously destructive effects.

d) Minors Justice.

Minors justice in Latin America, as compared to the formalism of juridical institutions in general, and with the support of the bright performance of the Inter-American Children's Institute, constitutes a greatly innovating sector directed to the organization of a complete and dynamic juridical protection, without formalisms, and focused on the well-being of children and families. Nevertheless, available resources are far from adjusting to the huge, urgent and strong requirements derived from industrialization, urbanization, migration, critical poverty, unemployment, malnutrition, consequent disabilities, education shortages, family instability, recession, etc., for which ordinary resources are not even sufficient.

On the other hand, the needs for specialization and training, as well as for the establishment of a policy for minors, families and youth within the inter-sectorial context of national development plans, set up new challenges for the international, regional, sub-regional and bilateral cooperation.

VII. ECLA AND THE REGIONAL ACTION PROGRAMS FOR LATIN AMERICA IN THE 80's

NON-EQUITABLE SOCIETIES.

Within a general diagnoses of regional development problems (1) ECLA has mentioned three essential aspects: a) asymetry in the structure of external economic relations, with imbalance between import, export, shortfall of interchange prices and increase of external debt. Besides, the reduction of the growth rate, and in the third place, what is of particular concern for this analysis: The formation of non-equitable societies.

Thus, ECLA states (2) that, while Latin America has undergone a significant process of economic growth and social transformation during the post-war period, "at the the same time, differences and segmentation of society have accentuated, and unemployment and poverty persist". The report keeps on saying that "the social and economic structure characterizes by very high concentration of wealth and income in restricted portions of the population, while a large mass of population has kept in conditions of extreme poverty and even depressing indigence, though a very fast enlargement of intermediate social sectors has taken place at the same time, with important consequences of economic, social and political nature". As far as women's integration in this scheme concerns, "the proportion of women integrated to labor power keeps being very low and most of them carry out non-qualified tasks, and *de facto discrimination* has been supported and vitalized by *de jure discrimination*, as in many countries the legislation itself impedes women's integration.

As far as families and personal distribution of income concerns, "44 % of total income is concentrated on 10 percent of families, while 40 percent of families in lower scale only receive 8 percent. The magnitude and scope of poverty can be appreciated by the fact that 40 percent of families in the region has not a sufficient income to deal with their essential or normal needs; this would mean that around 100 million people would be in such unemployment and under-employment situation, equivalent to 28 percent of economically active population, while unemployment keeps at a high rate in most countries.

Finally, the financial growth rate between 1970 and 1975 was 3.9 percent, scarcely superior

to that of demographic growth, and illiteracy rates represent 5 to 40 percent of labor force.

This overall diagnoses, that we shall not consider in depth due to the nature of this document, indicates that ecological factors and problems are closely interrelated with the lifestyle resulting from these non-equitable conditions expressed at all levels of personal and collective existence. Thus, the Regional Action Program for the Acceleration of the Economic and Social Development in Latin America and the Caribbean within the context of the Implementation of the International Development Strategy for the Third Decade of the United Nations states (3) "The formulation of overall development programs should necessarily include natural resources and the environmental dimension, through policies concerning population, human settlements, space reorganization, technology, international relations, energy and regional integration, particularly for preparing strategies directed to reduce or eliminate poverty and underdevelopment. Besides, any planning related to Latin American underdevelopment must consider the influence of the environmental aspect on the policies related to agriculture and industrial development and to the urbanization process, bearing in mind the specific environmental problems of Latin American countries and the need to examine them within the framework of their economic and social development programs".

This policy of the Regional Action Plan stresses the need for intersectorial planning with respect to the dynamic of national development and the environmental and ecological problems. It should be assumed that development plans should include, wherever not provided for, chapters on environmental and ecological policies, the interrelation of which calls for dialogue and joint planning with every sector and particularly with those in charge of juridical and social rule-setting and implementation. Such policies necessarily require juridical vertebration to ensure mechanisms of community participation in the environmental and ecological defense, systems of information and educative dissemination, and the approval of laws for promoting the access of every sector, without restrictions from those administrative and judicial institutions that are in charge of solving these pro-

blems without delay or casuistical intricacies and in an expeditive and equitable manner.

But social participation is also most important to strengthen the presence of those generally weak communities for facing the State administrative mechanism, that often operates by its own impulse and without roots in the majority groups, as well as the juridical and administrative policies of prevention and decision-making.

VIII. SOME NEGATIVE ECOLOGICAL SETTINGS

a) Migration

Geographical variations among income opportunities and other social incentives are associated to the high rates of national and international labor migration.

In most of the developing countries, immigrants from rural areas amount to more than 30 percent of the urban population increase recorded in the 60's. In some countries, migration constitutes more than 60 percent of urban increase, and even more than 70 percent in others (4). A large proportion of migration from rural to urban areas is of international nature.

International labor migration has also reached dramatic proportions in some areas of the world. More than 6 million workers in industrialized nations of Northern and Western Europe come from Southern Europe and Northern Africa. Hundred thousands people cross the borders from Mexico to the U.S.A., and more than 2 million workers on the building field come from Arab countries that are not oil producers, and from countries of Southern Asia, to work in oil export countries.

The opportunity and the right to work constitute a fundamental need of the human being. Unemployment and under-employment have often been associated with crime in developing countries, but further in-depth investigation should be necessary on this aspect, as the connection does not appear to be linear but formed by many other variables.

However, in some areas of the developed

world, the lack of work affects important sectors of the adult population, and even higher rates prevail in youth. This situation is prejudicial from the economic and social point of view, and negative for the people involved.

Sometimes, inclination towards crime may reflect an attempt to obtain through illegitimate ways an identity that cannot be obtained through normal working. When there are large sectors of the population in underemployment conditions, this situation tends to deteriorate cultural organization as well as social and political division and marginality. The establishment of innovating policies of extra-school and permanent education, both for adults and youth, adapted to national priorities of social and economic development, will facilitate equity and will promote a more effective utilization of human resources.

Migration, both at national and international levels, often implies the availability of greater opportunities for becoming a criminal or a victim of a crime, as at both levels migration is related to a complex network of economic, social and political problems.

An example to reinforce this statement refers to the illegal immigrants that cross the borders searching for work, passing from a developing country to a highly industrialized one in the American continent.

The lack of an overall, integrated and homogeneous plan of activities related to crime prevention at the borders, resulted in a serious increase of various types of crime, like smuggling, illegal workers transportation, drugs traffic and violation of fundamental human rights. In search for better working and life conditions, thousands of immigrants are introduced to a country by people without scruples who are in charge of supplying unexpensive manpower in such conditions that often involve serious violations of the fundamental human rights of the immigrants, or negative life conditions, including housing in slums, malnutrition and lack of social services such as working accidents insurance of medial protection.

In many occasions, these illegal immigrants, without visa or with false documents, or simply without any kind of personal documentation from

the country of origin, are utilized by organized crime for smuggling drugs to the developed country.

On the other hand, while immigrants wait for the most adequate moment to cross the border, they live in a border city of the developing country that shares its border with a city belonging to the developed country. Immigrants mostly come from poor rural areas and small villages where they have no adequate means of maintenance, and while they wait for the opportunity entering the country of destination they often look for such maintenance in criminal activities. Immigrants are young. Unemployment rates among the youth are very high in the developing country where they belong, in spite of the high economic growth rates, as the proportion of that age group includes more than 50 percent of the total population of that developing country (5).

In order to promote economic growth, both countries agreed to establish some industrial plants in specific border places belonging to the Center American Nation. The man-power of such plants is mainly formed by women from the developing countries and, consequently, traditional patterns of family control are modified. This has caused the increase of the number of children who wander through the city streets without due control, often becoming crime victims themselves. From time to time, they also cross the border illegally and get trapped in the intricacies of the organized crime network existing in developing nations (6). This case offers some suggestions aimed to the successful possibilities of an integrated inter-sectorial development plan, directed to crime prevention in order to reduce the very high cost, both human and material, that crime represents for society.

Migration, both national and international, if not duly regulated by means of equitable policies aimed to avoid unfair dualisms as far as salaries and social security concerns, may set up serious threats to the capability of existing social institutions, in both manpower exporter and importer nations, to successfully face this phenomenon.

b) Housing

In many cities of the developing countries (7) more than half of the population lives in slums

and in illegally occupied premises; between a quarter and a third part of the urban population does not count on water supply and neither on waste disposal facilities. This is in fact one of the most pressing problems to be faced by developing societies.

Housing strategies in developing countries should counteract the fact that poor people living in urban areas are the most affected in their attempt to achieve an adequate housing, due to their incapability of competing within very low offer conditions.

As they are unable to eliminate by their own means the institutional and economic barriers that affect their access to the housing market, they sometimes revert to other means: land invasion, illegal land business or illegal urbanization. Precisely in this sense, a public policy related to services in charge of providing for land and financing, would be in timely.

c) Urbanization.

At present, urbanization in developing countries differs significantly from patterns applied in previous periods. Urbanization required several decades in developed countries, while the same process was far faster in developing countries.

From 1950 to 1975, urban areas of developing countries assimilated a large amount of people, approximately 400 million. From 1975 to 2000, increase will be almost 1.000 million people.

The number of large cities in the developing countries grows rapidly; in 1950 there was only one city in South America with a population over 5 million, while there were 5 cities of equal size in the industrialized world. Before the year 2000 there will be 40 equal or larger cities in the developing world, as compared to 12 existing cities in the developed nations. It is expected that 18 cities in the developing world will have over 10 million inhabitants each, and at least one of them, Mexico City, will triple such figure as per estimates. Urbanization features in the various developing countries differ according to the regional groups. However, in all those countries the urbanization process is excessively rapid, concentrated

and expensive, thus causing poverty concentration and inefficiency, particularly as far as housing and public services problems are concerned, as well as over-population and pollution. In contrast with such trends, the existence of great opportunities is often mentioned. Urbanization facilitates the increase of productivity and income and the reduction of poverty influence. Although it is often considered that migration from rural to urban areas is the main factor of urbanization, population growth appears to be an even more important factor, particularly in some Latin American countries.

Immigrants mainly move towards the places where better working opportunities are available, and where possibilities are detected of improving life quality in general. Industrialization nature and forms, the structure of agriculture activities, the improvement of transportation and communication means, and the better education opportunities also cause differential effects on migration.

The trends of the various policies concerning industrialization have fostered the rapid process of urbanization.

Industries tend to establish in urban areas where they can benefit from an easy access to capital and manpower, as well as to financial, legal and technical assistance infrastructures.

It should also be noted that in the cities, in detriment of rural areas, sometimes a preferential treatment is granted on exchange policies, industrial tariffs and incentives, including prices of energy and transportation. Furthermore, this process has been fostered by the immediate contact established between authorities from the central government and the agriculture development rate. The elimination of such trends could be a previous condition for a more balanced and equitable development, whenever associated to steady efforts aimed to establish and adequate industrial infrastructure in the countryside, including education and social services facilities. An effective decentralization policy should be more carefully planned, including the evaluation of proposed alternatives.

On the other hand, the absolute number of people living in depriving conditions is still very high.

When strategies are designed to face urban problems, it should be noted the need for attention to be paid to the shortage of basic urban services, water supply, health, housing, education and transportation, and the urgent steps to be given against the lack of paid work for non-qualified and immigrant workers. These efforts should be associated to a systematic strategy of accelerated rural development set up with an integrated perspective.

Urbanizations constitutes a psychological, social, political and economic reality. It involves all kinds of changes in the distribution and movement patterns of the population, in their working habits, housing, a greater life complexity, unemployment and under-employment, poverty, impersonal relations, conflictive socialization processes and greater opportunities of committing crime.

In some Latin American countries, as reported, urbanization related to juvenile delinquency announces the transition from individual delinquency to collective forms of crime (8). It was suggested that urban growth and life instability elements are precisely characteristic of the strong pressures affecting developing societies with a highly crime-inducing contents.

Delinquency and crime are not excessively concentrated in urban areas of any country but in the largest cities. In developing countries, such cities as Bombay, Calcutta, Bangkok, Curaçao, Bogotá, Mexico City, Cairo, Lagos, Accra, Abidjan, Kampala and Nairobi have a delinquency and crime rate far higher than justified by its population proportion. Migration towards cities results in heterogeneity of population. In an African city, for example, population is sometimes formed by 20 to 30 different tribes with a variety of cultural roots.

Ten thousands of youth belonging to a Central American country moved from the countryside to a city internationally known as touristic center; some of them incurred in various types of crime or became victims of individual or organized crime.

Dynamics of human settlements, both at the micro and macro-levels, calls for a creative and realistic thought and application, in such a way that such human settlements should have adequate

conditions of human and social space, thus strengthening the fundamental values of security, cooperation, peace and opportunities for a significant reciprocal action among individuals, as well as between them and the community.

Insofar as a preventive action in the long term requires an institutional change, there are some direct security measures that may be adopted in order to reduce crime promoting opportunities, decreasing the vulnerability of houses and commercial and industrial premises in the cities. Although this approach may appear too simple, it could have an unlimited effect of dissuasion on thieves.(9).

More organized efforts should involve a transformation of ancient structures, low-cost and duly secure housing programs, that should promote a strong identification of residents with their environment and the preservation of privacy as a fundamental human right.

High and anonymous buildings, as well as illegally occupied premises, oppose to a balanced perspective of personal space. But in developing areas, lack of housing constitutes an alarming factor that affects quality life. In Africa, for example, estimates indicate that per each newly built housing unit in the city, there was an average of 10 new families migrating from rural areas.

This mass migration carried out in scarce housing conditions, adds to the appearance of illegally occupied premises, where life quality has deteriorated so much that crime appears as concomitant phenomenon.

Some examples of improvement of slums quality in a country of Asia have shown that once land's ownership is guaranteed to the poor, they are able to improve their living places significantly.

The improvements that may be introduced in legal and register systems, the careful loosening of land regulation and control, the supply of basic services in those lands to be used as living areas, the short-term loans and low interest rates, will undoubtedly contribute to mitigate this dramatic problem in developing countries.

In some countries, the benefits derived from

these measures adopted through joint efforts of the public and private sectors, favoured a large number of poor people living in urban areas. The conditions of crowded and ruinous houses considerably contribute to endanger the health of the poor who live in urban areas, and adversely affect the forms of socialization of children and youth in developing countries.

d) Unemployment

The large number of workers in the agriculture sector of the developing countries, gave place to some doubts with respect to the convenience of industrialization or the process of agriculture mechanization as a source of paid work, and only in a few cases an absolute reduction was detected.

On the other hand, the experience of developing countries as compared to industrialized nations, indicates a far more rapid growth of manpower. Ninety years were required for this in the industrialized countries, while in developing countries this has occurred in less than 30 years. Nevertheless, the absorption rate of this industrial growth is approximately 50 percent per year, while in low-income countries it does not reach 20 percent per year, and less than 35 percent in mid-income countries.

Thus, underemployment does not only appear in agriculture but also in industry and in services supplying sectors. The 15 to 24 age group is particularly affected by underemployment. In such group underemployment rates over 20 percent were recorded in various areas of the developing world. The seriousness of this problem for the youth actually affects their possibilities of developing a better and meaningful life and constitutes a previous condition of the virtually harmful effects on their role and value concepts. The improvement of manpower capacity is the goal of an equitable development, as education offers one of the few possibilities that underprivileged people have to achieve a better life. A harmonic combination of academic and vocational training appears to be highly advisable.

However, in some countries, education enlargement resulted in unemployment of newly gra-

duated, particularly at the secondary school level.

e) Education and Health

In developing countries, the poor living either in urban or rural areas, are trapped within a vicious circle in which low income means a low level of education, nutrition and health, which also leads to low productivity and subsequent low income.

Schools are scarce in urban areas, and in a particular African city primary school only had room available for 20 percent of the low-income school-aged population living in marginal areas, even if the average for the whole city was 75 percent.

In a city of Asia, the incidence of child mortality, tuberculosis, gastroenteritis, malnutrition and anemia is 2 to 8 times higher in illegally than in legally occupied areas. In a large South American city, child mortality is increasing and new signs of malaria and bubonic plague have been detected. Among many other programs aimed to improve education and health conditions in developing societies, the following can be mentioned as most important: a greater emphasis on basic education, functional training, study programs that should more accurately show the objective evaluation of occupational programs for pregnant women during the breastfeeding period, and availability of education material relating to health for medical, paramedical and sanitary staff. Life expectation keeps on the 42 years in some African countries, and on 73 in developed countries, as European. Likewise, child mortality is still 5 to 6 times higher in developing countries as compared to developed ones.

Around 100 million children under 5 years suffer malnutrition due to lack of proteins and some 10 million suffer severe malnutrition for the same reason, the effects of which are generally fatal if adequate treatment is not applied. Only 20 to 25 percent of the population in developing countries has access to medical services.

Only 28 percent of the low income population of developing countries have access to drinkable water supply services, as compared to 59 percent in the mid-income range. More than 1.200

million people in developing countries do not count on drinkable water supply services.

More than 1.400 million people in developing countries have no sanitary facilities for waste disposal.

There are some 800 million illiterate adults in the developing countries. In fact, almost all the children who do not study for several years at the primary school, remain illiterate.

Approximately a third part of school-aged children in developing countries do not attend school. A reduced proportion of children living in rural areas complete 4 to 5 years primary school.

Life expectation at birth in low-income developing countries can be approximately established in 50 years (1977). In mid-income developing countries, the average life expectation is 60 years, while in developed countries it is 74.

Of some 120 million children born in 1979, 10 percent will die before their first anniversary (meaning a child mortality rate of 100) and another 4 percent will die before their fifth anniversary. In many developing countries the rate is 200, while in developed countries it is 14.

School has always been mentioned in connection with the intricate ethiology of crime in developing societies. Revitalization of education as a strength fostering development and social cohesion, constitutes an imperative need. This also involves the need to count on adequate education models for practical priorities of natural growth and conditions that enhance a rapid social change.

Most of the youth are in conflict with the law and have undergone the effects of education problems within the context of a variety of ethiologic phenomena. It has been stated that school instruction and formal education has rather accentuated cultural division and fostered discrimination policies on culturally prejudiced ethnic groups, instead of promoting the fundamental values that are common to all the sectors of a given developing nation. School could be utilized for the transmission and establishment of a socialization process directed to social justice, cooperation, solidarity

and respect towards other people and the environment. The educative process could be of considerable help as far as crime prevention and delinquent's rehabilitation concerns.

In a Central American country, an institution for the residential treatment of youth in conflict with the law, utilized a downtown school for a successful fostering of delinquent's rehabilitation.

As a result of the efforts carried out on the education field, the proportion of illiterate adults throughout the world decreased from 44 percent in 1950 to 39 percent in 1960, and 34 percent in 1970. Estimates indicate that until 1977, approximately 800 million people, one third of world population, were still illiterate. The most affected areas are Latin America, and to a lesser extent, Southern Asia.

However, financial limitations and economic problems combined with doubts on the efficiency of the educative systems, are hindering the progress and the enlargement of secondary or high education in developing countries (10).

As far as nutrition concerns, low income countries show a malnutrition approximate average of 35 percent of its population, and over 85 percent of illiteracy. Those countries should increase almost ten times their number of doctors and almost 25 times the bed availability in hospitals in order to reach the level of other developed countries that have a modest per capita income of \$400 to 1000. Almost one thousand million people living in developing areas risk to contract one out of six tropical diseases: malaria, schistosomiasis, plati-helmintiasis, leishmaniasis and leprosy (11).

These conditions contribute to the victimization of million people in the developing areas. Without and adequate inter-sectorial planning, legal victimization under the form of penal sanctions could further aggravate such mass problems.

Malnutrition and bad health of children have serious harmful effects on school performance and working habits, and such pattern of imposed failures could appear under the form of criminal behavior, as an alternate way of facing their distressing life conditions. There are multiple and various

causes of delinquency and it is not possible to state that either economic conditions, malnutrition or fulfillment of basic needs are directly associated to delinquency, although all those factors play their particular role. The closest to the truth is that a social policy aimed to the preservation of primary social groups in an undamaged form, could bear some success possibilities for crime prevention.

f) Industrialization

The problems set up by industrialization are perhaps more serious in the first stages of development, when income is low and there is little training available, thus making it necessary to establish and coordinate a wide range of new institutions and activities (12).

The most important challenge in the establishment of policies may consist of the need to promote industrialization without detriment of the basic sector of the economy, that is agriculture. It is further required to pay a greater attention to the enlargement of opportunities for managers and businessmen within a competitive environment at the international level. According to recent trends, there is no doubt that a strong agriculture sector will promote at the national level a demand for industrial goods, will supply raw materials for those industries processing agriculture products, will increase exchange flow and will facilitate the development of labor-intensive industrial units, in small or medium scale, in small villages and rural areas.

In most of the developing countries, governments played a leading role in the first stages of industrialization, as they were responsible for the establishment of an infrastructure of roads, railroads and ports, as well as production and distribution of energy, water, disposal systems, and telecommunications networks. These efforts highlighted the very close relations among fiscal, monetary and external trade policies, reflecting at the same time the integrated nature of development.

Nevertheless, the planning efforts on the economic sector, although significant, often deviated the attention from the need to coordinate a plan with a view to the social impact of such strategies, particularly when it is necessary to face such

problems as urbanization, migration, modification of lifestyle and cultural patterns, as well as the deletion of the traditional order and the appearance of signs that are characteristic of "transition periods". The experience of several countries suggests some general orientations to this respect.

In the first place, industrialization requires some thorough previous studies on the social impact, carried out during the stage of previous investment of industrial projects.

These studies on the social impact, as well as the non-economic objectives of industrial planning, should be specific and concrete. As far as these studies on the social impact are concerned, there should be a consensus on the goal to be achieved by both the State and the private sector, with the community support in all cases. However, most economic development projects were undertaken without previous studies on the social impact.

g) Youth Problems.

In some countries of the Latin American continent, the age group under 20 years represents 38 to 55 percent of total population. In many of those countries, this age group will increase in the future at a higher rate than the growth of the total population.

However, the participation of the youth sector in economy has been affected by a very severe unemployment, lack of education, economic privations, underemployment, precarious health, bad housing, conditions and malnutrition. There are increasingly clear signs that juvenile delinquency, either related to violent crimes or to crimes against property, is a consequence of the interaction of those combined factors, which overcome any other usually utilized as justification within a linear or uni-dimensional perspective.

While in the past the theories on juvenile delinquency as related to developing areas used to reiterate intellectual patterns and research instruments that were mostly the result of models utilized in developing countries, these countries presently feel the need to revert to macro-oriented theories on juvenile delinquency, expressed in terms of historical explanations of a given social structure,

as part of an overall social science with interdisciplinary characteristics, established at the level of crime prevention (13).

h) Increasing expectations

In connection with cultural expectations, whatever the actual prevailing conditions may be in the developing societies, neglected and poor people in general aspire to better life conditions and have the feeling of the unfair division of goods and opportunities. The inadequate information on the access to the protection of the legal system can be mentioned as one of the factors that aggravate such conditions. It is undeniable that the legal system administration is restricted to specialists whose professional services require to be compensated, thus being beyond the reach of those who do not count on adequate resources. This situation often gives place to differences in the arrest, trial and terms of judgement, in detriment of the poor, the ethnic minorities or other subcultural minorities. The effects are felt everywhere of the current movement that strongly support a demand for a more equitable treatment within the existing social and legal framework (14). This problem was considered at the United Nations Seminar on Crime and Development, the topic of which was "The relations and their impact on national development" (15), where it was stated that the weak and the poor are in disadvantageous conditions to face the powerful whenever they enter in contact with the penal justice system.

Prison population is mostly formed by poor people who do not count on support before a sound power structure and an unfair legal system, thus tending to decrease solidarity and cooperation to face the penal justice system.

On the other hand, juridical systems in many parts of the developing world are in contradiction with native values and rules, and are often the result of the application of foreign or elitist patterns to local realities.

i) Tourism

The total world number of arriving tourists in 1979 was estimated in 270 million, according to the WTO's General Secretariat. The total tourist movements in 1979 produced an income of 75.000

million dollars. That represents an increase slightly over 15 percent as compared to 1978. Income produced by tourism at international level was approximately equivalent to 5.5 percent of international trade in 1979, as compared to 5 percent in 1978; this increase took place more rapidly than the increase of world exports (16).

The number of national tourists is 4 times higher than international tourists, and if we also take into consideration the total approximate number of tourists movements in 1979, we reach 1.350 million. International tourism, in terms of long-distance trips, increased in higher proportion than in short or medium-distance trips.

Although international tourism had a more significant increase in developing than in developed countries, thoroughly designed policies are required to achieve the consistency of international tourism with the social and cultural conditions of the developing countries. In the first place, special care should be taken to ensure an adequate utili-

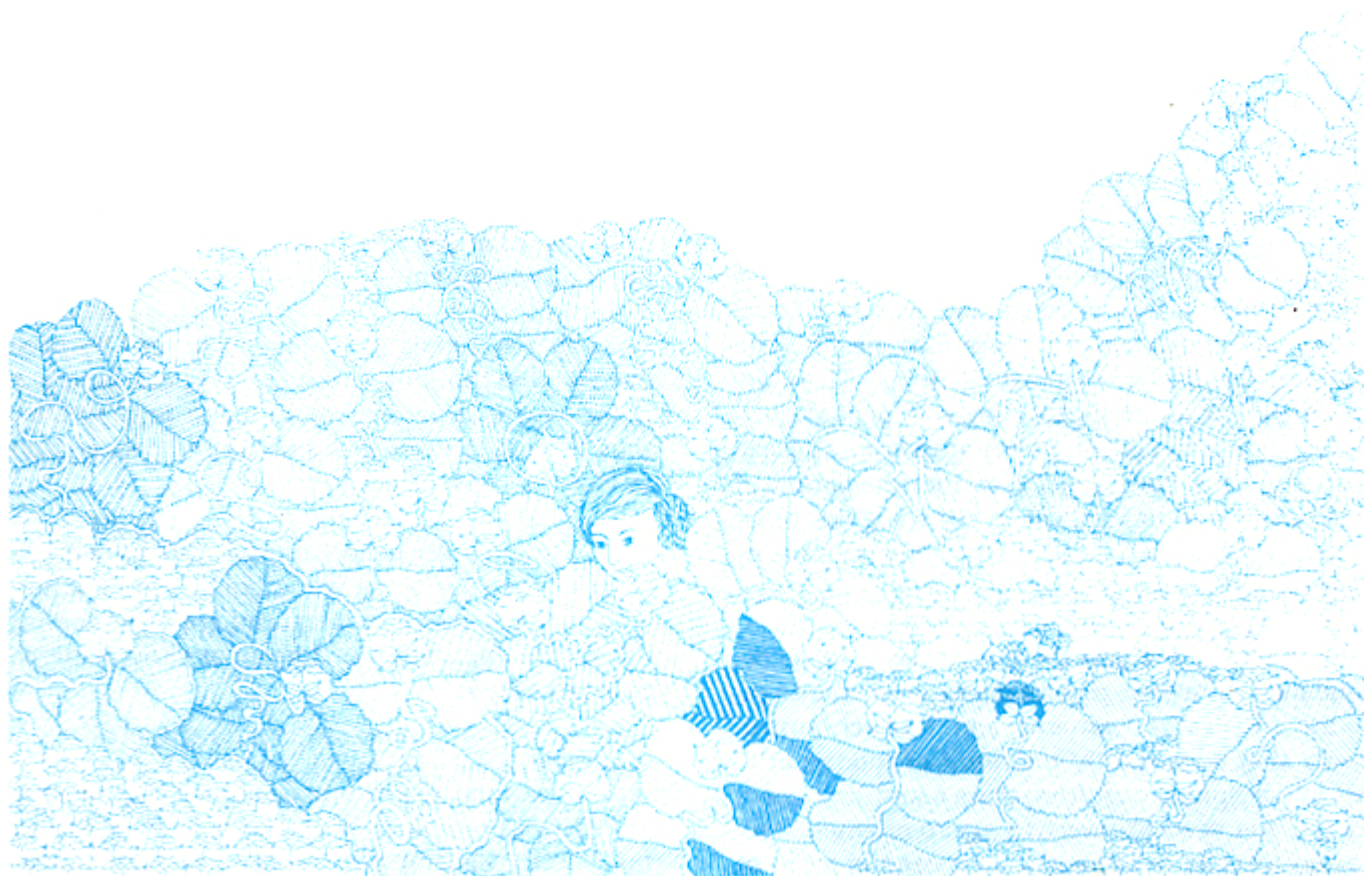
zation of land, thus avoiding ecological disturbances.

Besides, the preservation of archeological, historical and cultural wealth of developing nations deserves special attention, particularly through the prohibition of taking away valuable elements of native cultures. But perhaps the most important area of possible conflict is the dissemination of values and rules, in all the areas of life, alien to the world vision that youth and children have in developing societies.

From patterns related to eating habits, modern music, drugs, to the open expressions of criminal behavior, the culture of the developed world superimposes to national structure, thus causing very acute effects for the society as a whole and a differential and negative vision of the world by adolescents and youth.

j) Human Rights, The problem of refugees.

During the last 30 years since the Universal



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Declaration on Human Rights was adopted, several international instruments have been established for the protection and promotion of the fundamental human rights and liberties. New rights were added to those already included in the declaration, for example the right of peoples to self-determination and to dispose freely of their wealth and natural resources. However, it is not clear enough if these decisions adopted by the international community show a real progress in the fulfillment of human rights or merely a greater commitment to respect such rights. Some aspects that have been widely debated, such as the difficult situation and the settlement of refugees, are still unsolved. On the other hand, the cases of violation of the fundamental human rights have had an increasing publicity. Some signs indicate that the promotion of human rights will keep being a topic of significance in the near future (17).

IX. THE COMPLEX NATURE OF ECONOMIC AND SOCIAL INTERDEPENDENCE.

a) Collective autonomy

Within the context of these challenges, the interdependence among nations becomes increasingly necessary for an effective planning and to find joint solutions, thus increasing the mutual interests of the various countries as well as future peace possibilities.

A more equitable distribution of development's benefits among nations and within each nation, should be associated to the restoration of an international environment more proclive to the cooperation and solidarity of the world community, aimed to face the extraordinary challenges set up by the actual development trends that we have just mentioned. Strategies or collective autonomy among developing countries were highlighted as methods for overcoming dependance, underdevelopment and social injustice.

b) Crime and the unbalanced development.

In spite of those concepts that underline the integrated nature of development, social policies are still subject to economic consideration, particularly when unusual economic and financial pressures increase the vulnerability of social objects. There are many problems associated to unilateral

policies that are directed to development. Sectorial progress in some areas could cause contradictions and very strong conflicts among the structural components of other areas of social, economic and political concern. Most people in charge of establishing policies and planning, sometimes refuse to acknowledge the existence of conflicts between the agriculture and the industrial sectors, the differences among the life patterns derived from the intensification of the current working features, the communications and feeding habits, the appearance of new forms of marginality, the abrupt changes of social values and rules, the weakening or disorganization of basic social institutions, the population movements, the changes in the growth trends of population and the reciprocal relations among the various age groups, the negative influence of foreign cultural patterns imposed to natives and to their world conception, and the extreme polarization of social structure.

Some of these concerns were expressed by the Economic Commission for Latin America at its Second Regional Evaluation of the International Development Strategy.

The Commission stated:

"...until now the process of economic growth and social changes have placed Latin America, or at least the largest countries which include most of the population, in situations that could be called "semi-development" associated to an acute and persistent condition of heterogeneity of structural polarization, and these characteristics make the impact of the crisis and their subsequent contradictions different to some extent from those that may be detected in the poorest and predominantly rural parts of the Third World" (18).

The Commission referred to different social and economic policies that are sometimes reciprocally excluding (19).

FIRST: some variables of a predominantly development-oriented nature inevitably lead development to a blind alley or the society desintegration, due to the increasingly acute polarization of income and lifestyles to the impoverishment of large sectors of the population, to the incapability of offering productive employment to an increasingly larger portion of manpower and to the vul-

nerability in front of changes in international circumstances.

SECOND: the possibility of overcoming the structural heterogeneity or polarization, or to keep them with reasonable limits, without setting up completely different styles of development, associated to a different distribution of power and to a differential participation in societies, and incorporating new priorities and incentives for consumption and productive distribution.

THIRD: the questions concerning the alternate types of development that are feasible at national level as well as the social institutions or forces that could supposedly generate them and establish the national policies.

Finally, if alternate types of development are not available and if current processes of economic growth and social change show signs of lasting in the near future, the possibility exists of designing policies within the limits of such processes, able to reduce extreme poverty and misuse of human potential. There should be an answer to these problems in planning crime prevention within the context of development.

c) Final considerations

The economical and social submerged situation of million people in Latin America and the Caribbean also creates a seriously deficient ecological setting. Precarious housing in conditions of terrible crowding, without water elimination and waste disposal services, without water supply, without health support and with great educative differences, are too evident in the cities and urban areas of the Continent to require further special proof. Within such an acute impoverishment, children coexist in conditions of environmental defacement that adds to their multiple shortages. Thus, they go into the street which in most cities becomes their living place, and generally end by becoming victims of vice and crime. On the other hand, the street gives them an occupation, legitimate or not, but anyway highly dangerous for their age and most times implemented by adults, whether from their own families or not, or sometimes for complementing the meager budget caused

by social, economic and cultural submerging. For such reason, ECLA's Regional Action Plan for Latin America and the Caribbean intends to reduce significantly the lack of urban and rural housing and to increase housing offer for urban majorities of low income, thus solving the problems of deterioration of urban and rural housing and of the peripheral settlements of irregular houses, and improving electric infrastructure, edible water supply and waste disposal systems. Besides, policies on human settlements should be considered as part of the overall and sectorial development policies, advising the countries to include in their national programs the Vancouver Declaration, as approved by the United Nations Conference on human settlements in 1976.

On the other hand, in the Continent there has been an abundance of successful efforts of legislation and social actions carried out at local level through the mobilization of population, with the support of the authorities, in order to change a negative ecological setting into a source of health, joy, recreation and full life, where impoverishment and the plague of crime have disappeared.

It should be stressed that this unbalanced urbanization is often the result of industrialization policies focused on urban areas and of the lack of economic integration in the rural areas, which thus creates an intense migration that changes basic conditions of the traditional population structure into weakening phenomenae of the basic institutions of socialization.

As an example of the most intricate derivations of the problems that influence impoverishment and antisocial actions by minors, children and youth in Latin America and the Caribbean, I shall quote a paragraph from a research study on this type of problems carried out in a Latin America capital city:

"Antisocial acts, carried out by minors at the City of ... are the result of his irregular situation, what can be explained by the economic and social contradictions of the society..., underemployment, unemployment, excessive centralism, industrial and technological financial dependence of our economy, agriculture crisis, rural-urban mi-

gration and inflation and recession of our economy, among others. These factors negatively influence the family belonging to urban popular sectors, thus generating scarcely productive occupations, low income, low instruction and education levels, home desintegration, crowding and promiscuity due to the small size and precariousness of housing."

X. RECOMMENDATIONS AND CONCLUSIONS.

1) Sustantive and procedural legislation

It is necessary to establish sustantive and procedural rules in the legislations of the countries of the area that, without detriment of the fundamental liberties and guarantees, should determine prevention and effective sanction moods in connection with transgressions related to ecology and simplifying the corresponding procedures.

2) Training and education.

In order to achieve an effective juridical regulation of these problems, judges and officers in charge of applying the related procedures should receive specific training and education. For this purpose, the inclusion should be promoted within the study programs at grade or post-grade level of courses relating to ecology in its juridical perspective.

3) Juridical compensation to victims.

Adequate and rapid systems should be established for compensating the victims of ecological crimes transgressions, both individually and communities or groups.

4) Full access to justice.

Juridical systems should establish, by means of adequate policies and mechanisms, the way of overcoming the social, economic, ethnic, cultural and political restrictions and inequalities that impede an effective access to the juridical protection of all social sectors, and particularly of the most vulnerable ones.

5) Prejudicial forms of conciliation, arbitration and protection.

Apart from the traditional legislative forms of the formal juridical system, both judicial and administrative, the countries should promote the

establishment of prejudicial forms of solution, prevention and sanction of ecological transgressions. Such procedures, which should always preserve the fundamental liberties and guarantees, may serve to provide for community-rooted solutions and to foster the educative participation of the community in these problems, without creating costs that most of the population of the countries are not in a condition to afford.

6) Intersectorial and sectorial planning within the context of international development.

The national planning of development should include the participation by programs of the sector in charge of the prevention, protection and sanction of the rules and institutions related to ecological interests and their interrelation with other sectors within the national development. Likewise, a greater sectorial coordination should be promoted whenever necessary, in order to integrate policies, programs and actions, thus avoiding duplications of functions.

7) National and transnational enterprises.

Rules and codes of procedure should be established for transnational and national enterprises in such a way that its activities should be consistent with the principles of a safe ecological policy and in accordance with the objectives and priorities of development in each country.

8) Research programs and activities.

Research programs and activities should be established aimed to set up the interrelations that are being observed among the various phenomenae in unbalanced development that are associated to ecology problems, in order to define specific programs and policies and the related juridical regulations.

9) Education and information

Education and information programs should be established in order to foster community education and participation in the detection and solution of ecological problems. Such participation should include the non-governmental associations and the communities with various extension levels.

10) Regional and international cooperation including bilateral and subregional agreements.

The various forms of subregional, regional,

international or bilateral cooperation, both among developing countries and among these and the developed countries, should be promoted, and particularly the following:

1. Mechanisms for experience and information interchange, and education and training programs;

2. Programs for the improvement of legislations and juridical mechanisms in the countries;

3. Programs for the promotion of qualified staff interchange;

4. Joint studies and model programs on bilateral and country-to-country experiences.

FOOTNOTES

(1) E/CEPAL/21189
Noviembre de 1981.

(2) ob. cit. párrafos 12-13-14-15-16- y 18, páginas 7-8-9.

(3) ob. cit. párrafo 80, pág. 24.

(4) *Informe sobre el desarrollo mundial*, 1979, Banco Mundial.

(5) *Seminarios sobre el trabajador indocumentado*, Editorial Nuevo Méjico, Instituto Latinoamericano, 1979.

(6) David, Pedro R. : *"Contrabando en la frontera"*, en *"El problema del trabajador indocumentado"*, Instituto Latinoamericano, Universidad de New Mexico, p. 51-55.

(7) *Informe sobre el desarrollo mundial*, 1979, Banco Mundial, pág. 81.

(8) David, Pedro R.: *"Sociología Criminal Juvenil"*, Edit. De-palma, Buenos Aires, 1979, pág. 139.

(9) NN.UU., *Informe sobre la situación actual del mundo*, 1978, pág. 35.

(10) NN.UU., *Informe sobre la situación mundial*, 1978, pág. 33.

(11) Informe de la Reunión del Grupo Interregional Ad Hoc de Expertos, sobre el tema II, Justicia de Menores antes y después del inicio de la vida delictiva.

(12) *Informe sobre el desarrollo mundial*, Banco Mundial, op. cit., pág. 60.

(13) Ver: Jerome Hall: *"Derecho Comparativo y teoría Social"*, David Pedro R.: *"Criminología y Estructura Social"*, Universidad del Zulia, Maracaibo, 1979.

(14) David, Pedro R.: *"Sociología del Derecho"*, Buenos Aires, 1980.

(15) *"Planificación de la Política Criminal"*, NN.UU., San José, Costa Rica, 1976.

(16) OMT, Compendio Turístico, 1979, págs. 11-15.

(17) *Informe sobre la situación social en el mundo*, 1978.

(18) Comisión Económica para América Latina: *"El desarrollo latinoamericano y la situación económica internacional"*, Sesión 16, 15 de mayo de 1975, vol. 1., pág. 3.

(19) Ibid, págs. 4-5.