

INTRODUCTION

In recent years, many countries have attempted to use law as a means of controlling and directing their economies in order to achieve social and political goals. Hampering these efforts have been a lack of bureaucratic expertise in managing the economies and the substantial need of many countries for foreign investment capital and technology. These problems have been documented, but what often have been ignored are the underlying questions whether or to what extent law can direct economic behavior so as to achieve social and political goals.

Legal control over economic development efforts is found at both national and international levels. The first part of this symposium examines the national experiences of China and Egypt. Professor Victor H. Li opens the discussion with his article on China's creation of formal legal systems for criminal and civil matters. This outburst of laws, courts, and legal education follows a twenty-year dearth of formal law. An important new area of law in China deals with international trade, regarded as a critical factor in Chinese modernization. Following Professor Li's article, a student note discusses the new Chinese framework for foreign investment, including the Joint Venture Law, compensation trade, industrial property, and dispute resolution.

China's attempts to legislate its way into the twentieth century has a precedent in the experience of Egypt. Under President Sadat, Egypt has attempted to shift from Nasser-era socialism to an open door foreign investment policy. Both countries have shifted somewhat from state to mixed economies in an effort to encourage economic growth. Yet they also have sought to retain basic social goals. Dr. Delwin A. Roy's article on legal instrumentalism and public enterprise development examines the experience of Egypt in the context of other Middle Eastern countries. He analyzes the critical economic role played by public enterprises, which often control the means of production and distribution in both the socialist and capitalist countries of that region. Public enterprises are often established to attain social goals rather than to earn profits. They operate according to legal norms rather than economic principles. As a result, Egypt has suffered substantial and continuing economic losses which threaten to weaken the economy and ultimately to undermine the social plans of the enterprises. Complementing Dr. Roy's article on public enterprises is a student note on these Egyptian laws which

are designed to encourage foreign private investment. The Egyptian experience with both state-and privately-owned enterprises provides an interesting and useful perspective on the recent Chinese development efforts.

The second part of the symposium examines the role of law in regional economic development schemes. Dr. Enrique E. Bledel begins this part with a survey of legislative trends in Latin America which concern foreign investment. He identifies several historical periods of regulation, comprising, successively, foreign dominance of local economies, highly restrictive and protective laws, and the current more pragmatic approaches to governing foreign investment. A very important international organization that has emerged from the Latin American experience is the Andean Pact, a subregional organization which seeks to expand markets and to channel foreign investment into areas considered beneficial for the local economies. The student note on the new Andean Court examines the needs of the Pact for an international entity which can enforce the Cartagena Agreement and ensure that the member countries adhere to the regional development plans.

One of the major questions facing the Andean Pact is whether this regime can match the economic progress made by its predecessor and model, the European Economic Community. Of critical concern is whether economic integration, which has proved successful in Europe, can similarly benefit the less developed economies of Latin America. One need not look solely to Latin America for an answer. The EEC has embarked upon its "southern expansion," wherein Greece, Portugal and Spain will be added to the Community. These countries are substantially less industrialized than the other EEC members and pose a challenge to that integration effort. Dr. Bernhard Schloh provides an interesting discussion of the Greek accession from the standpoint of public international law. He examines the conditions for application, the legal instruments required for accession, and the necessary Community adaptations and transition measures. These matters are complex and extremely important, since they define the terms of membership in the regime. Failure to anticipate problems and to provide means for resolving them can have disastrous consequences; for example, the Chilean crisis in the Andean Pact, discussed in the student note.

Professor Maria Isabel Jalles gives a keen legal analysis of a

crucial aspect of the accession of Portugal—the accomodation of commercial state monopolies under the EEC Treaty. Dr. Roy's conclusions about the relation between law and economics in Egyptian public enterprises would seem to apply in this international situation as well. The complex and often political nature of this area of law certainly will receive further attention as the time for Portugal's accession approaches. Following the articles on the accession of Portugal and Greece is a student recent development concerning a European Court of Justice case. The case involves the Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters, a key European harmonization agreement. The Court independently adopted an interpretation of the Convention which was intended to protect private final consumers. In so holding, the European Court took an activist position that was committed to greater European integration. On the subject of law and economic development, just as China could learn from Egypt, so could the Andean Pact, in particular its new Court, learn from the EEC and the European Court.

A few words should be said about the organization of this symposium. Articles and student works alternate in each area of discussion: China, Egypt, Latin America and the EEC. This has been done to facilitate two uses of the materials. First, one who desires an overview of a topic, e.g., the new role of law in China, may read the article on that subject. If more specific information is needed, the reader may proceed to the accompanying student note on the Chinese Joint Venture Law, with its narrower scope and greater detail. Second, if one requires particular legal information, one may begin with a technical student work, e.g., the note on foreign investment in Egypt. To place the details into proper perspective, the reader may then turn to the broader article on legal instrumentalism in the Middle East. Thus, the papers may be used singly or jointly for each topic, and the topics themselves may be compared.

The Editors

I.
NATIONAL
EXPERIENCES

