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# **The IUCN Academy of Environmental Law: Seeking Legal Underpinnings for Sustainable Development**

NICHOLAS A. ROBINSON\*

*Dedication*  
**Gilbert Kerlin**  
*1909-2004*

*Gilbert Kerlin held that the stewardship of nature forms an integral part of our ordered society, and the rule of law ensures that order. This vision guided all his life's work. He was a generous benefactor to the environmental law program at Pace University and through Pace to IUCN, and the formation of the Academy of Environmental Law.*

*We are enormously indebted to Gilbert Kerlin, and dedicate this article and works described therein to his honored memory.<sup>1</sup>*

Amidst the warmth of sunny, late autumnal days at Shanghai Jiao Tong University on November 4-7, 2003, 150 law professors from ninety universities in forty-two nations met together to es-

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\* Gilbert & Sarah Kerlin Distinguished Professor of Environmental Law, Pace University School of Law. As Chair (1992-2004) of the Commission on Environmental Law, IUCN, Prof. Robinson has had the principal responsibility for the design and implementation of the IUCN Academy of Environmental Law, described in this article.

1. Pace University honored Gilbert Kerlin with a Doctor of Laws, *honoris causa*, in 1999 in recognition of his leadership in securing the preservation of Wave Hill, which has become a premier park and botanical garden overlooking the Hudson River in Riverdale, New York City. A graduate of Harvard College and Law School, he also studied at Trinity College, Cambridge University, and was a partner in the firm of Shearman & Sterling through his entire professional career. His vision led New York City to adopt land use plans for Riverdale. In 2002 and 2003, he made repeated gifts to Pace University for the benefit of the efforts to establish the IUCN Academy of Environmental Law, and build cooperation among law schools around the world. Pace recognized Gilbert Kerlin's continuing support in its *Pace Law School Alumni Magazine* 60 (Winter 2004). See also Stuart Lavietes, *Gilbert Kerlin, 94, Riverdale Conservator, Dies*, N.Y. TIMES, Apr. 12, 2004, at B7; Bernard L. Stein, *Riverdale's Guardian, Gilbert Kerlin, Dies*, THE RIVERDALE PRESS, Apr. 15, 2004, at 1. The Faculty of Law unanimously adopted a resolution of condolences to the Kerlin Family at its faculty meeting on April 21, 2004.

tablish a new learned society: the IUCN Academy for Environmental Law. For the first time, the new field of environmental law became endowed with an academic consortium dedicated to the nurture and cultivation of a body of law to manage the interaction of human societies with the Earth that sustains them. Kofi A. Annan, the Secretary-General of the United Nations, welcomed the new Academy with these words:

Environmental Law, both national and international, establishes the principles and rules that states have adopted in order to protect the precious ecosystems and resources upon which all life and progress depend. *Agenda 21* . . . called on universities in particular to cooperate in building capacity in the realm of environmental law. That call was repeated last year in the Plan of Implementation adopted at the World Summit on Sustainable Development in Johannesburg. It is therefore most welcome that the International Union for the Conservation of Nature and Natural Resources is establishing a new global network of university law departments dedicated to progress in this area. I would like to congratulate all the academic leaders assembled at Shanghai Jiao Tong University for their role in making possible the launch of the *IUCN Academy of Environmental Law*. IUCN's Commission on Environmental Law has rendered an important service in implementing *Agenda 21's* recommendations that academic institutions cooperate in the areas of curriculum planning, course development, and the dissemination of information on legal and regulatory innovations in the field of environment and development. . . . The United Nations looks forward to the teaching and research that the Academy will now undertake. And we welcome the academic contributions that law professors worldwide will make towards our common goal of sustainable development on our one and only planet.<sup>2</sup>

The IUCN Academy of Environmental Law is gathering university law schools, faculties, and departments to collaborate together in their research and teaching, to be—in the words of the Academy's mandate—"a learned society examining the ways law advances a just society that values and conserves nature."<sup>3</sup> Un-

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2. Kofi A. Annan, Secretary-General of the United Nations, Message to the Inauguration of the IUCN Academy of Environmental Law, Shanghai (Nov. 4, 2003) (transcript on file with author).

3. IUCN ACADEMY OF ENVTL. LAW, A LEARNED SOCIETY EXAMINING THE WAYS LAW ADVANCES A JUST SOCIETY THAT VALUES AND CONSERVES NATURE (2003), available at <http://www.iucn.org/themes/law/pdffdocuments/academyenvirtlawdect2002.pdf>. This mandate derives from the mission statement that the Council chose for IUCN

like most academic learned societies, the IUCN Academy of Environmental Law is not dedicated solely to advancing knowledge in its chosen field of study. As its formal name makes clear, the IUCN Academy enjoys a close relationship to the world's oldest environmental conservation organization, the International Union for the Conservation of Nature and Natural Resources (IUCN—the World Conservation Union), established in 1948.<sup>4</sup> IUCN established the Academy on the recommendation of the Union's Commission on Environmental Law, which recognized the need to sustain research into the conceptual development of the field of environmental law.<sup>5</sup>

The IUCN Academy is autonomous in its organization, administration and work, but this does not mean IUCN will now ignore its progeny. The IUCN intends quite the contrary. By design, IUCN has ensured that the Academy's work products *will* be studied and acted upon. When the Academy publishes research papers and scholarship, the IUCN Commission on Environmental Law, together with the IUCN's Environmental Law Centre situated in Bonn, Germany,<sup>6</sup> undertakes to study the research recommendations and to take them aboard, to advance in to practice and application as part of the Union's Environmental Law Programme.<sup>7</sup>

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under the leadership of Dr. Marita von Bieberstein Koch-Weser, while she was IUCN's Director General, as a Union of members striving for a just society that values and conserves nature.

4. For a history of IUCN, see MARTIN HOLDGATE, *THE GREEN WEB—A UNION FOR WORLD CONSERVATION* (1999).

5. IUCN's Members, at the second World Conservation Congress (Amman, Jordan, Oct. 4-11, 2000), in Resolution 2.24, endorsed a proposal from the Union's Commission on Environmental Law to establish a new, worldwide Academy of Environmental Law in 2000. See SECOND WORLD CONSERVATION CONGRESS, *RESOLUTIONS AND RECOMMENDATIONS* 2.24, at 20 (2001) [hereinafter *RESOLUTIONS AND RECOMMENDATIONS* 2.24]. After extensive study, the Steering Committee of the Commission at its meeting in South Africa in August, 2002, recommended that the Council of IUCN approve and authorize the establishment of the IUCN Academy of Environmental Law as an autonomous entity, associated with the Union's Environmental Law Programme. Based on the Commission's recommendation, the fifty-seventh Meeting of IUCN Council (December 9-11, 2002) unanimously approved the establishment of the Academy and authorized the Committee to implement the Commission proposal for the Academy.

6. For information on the IUCN Environmental Law Programme, and the Commission on Environmental and the Environmental Law Center, see <http://www.iucn.org/themes/law> (last visited May 5, 2004).

7. The IUCN statutes provide that the World Conservation Congress adopts the Programme for the organization, see IUCN Statutes, art. 20(e), at 10, *available at* <http://www.iucn.org/about/statutesen.pdf>, and the Regulations provide that the Programme shall include provisions for advancing national and international environ-

Establishment of the IUCN Academy reflects the worldwide concern that law should provide a foundation for sustainable development.<sup>8</sup> IUCN defined and called for the use of a policy of "sustainable development" in its action plan, *Caring for the Earth: A Strategy for Sustainable Living*, launched in 1980.<sup>9</sup> *Caring for the Earth* had included a strong provision for strengthening environmental law. Indeed, a focus on the legal foundations for sustainable natural resource use was one of the motivations for the founding of IUCN in 1948, when its first Members called for action to strengthen environmental legislation and treaties. It remains so today, as Agenda 21 calls for advancing the laws on environment and development within each nation and internationally. The U.N. World Summit on Sustainable Development in 2003 reiterated the recommendation of Agenda, and declared that environmental protection was one of the three pillars of sustainable development, along with the economic and social pillars.<sup>10</sup> Unless nations can make environmental laws effective, nations cannot attain sustainable conservation of nature and natural resources or the protection of the environment and public health. The mission of the Academy is to examine how the law can help to successfully attain this measure of effectiveness.

This article describes a work in progress. While the Academy has been launched, its life and work lie ahead of it. Nonetheless, the paradigm for the Academy has now been tested in Shanghai, and thereafter. Over 800 professors from most of the nations in each region of the Earth have been deliberating about this Acad-

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mental law, see IUCN Regulations, pt. II, sec. 2(h) & (i), at 44, available at <http://www.iucn.org/about/statutesen.pdf>.

8. "Sustainable Development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs." U.N. WORLD COMMISSION ON ENVIRONMENT & DEVELOPMENT, OUR COMMON FUTURE 43 (1987).

9. IUCN, in cooperation with UNEP and the Worldwide Fund for Nature (WWF), published *Caring for the Earth: A Strategy for Sustainable Living* (1980), reprinted in MITCHELL BEAZLEY, CARING FOR THE EARTH (1993). The concept then became the centerpiece for the theme of the Report of the U.N. World Commission on Environment & Development (Brundtland Commission Report). See U.N. WORLD COMMISSION ON ENVIRONMENT & DEVELOPMENT, OUR COMMON FUTURE (1987). The concept was then embraced as the principal theme for the action plan adopted at the 1992 "Earth Summit," the U.N. Conference on Environment and Development (UNCED). See the documentary record of UNCED in AGENDA 21 & THE UNCED PROCEEDINGS (N.A. Robinson et al. eds., 1993).

10. See *Report of the World Summit on Sustainable Development, Johannesburg Declaration on Sustainable Development*, U.N. GAOR, 17th plen. mtg., Res. 1, Annex at ¶¶ 1-5, U.N. Doc. A/CONF.199/20 (Sept. 4, 2002), available at [http://www.johannesburgsummit.org/html/documents/summit\\_docs.html](http://www.johannesburgsummit.org/html/documents/summit_docs.html) (last visited May 5, 2004).

emy. The Shanghai Colloquium, and inauguration of the Academy there, combined the results of two parallel academic planning studies. (1) The first was constitutive, the result of work by the Commission on Environmental Law over five years of preparation for the design and establishment of the Academy, including a peer review at the Pocantico Hills Conference Center of the Rockefeller Brothers Fund, hosted by the Pace University School of Law's Center for Environmental Legal Studies, and the delivery of a report on the peer to United Nations' Legal Advisor, and others, at the United Nations in April of 2003.<sup>11</sup> As the host institution for the Chair of IUCN, the Pace University Center for Environmental Legal Studies provided substantial support in the formative preparatory stages of the Academy's development,<sup>12</sup> as did several other law schools active with IUCN's Commission on Environmental Law.<sup>13</sup> IUCN's Environmental Law Centre, under the effective leadership of John Scanlon, had served as the initial secretariat for the Academy and provided an invaluable founda-

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11. IUCN, PREPARATORY MEETING FOR THE IUCN ACADEMY OF ENVIRONMENTAL LAW (Apr. 13-16, 2003) (meeting documentation on file with author).

12. Dear Richard L. Ottinger of the School of Law and Pace University President David A. Caputo have been unstinting in their support of the Academy. The support of successive Law School Deans, Prof. David S. Cohen and Prof. Stephen J. Friedman, has been essential to Pace's support for the new Academy. Above all, Prof. Robert Goldstein and Prof. Lee Paddock, successively serving as Directors of the Pace Law School's Environmental Law Programme and as members of Commission of Environmental Law, consistently provided world-class leadership and support for the IUCN Commission on Environmental Law's work to advance the Academy. Pace Professors Jeffery Miller, Ann Powers, Karl Coplan, and Marie Newman, who is Director of the Pace Law Library, have been unstinting in their support of Pace's contributions to the development of the Academy. Over ten years, many Pace Law students played supportive roles in advancing Pace's support for the emerging Academy; the editors of the *Pace Environmental Law Review* have been consistently helpful. Mary Stagliano, assistant to Professor Nicholas Robinson, and Leslie Crincoli, in the Pace Center for Environmental Legal Studies, have provided continuing support for the many transactions by which Pace has assisted IUCN.

13. The contributions over several years of the Asia Pacific Centre for Environmental Law (APCEL) of the National University of Singapore, and the leadership of Professor Koh Kheng Lian, Lye Lin Heng, Simon Tay, and Allan Tan, in particular, have made a material contribution to the Academy. The work of Prof. Ben Boer and Prof. Rosemary Lyster at Sydney University, and of Profs. Donna Craig and Michael Jeffery at Macquarie University, also in Sydney, Australia, have provided significant assistance to the planning of the Academy and implementation of its initial undertakings. Adelaide University and Prof. Adrian Bradbrook (Australia), and Auckland University and Prof. Klaus Bosselmann, each have furthered the launch of the Academy in significant ways. Prof. Wang Xi and Shanghai Jiao Tong University, and Prof. Charles O. Okidi of the University of Nairobi, have invested their significant talents and resources in the launch of the Academy.

tion of support for the Academy as it has come into being.<sup>14</sup> (2) The second was a study project of the Commission's experts on energy law, culminating in the design of the topics for the papers at the First Colloquium of the Academy, and the theme of "The Law of Energy for Sustainable Development." The Cambridge University Press is publishing the edited research papers delivered at this Colloquium in 2004.<sup>15</sup> IUCN's Environmental Law Programme has already taken aboard the recommendations of the Shanghai Colloquium, and will feature them in its presentations to a ministerial meeting on Energy Law being convened in Bonn, Germany, in June of 2004.<sup>16</sup>

Even as these activities were being completed, law professors with expertise in the legal aspects of sustainable land use and land stewardship worked to prepare the Academy's Second Colloquium at the University of Nairobi, in Kenya, for October 4-8, 2004,<sup>17</sup> the Third Colloquium on Sustainable Development Law, to be held jointly by Auckland University in New Zealand and Macquarie University in Sydney, Australia, in July of 2005,<sup>18</sup> as well as the Fourth Colloquium on Environmental Law Enforcement and Compliance, to be held in October of 2006, at Pace University in New York.<sup>19</sup> Additional host universities for further annual Academy Colloquia are to be announced during 2004.<sup>20</sup>

An article describing a "work in progress" can provide only a sketch of the initial plans for the new IUCN Academy of Environ-

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14. John Scanlon has been assisted by an able team, including Senior Counsel Françoise Burhenne Guilmin, Maria Soccorro Manguiat, Katerina Sarafidou, Alejandro O. Iza, and Tomme Young.

15. ARIAN BRADBROOK ET AL., *THE LAW OF ENERGY FOR SUSTAINABLE DEVELOPMENT* (2004) (forthcoming).

16. See International Conference for Global Energy (Germany, June 1-4, 2004), available at <http://www.renewables2004.de> (last visited May 5, 2004).

17. A preparatory committee under the leadership of Prof. Charles O. Okidi of the Faculty of Law of the University of Nairobi, is preparing the research project on land stewardship. An editorial team is at work preparing for the publication of the research manuscripts by Cambridge University Press: Professors Patricia Kameri-Mbote, Nathalie Chalifour, John Nolon, and Charles O. Okidi.

18. Prof. Klaus Bosselmann of New Zealand Centre for Environmental Law of the Faculty of Law, Auckland University (on behalf of New Zealand) and Prof. Michael Jeffery of the Environmental Law Centre of Macquarie University, Sydney Australia (on behalf of Australia) are organizing this Colloquium.

19. Prof. Lee Paddock of Pace University School of Law is organizing this Colloquium during the Centennial Year of Pace University.

20. On the fifteenth anniversary of the Rio de Janeiro "Earth Summit," the UNCED, law professors in Brazil, and the Institute of Lawyers for a Green Planet, are preparing a proposal for the fifth Colloquium in June of 2007. Subsequent venues are under study in other regions, with different university hosts.

mental Law. As the Academy establishes its administrative secretariat, builds its research program, and fashions its collaborative teaching undertakings, the details of this further work will become clear. Their analysis must await the events. Nonetheless, the precedents to date portend a promising future, as illustrated by the launch in Shanghai, and the Academy's initial research into the environmental sustainability of contemporary energy law.

### *The Academy "in a nutshell"*

University law faculties have provided human society with the capacity to frame and be guided by the rule of law since at least the fifteenth century. In the annals of history, the capacity of law schools to endure must be accounted as robust. They address the enduring human thirst to frame just and consistent rules to guide our behavior. Each epoch has recast its rules to cope with perceived needs of their societies. In doing so, law, akin to the Roman God Janus, has those who understand this mission with a view to the past, and those who conceive the challenge anew for the future.<sup>21</sup>

Among our society's many pressing challenges at the start of the twenty-first century, how society responds to the human-induced alteration of Earth's natural systems surely ranks as the most profound in terms of his implication for the future of all life as we understand it. One cannot at once melt the glaciers and polar ice caps, alter the climate, raise the relative levels of the seas, cause extinction of a wide range of species, and watch the rapid growth of the human population in crowded human settlements around the globe, without asking some fundamental questions. How can laws and legal institutions better guide human societies? As the biosphere changes, it is likely that today's laws and institutions, all shaped in past times under different physical conditions and facing different challenges, will not be an adequate guide for this future.

Since the late nineteenth century, a small cluster of scientists, academics, and civic leaders have presaged and worried

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21. The dual face of Janus, both to the past and the future, well characterizes how law both retards legal and societal innovation, or advances it. See N.A. Robinson, *A Legal Perspective on Sustainable Development*, in *THE LEGAL CHALLENGES OF SUSTAINABLE DEVELOPMENT: ESSAYS FROM THE FOURTH INSTITUTE CONFERENCE ON NATURAL RESOURCES LAW* (J.O. Saunders ed., 1990). See also the opening address of the Fourth Institute Conference on Natural Resources Law held at the Faculty of Law of the University of Ottawa, in 1989.



about Earth's environmental conditions. Through their efforts, in 1948 a coalition of States, ministries, scientific, and other learned societies and non-governmental organizations established the International Union for the Protection of Nature and Natural Resources, later consciously substituting "Conservation" for "Protection," and refining IUCN's mission. Since then, successive generations of environmental leaders have built IUCN to become the premier international organization devoted to nature conservation and sustainable development. Today, with over seventy nations as State Members, IUCN has more State Members than does any other international organization that is represented as an official Observer in the United Nations General Assembly, and IUCN is unique in that role in having also over 100 ministries or governmental agencies, as well as over 700 non-governmental organizations among its Members. The number of IUCN's non-governmental organization members, including its university members, altogether eclipses the entire number of organizations in consultative status with ECOSOC. IUCN's membership is growing in each of its membership sectors, collectively passing the 1,000-member mark in 2004. IUCN has become the only *fully* global system of governments, learned societies, and civic associations united in a mission to sustain "a just society that values and conserves nature."

Over the years since 1989, academic experts have played the principle role in defining IUCN's Programme. The experts are gathered into six commissions, including the Commission on Environmental Law. It should therefore come as no surprise that professors from university law faculties have played key roles in the evolution of IUCN. As the twentieth century concluded, law professors, particularly in Asia and the Pacific, called for establishment of a new academic network through which to coordinate their legal studies to guide the legal foundations for sustainable development through the IUCN Commission on Environmental Law. This led IUCN's Members at the Second World Conservation Congress (Amman, Jordan, 2000) to endorse the Commission's proposal to create a new, international, autonomous, learned society: the "IUCN Academy of Environmental Law."<sup>22</sup>

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22. Resolution 2.24 of the Second World Conservation Congress provides as follows:

RECOGNIZING the important contributions to the field of environmental law made by IUCN—The World Conservation Union since 1965;

The Academy is the first global, learned society dedicated at once both to advancing knowledge of how law advances a just society that values and conserves nature, and to building the capacity of university law faculties to provide legal education to address the environmental challenges of global change. It does so through three inter-related undertakings.

- (a) Annually, through one or more of its member Universities, the Academy hosts an annual Colloquium to synthesize advanced research on a significant theme of environmental law, and to engage a senior law professor to reflect on the discipline of this entire field of law. The Cambridge University Press published and disseminates these edited Annals of the IUCN Academy of Environmental Law. The Colloquium rotates to a different region of the Earth each year, facilitating participation by professors from universities lo-

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RECALLING that one of the objectives of IUCN since its founding in 1948 has been the drafting of laws and treaties for the protection of nature;

AWARE that environmental law has become a field of law whose scope is exceptionally broad, ranging from the legal systems of local authorities and the customary law of traditional societies and indigenous peoples, through to the laws of States and international law among States;

CONVINCED that the future effectiveness of environmental law will depend on building the capacity of lawyers and others involved in environmental law, policy, and decision-making to further its development and implementation in all regions of the Earth; and

ACKNOWLEDGING that the IUCN Commission on Environmental Law, at the 50th Anniversary of IUCN celebration in Fontainebleau, France, proposed the creation of an IUCN Academy of Environmental Law;

The World Conservation Congress at its second Session in Amman, Jordan, 4-11 October 2000:

1. WELCOMES the initiative taken by the IUCN Commission on Environmental Law to pursue the establishment of an IUCN International Academy of Environmental Law, and requests the Council to give urgent consideration to this endeavour within IUCN's Overall Programme before the next World Conservation Congress;

2. NOTES that the role of the Academy will be to provide a framework to further advance the development and implementation of environmental law at global, regional and national levels, through teaching, training, research, and related activities;

3. REQUESTS the Chair of the Commission on Environmental Law and the Director General to identify, take into account, and collaborate with existing international and regional training and research institutions and programmes, and to develop a detailed statement of the goals, functions, structure, and legal form of the Academy for the consideration of Council;

4. INVITES all IUCN members with an interest in advancing the field of environmental law to provide all possible assistance to the Environmental Law Programme in this process.

RESOLUTIONS AND RECOMMENDATIONS 2.24, *supra* note 5.

cated in the region. Because environmental law is still a young discipline, dating from around the time of the 1972 Stockholm Conference on the Human Environment, the professors at many law faculties, schools, and departments have not yet had an opportunity to meet with each other, or even get to know each other. Although there are some twenty national environmental law societies, until now there has been *no* academic environmental law network for law professors and their universities through which to work. The Colloquia, and the publications of the Academy, will build this community of knowledge across all regions.

- (b) When the professors gather, they have the opportunity to further their individual collaboration on teaching and research in environmental law. Gathered during the Colloquia, the Academy encouraged professors to collaborate on curriculum development and course texts, develop visitorships among universities, team teaching of courses, and distance learning.
- (c) Through knowing the respective expertise and research interests of their member university law faculties, the Academy works to structure joint research into the legal aspects of significant environmental challenges, to build an understanding of how society may cope with them, and to develop new concepts about how law can assist society worldwide. This conceptual law development has been a hallmark of IUCN's Environmental Law Programme, producing in the past the original studies for the Convention on International Trade in Endangered Species (CITES, 1973),<sup>23</sup> the UN World Charter for Nature,<sup>24</sup> and the Convention on Biological Diversity.<sup>25</sup> Research for conceptual law development is undertaken in dialogue with IUCN, and the Academy's research recom-

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23. Convention on International Trade in Endangered Species, Mar. 3, 1973, 27 U.S.T. 1087, 993 U.N.T.S. 243.

24. G.A. Res. 37/7, U.N. GAOR, 37th Sess., Supp. No. 51, U.N. Doc. A/37/51 (1982).

25. 31 I.L.M. 818 (1992); *see also* <http://www.biodiv.org/default.aspx> (last visited May 5, 2004).

mendations are provided to IUCN for its Programme and its Members. The Academy's research has an immediate audience, beyond the community of academics around the world. IUCN's Environmental Law Programme, with the worldwide Commission on Environmental Law, the Union's global Environmental Law Centre located in Bonn, Germany, which is the hub for partner centers around the world,<sup>26</sup> are positioned to respond the Academy's recommendations and focus on their implementation. By the time researched proposals for conceptual law development are in print, responses to them will be underway. This link between research and action is important if States around the world are to be assisted in coping with the effects of the profound global changes reported by scientists in other disciplines.

Collaboration in teaching and research, which the Academy stimulates, also builds the strength of universities around the world. Innovations in information technology and the Internet allow universities to share their resources in designing new, electronic "knowledge" bases.<sup>27</sup> They can also combine the talents of individual professors to collaborate in new inter-regional research projects. This can link universities north, south, east, and west. The Academy can help broker research partnerships among interested universities, thereby overcoming the regional or national isolation that too often exists. Some universities lack capacity to undertake fund-raising needed to sustain research, while others lack the contacts to build the partnerships with universities in

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26. IUCN's Environmental Law Centre and Commission have cooperative agreements with the Asia Pacific Centre for Environmental Law at the National University of Singapore (APCEL), with the Arab Regional Centre for Environmental Law at Kuwait University (ARCEL), with the Peruvian Society for Environmental Law (SPDA) and the Catholic University of Peru, with the Foundation for Environment and Resources (FARN) (Argentina), with the Institute of Lawyers for a Green Planet and the Instituto Biologico in Sao Paulo, Brazil, with the Law Faculty of Kwazi Natal University (South Africa), with Botswana University, with Wuhan University and Shanghai Jiao Tong University in China, with the Eurasian Centre for Environmental Law (Moscow), with Ecopravo-Lviv (Ukraine), and with the Dr. Parvez Hassan Center for Environmental law at Punjab University (Lahore, Pakistan).

27. See, e.g., "ECOLEX," as provided by the IUCN Environmental Law Centre, the U.N. Food & Agricultural Organization (FAO), and the U.N. Environment Programme (UNEP), at [www.iucn.org/themes/law](http://www.iucn.org/themes/law) (last visited May 5, 2004). A good example of a treaty-based knowledge system, in a non-environmental setting, is the U.N. Convention for the International Sale of Goods (CISG) knowledge base at <http://www.cisg.law.pace.edu> (last visited May 5, 2004).

distant parts of the world that are essential to making effective use of capabilities provided by the revolution in information technology. University law faculties in developed states too often lack first hand knowledge of even urgent sustainable development needs of developing states. In like vein, law faculties in states with economies in transition, as in many developing countries, often lack access to their colleagues, from developed regions, who would have an interest in collaborating with them on issues such as how liberalized trade agreements impact on environmental management, or how zoonotic diseases can be better managed across regions to protect public health.

In short, while it works to build knowledge about how environmental law can better serve sustainable development and cope with global change, the IUCN Academy also strengthens the environmental law capacity within each university, and across universities. It adds value to the participating universities in multiple dimensions, and thereby helps to ensure that the historic mission of the law school is renewed in the coming years as the effects of global change are realized.

### ***Background: The Foundations for a New Environmental Law Academy***

IUCN's Commission on Environmental Law announced that it proposed to establish an international Academy of Environmental Law at the Council Meeting held in conjunction with the Fiftieth Anniversary of IUCN celebrated in Fontainebleau in 1998. The proposal had grown out of studies undertaken by Commission members in connection with the courses that the Commission conducted for law professors in Asia and the Pacific, held at the National University of Singapore. The IUCN World Conservation Congress in Amman,<sup>28</sup> supported the work of the Commission to realize its objective in establishing the Academy. It was the culmination of a process that began nearly forty years ago.

Since its origins in 1963, IUCN's Environmental Law Programme has made a singular contribution to the establishment of the field of environmental law, and to the conceptual development of innovations in how legal instruments and frameworks can advance conservation of nature and natural resources. Through pioneering studies, IUCN's Commission on Environmental Law (CEL) and its Environmental Law Centre (ELC) in Bonn, led by

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28. See RESOLUTIONS AND RECOMMENDATIONS 2.24, *supra* note 5.

Dr. Wolfgang E. Burhenne (founding Chair of CEL) and Dr. Françoise Burhenne Guilmin (founding Head of the ELC), have paved the way for the adoption of treaties, such as the Convention on the International Trade in Endangered Species (CITES),<sup>29</sup> or the Convention on Biological Diversity (CBD),<sup>30</sup> and “soft law” such as the UN World Charter for Nature,<sup>31</sup> or the “Amman Declaration,”<sup>32</sup> as well as many national or regional laws. IUCN’s legal specialists have collaborated on the study and codification of practices and policies, such as those set forth in the Earth Charter<sup>33</sup> and in the Draft Covenant on Environment and Development.<sup>34</sup>

Conceptual development of new environmental laws has been the uniquely distinguishing hallmark of IUCN’s Environmental Law Programme. IUCN owes a great intellectual debt to Dr. Wolfgang E. Burhenne and to Dr. Françoise Burhenne-Guilmin for their insightful leadership in designing and fostering “conceptual law development” in the IUCN Environmental Law Programme. Through the wisdom of the first generation of CEL’s academic scholars, such as, among others: Dr. Badria Al Awadhi (Kuwait), Jorge Caillaux (Peru), Prof. Ben Boer and Prof. Donna Craig (Australia), Professors Michael Boethe, Eckhard Rehbinder, and Alfred Rest (Germany), Dr. Raul Brañes (Mexico), Professors

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29. Dr. Wolfgang Burhenne led the studies by CEL members and conducted the negotiations that led to the decision of the United States of America to hold the diplomatic conference in 1973 that produced the Washington Convention on the International Trade in Endangered Species.

30. Dr. Françoise Burhenne Guilmin led the studies by CEL members and the ELC that prepared the first study draft of the Convention on Biological Diversity, presented to IUCN’s General Assembly in 1986 in San Jose, Costa Rica. She subsequently participated actively with CEL members in the negotiations that resulted in the 1992 Rio Convention on Biological Diversity.

31. G.A. Res. 37/7, U.N. GAOR, 37th Sess., Supp. No. 51, U.N. Doc. A/37/51 (1982).

32. SECOND WORLD CONSERVATION CONGRESS, RECOMMENDATIONS AND RESOLUTIONS 2.97, at 34 (2001) (A Marten’s Clause for Environmental Protection).

33. The Earth Charter was drafted by a team led by Dr. Steven Rockefeller for the Earth Charter Commission and the Earth Council. The IUCN CEL Ethics Specialist Group, including former CEL Chairmen Dr. Wolfgang Burhenne and Dr. Parvez Hassan, and Prof. Nicholas Robinson, provided substantial contributions to the drafting and articulation of the norms restated in the Earth Charter. Both the U.N. Educational, Scientific, and Cultural Organization General Conference and the Council of IUCN have endorsed the Earth Charter. See <http://www.earthcouncil.org> (last visited May 5, 2004).

34. The Draft Covenant on Environment and Development was presented to the UN General Assembly Conference on Public International Law in 1995, by CEL Member Prof. Edith Brown Weiss. It was updated in light of the Johannesburg World Summit on Sustainable Development in 2003. See <http://www.iucn.org/themes/law> (last visited May 5, 2004).

Frank Grad and Joseph Sax (USA), Dr. Parvez Hassan (Pakistan), Prof. Koesnadi (Indonesia), Dr. Alexandre Kiss (Hungary), Viet Koester (Denmark), Professors Tommy Koh, Koh Kheng Lian and Lye Lin Heng (Singapore), Prof. Johan Lammers (Netherlands), Prof. Paulo Affonso Leme Machado (Brazil), M.C. Mehta (India), Prof. Ali Mohamed Mekouar (Morocco), Prof. Sunne Malikamarl (Thailand), Prof. Akio Morishima (Japan), Prof. Michel Prieur (France), Prof. Charles O. Okidi (Kenya), Tony Oposa and Amado S. Tolentino (The Philippines), Prof. Mere Pulea (Fiji), Prof. David VanderzVaag (Canada), Prof. Wang Xi (China), or the late Cyrille de Klemm (France), who was honored at the World Conservation Congress in Amman with the award of the Wolfgang E. Burhenne Environmental Law Award, and the late Prof. Oleg S. Kolbasov (Russian Federation), and the late Prof. Guillermo J. Cano (Argentina), CEL has built a scholarly tradition of striving to conceive of new legal means for building a sustainable human society within the living natural systems of the biosphere.

Over the past two score of years, every nation has developed its framework of environmental laws, and the volume of environmental legislation has grown enormously. To cope with requests for legal services generation by this rapid elaboration of environmental statutory norms, IUCN's Commission on Environmental Law has collaborated with IUCN's Members to establish a network of regional centers of excellence for studying environmental law and building capacity in environmental law. Many other institutions have inaugurated programs on environmental laws, complementing those of IUCN. The field is now so complex and the demand for analysis so extensive, that it is difficult for IUCN's several hundred volunteer lawyers and modest full-time small staff of legal specialists to fulfill the work required to meet both the demands for expert services and the need for original research to identify and explain new concepts for refining and advancing environmental law.

Recognizing these difficulties, in the mid 1990s the Commission on Environmental Law began consultations around the world on how to strengthen independent scholarly and professional research into environmental law. One of the Commission's contributions to the Fiftieth Anniversary of IUCN in 1998 was the announcement that it was undertaking to establish an interna-

tional Academy of Environmental Law.<sup>35</sup> Extensive consultations were held with legal scholars from more than 240 universities regarding how to further the teaching and research in environmental law. IUCN's Commission on Environmental Law convened conferences, workshops and consultations in every region of the world between 1997 and 2002. The opportunity to collaborate through such an Academy was met with enthusiasm by law faculties in universities throughout the Earth. Discussions on cooperation have been held with the United Nations University in Tokyo, Japan, and with existing learned societies in different regions, such as the Association of American Law Schools in the U.S. (Environmental Law Section) or the recently established Society for Natural Resources and Environmental Law in the People's Republic of China and the Association of Brazilian Environmental Law Professors, in Brazil.

In 1992, in Rio de Janeiro, the U.N. Conference on Environment and Development (UNCED) called for new institutions along the lines of the Academy. In 2002, the U.N. World Summit on Sustainable Development (WSSD) meeting in Johannesburg, South Africa, repeated the call. UNCED recommended in *Agenda 21*:

Competent international and academic institutions could, within agreed frameworks, cooperate to provide . . . postgraduate programmes . . . in environment and development law. . . . Intergovernmental and non-governmental organizations already active in this field could cooperate with related university programmes to harmonize curriculum planning and to offer an optimal range of options to interested Governments and potential sponsors[.]<sup>36</sup>

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35. The Fiftieth Anniversary of IUCN was in 1998 held at the Palace of Fontainebleau, where the Union was founded, organized by Ambassador David McDowell, then the IUCN Director General. The Chair of CEL, Prof. Nicholas A. Robinson, made the announcement at the meeting of the IUCN Council, held in Fontainebleau, on the evening of the anniversary observances. Ambassador McDowell provided significant and helpful support to CEL in the initial studies to design the Academy. IUCN CEL also held as conference in the Senate Chamber of the French Republic and published the proceedings of that Conference. See *LANDSCAPE CONSERVATION LAW—PRESENT TRENDS AND PERSPECTIVES IN INTERNATIONAL AND COMPARATIVE LAW* (M. Bellini ed., 2000).

36. *Report of the U.N. Conference on Environment & Development, Rio Declaration on Environment and Development*, at ¶ 8.20, U.N. Doc. A/CONF.151/26 (Vol. I) (1992).



A decade later, the WSSD recommended, in its *Plan of Implementation*,<sup>37</sup> as follows: "Improve interaction and collaboration, stakeholder relationships and networks between and among universities, research institutions, government agencies and the private sector." WSSD also stressed the need for such multi-disciplinary collaboration by higher educational institutions.<sup>38</sup>

Following the endorsement of the proposal for the Academy at the Second World Conservation Congress, the IUCN Commission on Environmental Law prepared a plan for review and endorsement by the Council of IUCN.<sup>39</sup> At its Steering Committee meeting on August 23, 2002, held in Pietermaritzburg, South Africa, the Commission on Environmental Law determined to submit this proposal to the Council at its meeting in Gland, Switzerland, in December of 2002, and, after debating different names for this new academic network, resolved to propose that the new Academy be named the "IUCN Academy of Environmental Law."<sup>40</sup> This laid the foundation for the approval of the Academy by the Council of IUCN at its meeting in December of 2002.<sup>41</sup> During 2003,

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37. WORLD SUMMIT ON SUSTAINABLE DEVELOPMENT, PLAN OF IMPLEMENTATION, at ¶ 100(a) (2002).

38. *Id.* at ¶¶ 100-01.

39. The IUCN Director-General at the time of the Second World Conservation Congress, Dr. Maritta von Bieberstein Koch-Weser, has been enthusiastic about the way law professors and other CEL Members volunteered their legal expertise to the Union, and supported the development of the Academy. Some of her Secretariat were more reserved in their support, concerned about possible cost implications for the new institution. CEL indicated that the universities would organize their own support for the Academy, and its contributions would add to IUCN's over-all Programme, rather than cost money or detract from it. The IUCN Members, without dissent, supported CEL in the adoption of Resolution 2.24.

40. The minutes of the CEL Steering Committee are maintained at the IUCN Environmental Law Centre, as secretariat to CEL, at 108-112 Godesberger Allee, D-53175 Bonn, Federal Republic of Germany.

41. The minutes of the IUCN Council meetings are maintained at the IUCN Headquarters, Rue Mauverney 24, CH-1196, Gland, Switzerland. During this period the Director General of IUCN was Achim Steiner, and his support for the Academy has been clear and strong. He sent the following message to the launch of Academy in Shanghai:

At the outset I wish to congratulate Professor Nicholas Robinson and other colleagues from the IUCN Commission on Environmental Law for their vision and commitment. The concept of an IUCN Academy has taken years to bear fruit, but they have seen this long process through, conducting countless consultations and meetings to refine this idea.

The IUCN Council approved the establishment of the IUCN Academy at its December 2002 meeting, opening the gates to the creation of what will be a leading academic institution in the area of environmental law. Having received the IUCN Council's blessing, the Commission set about developing a vision for how the IUCN Academy could be brought to life at

CEL's Steering Committee and Chairman then implemented its plan to establish the Academy.<sup>42</sup>

### *The Structure and Scope of the Academy*

The launch of the IUCN Academy of Environmental Law, as a consortium of specialized research centers in university law faculties, departments or schools, dedicated to advancing the effectiveness of the field of environmental law, has been made possible by IUCN, several university members of IUCN, such as Pace University (New York) and the National University of Singapore, among others. Law professors from within CEL have provided the core leadership for the initial Collegium, composed as it is of individuals representing their university law departments, faculties, and schools, which comprise the Academy's members. By having university departments as institutional members, the IUCN Academy is not dissimilar to the International Union of Forest Research Organizations.<sup>43</sup>

During the transition period required for the complete launch of the Academy as an independent entity, IUCN's Environmental Law Programme has provided important support for the fledgling Academy. The CEL Steering Committee endorsed the final steps to the autonomy of IUCN Academy of Environmental Law at its

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its Preparatory Meeting held in New York in April. It is inspiring to see that so many distinguished professors from around the globe have gathered here in Shanghai to now bring that vision to life.

IUCN deeply values academic work and the strong foundation it provides for the work that we do. IUCN would not be where it is today without the important contribution of the academic community, whose members have worked with us for years through our volunteer networks to develop the knowledge which underpins our policies and programme. The spirit of academic exchange and collaboration that the IUCN Academy will foster bodes well for the strengthening of environmental law, an important discipline without which much of our work in nature conservation will have no solid institutional and legal basis. The IUCN Academy's work will assist in keeping IUCN, and through it the global conservation community, at the cutting edge of researching new approaches to nature conservation and sustainable development.

Achim Steiner, *A Message to the Participants from the Director General of IUCN, in PROGRAM FOR THE INAUGURATION OF IUCN ACADEMY OF ENVIRONMENTAL LAW AND THE COLLOQUIUM OF THE LAW OF ENERGY FOR SUSTAINABLE DEVELOPMENT*, at 2 (Shanghai Jiao Tong University, Shanghai, China, Nov. 4-6, 2003) (on file with the author) [hereinafter INAUGURATION PROGRAM].

42. In the implementation of the legal framework for the Academy, the contributions of Giuseppe Zaccagnini, IUCN Legal Advisor, have been most important.

43. See International Union of Forest Research Organizations, at <http://www.iufro.boku.ac.at> (last visited May 5, 2004).

meeting in Rio de Janeiro in May of 2004. The Academy will require two to three years to build up its anticipated roster of active university members, and to secure funding for its ambitious research agenda. The annual Colloquia will provide stimulation for universities to move through their internal procedures to become members. The Steering Committee sees the full operation of the Academy as a five-year process.

Like IUCN's Environmental Law Programme itself, and not unlike the research agendas of many of its member universities, the Academy focuses its work on the conceptual development of enhancements to environmental law, toward ascertaining how law can best advance a just society that values and conserves nature. In doing so, the Academy cooperates with IUCN's Environmental Law Programme, but does not require financial support from IUCN and is autonomous of IUCN in its decision-making, studies, and other work. The Academy uses the IUCN name and logo under a license granted by IUCN. Until the Academy has established its own secretariat, the IUCN Environmental Law Centre, in cooperation with the Commission on Environmental Law, will provide the communications, assemble the initial rosters of members, and conduct related support for the Academy.

Through the unstinting generosity of late Gilbert Kerlin, a distinguished member of the Bar of the State of New York,<sup>44</sup> the host institution of the Chair of the Commission on Environmental Law, Pace University School of Law, has provided supplemental financial resources to convene working groups for the preparation of the Academy's founding instruments, provide scholarships for the participation of professors from all regions of the Earth, and helped to ensure that all regions of Earth had universities represented at the inauguration of the Academy in Shanghai in 2003. The Academy also enjoyed support from the U.N. Development Programme (UNDP) and the U.N. Environment Programme (UNEP) in providing scholarships for professors to attend the Shanghai Colloquium.

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44. Gilbert Kerlin's contributions to Pace University for the benefit of the efforts to establish the IUCN Academy of Environmental Law were noted at his death: "enabling the Pace University Law School to establish environmental law centers in developing countries." Stein, *supra* note 1, at A5.

### ***The Framework of the IUCN Academy of Environmental Law***

The initial structure of the IUCN Academy of Environmental Law has been mandated by the IUCN Commission on Environmental Law, after consultations with university law faculties, schools and departments. The Collegium, or governing body, of the Academy, will have competence to alter these arrangements as it deems appropriate. For the initial period, however, the process is established and can be briefly described here.

#### **a. Structure and Governance**

The IUCN Academy of Environmental Law is composed of individual university environmental law centers. Each center may nominate a member of the Academy's Academic Collegium. The Collegium directs the research and other programs of the Academy. The Chair of the IUCN Commission on Environmental Law, and the Head of the IUCN Environmental Law Programme, or their delegates, serves as members of the Collegium, to facilitate a close cooperation with IUCN's Environmental Law Programme on an on-going basis. The Collegium elects its executive committee from among the representatives of universities represented in the Collegium. The Executive Committee is responsible for defining and undertaking the projects and cooperative programs and operations of the Academy. The Executive Committee elects its chairman and selects a Director for the Academy, who serves on the Committee *ex officio*. During the initial period while the secretariat of the Academy is being established and funded, the Director is planned to be a professor from a member university, who would serve as a volunteer. In due course, the Director would be providing the staff direction for the work of the Academy. Like most learned societies, a very modest secretariat is anticipated.

#### **b. Basic Requirements for University Participation**

Membership as a partner university in the network of universities comprising the IUCN Academy of Environmental Law is intended for universities that have already made a significant commitment for study and teaching of environmental law. Universities that meet the initial criteria for membership would be admitted by the Collegium's Bureau as full members; universities that wish to cooperate with the Academy, but do not yet meet the Academy's membership criteria, may be added to a roster of "coop-

erating universities." Only full membership entitles a university to be a Member of the IUCN Academy of Environmental Law, and send a representative to the Academy's Collegium.

The initial criteria for membership have been set by the IUCN Commission on Environmental Law's Steering Committee, through its Chair (Prof. Nicholas A. Robinson, Pace University School of Law) and its Specialist Group on Environmental Legal Education (chaired by Prof. Lye Lin Heng, National University of Singapore Faculty of Law). The Executive Committee may recommend to the Collegium revisions to these criteria, and it is expected that the standards *will* be increased from time to time in order to encourage greater allocation of university, and non-university, resources to build up environmental law research in universities throughout all regions.

In order to qualify to be a member of the Academy, each university, at a minimum, shall:

- (1) Have two or more professors of law specialized in one or more subjects of environmental law, as regularly appointed members of their law department, school, or faculty;
- (2) Teach, on a regular basis, at least two (and ideally all) of the following subjects: national environmental law of the State where the university is situated, comparative environmental law, and international environmental law; and an advanced topic in environmental law (*e.g.*, environmental law of the sea, biodiversity law, pollution law, etc.). Member universities will be encouraged to work together in exchanges of teachers and students and in engaging in distance teaching employing the Internet and audio-video team-teaching techniques;
- (3) Have a research collection on environmental law in the law library of the university, and a record of publishing an environmental law journal or articles and books on environmental law);
- (4) Commit to support participation of one or more of its environmental law specialists in collaborative work of the Academy, and, when possible, to host one of the Academy's annual Colloquia on environmental law (*e.g.*, joint research projects, exchanges of teaching or research staffs, exchanges of post-graduate students,

etc.), and make an annual dues payment to the ongoing work of the Academy.<sup>45</sup>

The Academy's Executive Committee supervises application procedures for universities to apply to be members. As the Academy's programme develops and becomes known, universities will most likely become interested in building their own capacities in order to qualify to become member institutions in the Academy. While this is not as rigorous as a formal accreditation procedure, the process of qualifying for membership in the Academy will serve to stimulate professional and scholarly development within the field of environmental law.

Membership in the Academy, and participation in the Collegium, would be open to all universities that meet the admission criteria; there would be no limitation on the numbers of universities per region or per country. Among the many universities consulted to date, more than seventy-five universities, representative of each region, have indicated that they are willing to participate in the planning process to launch the Academy. These universities meet the initial criteria to qualify as members of the Academy. Many more do also, and over time, it is expected that they would elect to join the Academy. This initial group of universities, which can demonstrate that they fully meet the criteria, form the Academy's first Collegium, and will elect its Executive Committee at the end the Colloquium in Nairobi on October 8, 2004.

In addition to the institutional university members of the Academy, the universities constituting the IUCN Academy intend to provide a means for individual professors, who are distinguished in the field of environmental law, to be invited to be named Fellows of the Academy. In this way, the participation of individual scholars would be encouraged, whether or not their university can or wishes to be a participating member of the Academy. The Executive Committee of the Academy also will establish criteria for election of a small number of the most distinguished individual law professors to the category of Academician. After criteria are adopted and announced, the Executive Committee from time to time would recommend to the Collegium the election of individuals as Academicians, in recognition of their work for the

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45. The initial dues formula is based upon and adapted from the existing dues structure of the International Union of Forest Research Organizations (IUFRO), headquartered in Vienna, Austria, and organization of university units not dissimilar to what the IUCN Academy has been designed to be. See <http://iufro.boku.ac.at> (last visited May 5, 2004).

Academy and their academic accomplishments in environmental law. Finally, a distinguished Advisory Council would be named, composed of individuals who are acknowledged and renowned for their environmental law expertise, from both universities and other institutions, in order to engage non-academics in dialogue with the Academy Collegium.

### ***The Programme of the IUCN Academy of Environmental Law***

As briefly identified above, the IUCN Academy is designed to have the following core features. A small secretariat at a member university would coordinate this work. The income from the programs comes from in-kind contributions of the member universities, from the royalty income of the Academy's publications (all the professors' editing and scholarly contributions are being provided *pro bono publico*, as contributions to the Academy), and from grants, research contracts, and gifts. University hosts for each Colloquium take the responsibility and lead in the fund-raising for that event.

- 1) **Annual Study Colloquium in Environmental Law**—An annual international Colloquium of Environmental Law, with the proceedings to be published as *The Annals of the IUCN Academy*. IUCN's Commission on Environmental Law had conducted such Colloquia throughout the world, in order to test the process.<sup>46</sup> The Colloquia are to be organized on different topics of environmental law, and are to be accompanied by an annual set of three lectures, restating themes in Environmental Law, delivered by a senior academic leader in the field. Dr. Alexandre Kiss inaugurated this lecture series in Shanghai. The host university would sponsor and organize the Colloquium and takes the lead in editing the proceedings for publication as the *Annals*. Until the establishment of the Academy, there has been no regular international academic gathering of specialists in environmental law. Since the late 1970s, the numbers of experts in this

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46. This process has been tested at the Asian Development Bank Institute in Tokyo, Japan, in 2002; at the University of Natal, Pietermaritzburg Law School, in 2002; at Kuwait University, in 2000; during the Second World Conservation Congress in Amman, Jordan, in 2000; during the First World Conservation Congress in Montreal, Canada; and at Pace University School of Law, in 1994.

field have grown rapidly and, unlike the days when CEL itself was founded, today most CEL experts do not now know each other personally. The same is true of the academic experts. This Colloquium will facilitate collaboration and communication among experts in each region of the world and internationally, and forge the basis for environmental law professors getting to know each other around the world, to facilitate their collaboration.

The Colloquia are to be scheduled no less than three years in advance, and commitments from participating Universities arranged on that basis. The Executive Committee of the Collegium has arranged for the Cambridge University Press to inaugurate the regular publication and distribution of the Academy's *Annals*. Participation in the annual Colloquium is encouraged internationally. Letters were sent to all universities around the world for the first and second Colloquia. Since the Colloquia are intended to move around the world, the event periodically affords the environmental law professors within in each region an opportunity to participate, without requiring extensive travel and cost. Those who could not attend in any given year would be able to study the conference debates in the *Annals*.

- 2) **Encouraging the teaching of Environmental Law, through preparation of published references, text books, and curriculum development**—The Collegium would arrange for preparation and publication a set of regional teaching books on environmental law for each region, such as the two volumes that the professors in IUCN Member universities prepared for publication by the Asian Development Bank, which have become the standard references for environmental law in Asia and the Pacific.<sup>47</sup> These would constitute the basis for comparative law instruction in the regions, and between regions. The Collegium would encourage preparation and publication within each country of a national text on environmental law, and encourage further elabora-

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47. D. CRAIG ET AL., CAPACITY BUILDING FOR ENVIRONMENTAL LAW IN THE ASIAN AND PACIFIC REGION (2003).



tion and updating of the several texts on international environmental law.

The objectives of this collaborative area of endeavor are to ensure that each university has the teaching and reference materials for providing the core courses on (a) national environmental law, (b) comparative environmental law, and (c) international environmental law. Through these efforts, the foundations of environmental law, as a distinct discipline with law, can be agreed upon across universities. At present, only universities in Asia/Pacific, Africa (primarily East Africa, where UNEP has provided the comparative publications), North America, Brazil, and Western Europe can be said to have these resources.

An example of such a reference developed at the national level in The Philippines, is the publication of Tony Oposa's textbook on Environmental Law in The Philippines.<sup>48</sup> IUCN Commission on Environmental Law will hold a national conference for law professors on curriculum development and the teaching of environmental law in The Philippines in May of 2003. Once the comparable teaching and reference materials are compiled in each region, comparable capacity building activities with universities can be undertaken wherever it is needed.

Teaching interactive "real time" Environmental Law courses over the Internet, or via audio-video systems, will also be encouraged.<sup>49</sup> Some asynchronous basic courses may be provided, but primary engagement of teachers with students is preferred. Law professors at the National University of Singapore and Pace University have pioneered these techniques.

Finally, because participating universities would undertake to include comparable courses, the Academy could encourage exchanges of teachers between individual schools. The Bureau would facilitate exchanges

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48. ANTONIO OPOSA, ENVIRONMENTAL LAW AND OTHER STORIES OF EARTH (2002).

49. Prof. Lye Lin Heng (National University of Singapore) and Prof. Nicholas A. Robinson (Pace University School of Law) have been teaching a course in Comparative Environmental Law over the Internet for five years, in real time, which takes place from 8:00 pm to 10:00 p.m. on Monday evenings in New York and 9:00 to 11:00 a.m. on Tuesday mornings in Singapore.

of teaching and research faculty among and between universities that are members of the Academy. Such exchanges would enhance the teaching of environmental law, build up the network of scholars who know and collaborate with each other, and enhance comparative study of environmental law. Where appropriate, these educational teaching endeavors could be multiplied by providing them, as IUCN Commission on Environmental Law members have provided to the United Nations Institute for Training and Research (UNITAR) in order to provide a correspondence course on international environmental law for diplomats and other professionals.

- 3) **Research**—The Collegium, in collaboration with IUCN's Environmental Law Programme, would identify research issues that require further study. The Bureau would then encourage study of these priority issues, with the publication of such studies, through the university members of the Academy, or individual scholars. A research agenda would be prepared in consultation with the IUCN Environmental Law Programme, in furtherance of and cooperation with the U.N. Environment Programme's "Montevideo" Environmental Law Programme, and in collaboration with other international organization, such as the Secretariats for multilateral environmental agreements, UNESCO and other appropriate institutions. Research funding from such institutions would be provided through and for the Academy's member university law faculties, under agreed terms of and reference.

As funding permits, the Bureau would encourage or sponsor at least three inter-regional studies at any one time. Illustrations of these research projects that Academy member universities have identified include: (a) comparative studies of how environmental standards are accommodated by regional market integration associations, such as ASEAN, MERCOSUR, and NAFTA; (b) analysis of comparative techniques for effective environmental impact assessment and public participation in environmental decision-making; and (c) comparative studies of how mountain areas may

best structure environmental laws, such as the Alpine Convention in Europe, the Andean Pact in South America, and the informal cooperation among States in the Altai in Eurasia; or issues of marine law in different oceanic regions. Research into the conceptual development of the new instruments or systems by which environmental law can leverage greater effectiveness, is a cross-cutting theme of all this research.

- 4) **Post-Graduate Student Exchanges**—The Collegium, in cooperation with interested universities, would study the establishment of a *Diploma*, which the Academy could confer for graduate law students who complete a period of study at one of the Academy's member university, other than the one from which they secured their own law degree. This could encourage students to experience environmental law in at least two different regions, and learn more effectively comparative environmental law.
- 5) **Multi-Disciplinary Collaboration**—The existence of the IUCN Academy of Environmental Law as a scholarly learned society will make it possible for other learned societies to identify appropriate experts in order to include the field of environmental law in their own multi-disciplinary research. Once it is recognized that there are experts identified and available for multi-disciplinary academic work, requests inevitably will be made for such participation, which in turn will strengthen environmental law. The Bureau will facilitate such multi-disciplinary research. At present, there is relatively little such collaboration, in large part because it is difficult for those outside of the field of environmental law in many nations to identify and reach appropriate legal experts.

### ***Advancing the Academy from Infancy to Accomplishment***

Much of what this essay has described appears deceptively easy. All the measures reported here admittedly are still in their infancy. Nonetheless, getting to this point has required the thinking, critical analysis, and peer review of law professors from the Arab world reflecting on Islamic legal traditions, from France, Brazil, Mexico, Peru, and elsewhere drawing on civil law tradi-

tions, from Australia, Canada, the United Kingdom, and the U.S. with the common law traditions and perspectives, and from China, Viet Nam, and other states reflecting Socialist law traditions. More than six years of consultations are subsumed within the narrative set forth above. The roots of the Academy have been nurtured by the creative thinking of university law faculties within each legal tradition, and from nations at every stage of socio-economic development, with every imaginable environmental problem.

The future promise for the Academy is rooted in a past, which even the Academy's academic members do not well remember. Law, as the manifestation of the human drive to live within an ordered society, has been at the center of life in all nations and in all civilization. Law always had a regard for nature, as the ancient Chinese pictogram for the law, FA, makes clear. The Academy's logo is based on an ancient pictogram for FA, being the oldest Chinese character for the concept of law, and arguably the oldest extant conceptualization of law in any legal system. Although discovered on bronze objects made in China 2000 years ago, this concept is remarkable apt for an environmental law society founded in the twenty-first century. The symbol is composed of three parts. On the left, a human being is shown, with calm and level water pictured beneath, and on the right is an animal, drawn from Chinese mythology, known as Zhi. Zhi served as a judge, with its horn to mark the guilty or dishonorable parties in disputes that feature in ancient Chinese legends. The calm water symbolizes level sense of justice and fairness that characterize the effects of the judgments given by Zhi, since the water's surface always appears level on the horizon. The aspiration of FA, is for humans to strive to fairness and justice in all. As Prof. Wang Xi has noted, "What a coincidence with the philosophy behind our environmental law today!"<sup>50</sup>

As humans struggle to understand how we have changed the climate of earth and life on earth, there is again a sense that we shall be judged by "nature," as Zhi gave judgment once. Until the late nineteenth century, most human legal systems took nature for granted.<sup>51</sup> As the technologies of the industrial revolution emerged, as the scientific revolution brought to Earth the perspec-

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50. Wang Xi, *A Note on the Pictogram of the Colloquium*, in INAUGURATION PROGRAM, *supra* note 41, at 1.

51. This is generally not true, however, for the customary legal systems of indigenous people, and their communities.

tives from space, and as growing numbers of humans placed unprecedented demands in Earth's natural resources to meet their human needs and wants, humans set in motion a new phase of evolution in the planet. Deserts have grown, the Aral Sea has dried up, species have become extinct, urban settlements have become vast conurbations producing ever greater demands for housing, food stuffs, jobs, potable water, and energy. Humans have created new chemical and biological forms, with interactions upon and with Earth's existing chemical and biological systems that are often unpredicted. Today, Earth's carbon and hydrologic cycles are altered, and alteration of the nitrogen cycle appears likely to occur. Human beings are remaking the biosphere, both deliberately and inadvertently, and it is wholly unclear how Zhi would judge these events.

Is it not, then, only "natural" that the field of law should begin to address these phenomena? As a matter of simple justice, law has begun to do so. No international authority mandated that the field of environmental law should be established; it emerged about the same time as the 1972 UN Conference on the Human Environment, out of concerns in many nations that environmental problems were becoming worse and needed to be addressed. Once the field of environmental law had emerged, it has come to exist in all nations and as a growing element of international law. As the norms of environmental law have grown clearer,<sup>52</sup> it has also become clear that much of the implementation of these norms remains unrealized. Much of this is due to the lack of trained personnel and deficiencies in the legislation comprising the first generation of environmental laws. The IUCN Academy of Environmental Law will seek to provide remedies for these deficiencies.

Just as environmental law is allied to the environmental sciences in its studies, so also it is a part of the social and environmental challenges that define "sustainable development." The mission of the Academy is to study how law advances a "just" society that values and conserves nature. The environment cannot be sustained if poverty grows, with attendant depletion of natural resources, or if pollution grows with its inevitable harm to public health. As the World Summit on Sustainable Development reaffirmed, environmental law underpins one of the three pillars of

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52. See, e.g., Philippe Sands, *PRINCIPLES OF INTERNATIONAL ENVIRONMENTAL LAW* (2d ed. 2003).

sustainable development. Without stronger systems for implementing environmental laws at local, national and international levels, there will be no sustainable development, and justice will be denied.

As the President of Shanghai Jiao Tong University (SJTU), Dr. Xie Shengwu, has put it:

The complexity of environmental and other social problems that we are facing today made SJTU realize that it is necessary to provide students with not only knowledge of science and technology but also of the humane and social science. So SJTU decided to develop the disciplines of humane and social science. A new Law School, which includes the discipline of environmental law, was established in 2002. The Law School and the discipline of environmental law developed very fast since then.<sup>53</sup>

The same sentiments were echoed in the opening address by the Speaker of the Parliament of Egypt to the deans of the law schools of the Arab World, assembled in Kuwait at the Arab Fund for Economic and Social Development, in 2001. Even where students doubt the role of environmental law, as they do not see it function well, as in the Russian Federation today, or in some regions of Africa and South America, the law professors know better and need the support of their colleagues around the world from other regions. Where law schools seek to build environmental law, or where isolated professors need support just to keep the subject in the curriculum, the IUCN Academy will make a difference.

The prospects for the IUCN Academy of Environmental Law are good. On the one hand, there is demonstrated demand among students in many parts of the world to study this field and enthusiasm in universities around the world to study how to make environmental law more effective. On the other hand, where the rule of law is weak and the environmental problems are growing, there is a despair that environmental law appears too weak or superficial to be of any help. In either case, the Academy will succeed, at least in part, because in light of today's environmental problems, failure is not an option and there is no acceptable alternative to the Academy's success.

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53. Xie Shengwu, *A Message to the Participants from the President of Shanghai Jiao Tong University*, in INAUGURATION PROGRAM, *supra* note 41, at 2.