

10th Annual Colloquium of the IUCN Academy of Environmental Law: Global Environmental Law at a Crossroad, Baltimore M.D., 2012.

**Implementation of Río
Principles by Latin
American Countries:
20 years after**

**JOSÉ JUAN
GONZÁLEZ**

MÉXICO



Objective and Scope

- Analyzing the main legal and institutional changes passed by Latin American under the influence of Rio Declaration Principles.
- The survey includes:
 - The analysis of seven categories of Rio Principles.
 - A revision of legal and institutional changes in six countries.
 - An evaluation of the way such changes are influenced by Rio Declaration Principles.

Environmental Law Principles as framed by Rio Declaration

1. Foundational Principles of Environmental Law

- Right to a healthy Environment
- Sustainable Development

1. Operational

- Prevention principle
- Polluter pays principles
- Access to information, public participation and access to justice
- Precautionary Principle
- Environmental damage restoration

Countries that passed environmental legislations after 1972 but before 1992

COUNTRY	LAWS	YEAR
COLOMBIA	<input type="checkbox"/> National Code of Renewable Natural Resources and Environmental Protection.	<ul style="list-style-type: none"> • 1974
BRASIL	<input type="checkbox"/> Law 10.165. National Policy on Environment. <input type="checkbox"/> Law No. 7347. Public civil action of liability for damage caused to the environment, to the consumer, to goods and rights of artistic, aesthetic, historical. Tourism and landscape value. <input type="checkbox"/> Law 7.802 on Toxic Agrochemicals.	<ul style="list-style-type: none"> • 1981 • 1985 • 1989
MÉXICO	<input type="checkbox"/> Federal Act to Prevent and Control Environmental Pollution <input type="checkbox"/> Federal Act for Environmental Protection <input type="checkbox"/> General Law of Ecological Balance and Environmental Protection.	<ul style="list-style-type: none"> • 1971 • 1981 • 1988
ARGENTINA	<input type="checkbox"/> Law No. 24.040 on chemical formulations. <input type="checkbox"/> Law 24.051 on Hazardous Waste.	<ul style="list-style-type: none"> • 1992 • 1992

Countries that passed environmental legislations after 1992

COUNTRY	LAWS	YEAR
COSTA RICA	<ul style="list-style-type: none"> • Law No. 317 Of Wild Life Conservation. • Organic Act of the Environment. • Forest Act. • Biodiversity Act. • Law 8839. Integral management of Waste. 	<ul style="list-style-type: none"> • 1992 • 1995 • 1996 • 1998 • 2010
BRASIL	<ul style="list-style-type: none"> • Law No. 08 regulating Pollutant Emissions from Vehicles. • Law 8.974. Biosecurity GMO. • Law 9.605 on Environmental Crimes. • Law 9.795 on Environmental Education. • Law 9.985 on National System of Unities for Conservation. • Forest Code 	<ul style="list-style-type: none"> • 1993 • 1995 • 1998 • 1999 • 2000 • 2012
COLOMBIA	<ul style="list-style-type: none"> • Law 99 that creates the Ministry of Environment, reorganizes the public sector in charge of management and conservations of environment, and renewables natural resources, reorganizes the environmental national system (SINA) and establishes other provisions. 	<ul style="list-style-type: none"> • 1993

Countries that passed environmental legislations after 1992

COUNTRY	LAWS	YEAR
CHILE	<ul style="list-style-type: none"> • Law on General Basis of Environment. • Law 19.342 Regulating new Vegetable Varieties obtentor 's rights. 	<ul style="list-style-type: none"> • 1994 • 1994
MÉXICO	<ul style="list-style-type: none"> • National Waters Act. • General Act of Wildlife. • General of Sustainable Use of Forest. • General Act for Prevention and Integral Management of Waste. • Climate Change Law. 	<ul style="list-style-type: none"> • 1992 • 2000 • 2003 • 2003 • 2012
ARGENTINA	<ul style="list-style-type: none"> • General Law of the Environment. • Law 25.614 Integral Management of industrial Waste. 	<ul style="list-style-type: none"> • 2002 • 2002

Right to a Healthy Environment



COUNTRY	YEAR	LEGAL PROVISION
CHILE	1980	Constitution of the Republic of Chile
BRASIL	1988	Federal Constitution of the Republic of Brazil.
MÉXICO	1988	General Law of Ecological Balance and Environmental Protection.
COLOMBIA	1991	Constitution of the Republic of Colombia.
CHILE	1994	Law on General Basis of Environment.
ARGENTINA	1994	Constitution of the Nation Argentina.
COSTA RICA	1994	Constitution of the Republic of Costa Rica
MÉXICO	1999	Constitution of the United States of Mexico

Principle of sustainability



COUNTRY	YEAR	LEGAL SYSTEM
BRASIL	1988	Federal Constitution of the Republic of Brazil.
COLOMBIA	1991	Constitution of the Republic of Colombia.
MÉXICO	1992 1992 1999	National Waters Act. General of Sustainable Use of Forest Constitution
COSTA RICA	1995	Organic Act of the Environment.
CHILE	1994	Law on General Basis of Environment.
ARGENTINA	1994 2001	Constitution of the Republic of Argentina General Law of the Environment.

Access to information Principle



COUNTRY	YEAR	LEGAL PROVISION
BRASIL	1985	<ul style="list-style-type: none">• Law No. 7347. Public civil action of liability for damage caused to the environment, to the consumer, to goods and rights of artistic, aesthetic, historical. Tourism and landscape value.
MÉXICO	1988	<ul style="list-style-type: none">• General Law of Ecological Balance and Environmental Protection.
COLOMBIA	1993	<ul style="list-style-type: none">• Law 99
ARGENTINA	1994	<ul style="list-style-type: none">• Constitution of the Nation of Argentina.
COSTA RICA	1995	<ul style="list-style-type: none">• Organic Act of the Environment.
MEXICO	2001	<ul style="list-style-type: none">• Federal Act of Transparency and Access to Governmental Public Information.

Prevention (Legislation on EIA)

COUNTRY	YEAR	LEGAL SYSTEM
COLOMBIA	1974	• National Code of Renewal Natural Resources and Environmental Protection. .
	1993	• Law 99
BRASIL	1981	• Law 6938, provides on National Policy of Environment
COSTA RICA	1982	• Minig Code.
	1990	• Forest Act.
	1995	• Organic Act of the Environment
CHILE	1984	• Act that establishes the National Sistem of Protected Natual Areas of the Satate
	1994	• Law on General Basis of Environment.
MÉXICO	1988	• General Law of Ecological Balance and Environmental Protection
ARGENTINA	1990	• Law of Hidraulic Infraestructure .
	2002	• General Law of the Environment.

Restoration principle



COUNTRY	YEAR	LEGAL SYSTEM
BRASIL	1985	<input type="checkbox"/> Law No. 7347. Public civil action of liability for damage caused to the environment, to the consumer, to goods and rights of artistic, aesthetic, historical. Tourism and landscape value.
	1988	<input type="checkbox"/> Environmental Crimes Law
COLOMBIA	1991	<input type="checkbox"/> Constitution
ARGENTINA	1992	<input type="checkbox"/> LawNo. 24.051 on Hazardous Waste .
	1994	<input type="checkbox"/> Constitution
	2002	<input checked="" type="checkbox"/> General Law of the Environment.
COLOMBIA	1993	<input type="checkbox"/> Law 99
COSTA RICA	1994	<input type="checkbox"/> Constitution.
	1995	<input type="checkbox"/> Organic Act of the Environment..
	1994	<input type="checkbox"/> Law on General Basis of Environment.
MEXICO	1996	<input type="checkbox"/> National Waters Act.
	2000	<input type="checkbox"/> General Act of Wild life.
	2003	<input type="checkbox"/> General of Sustainable Use of Forest.

Polluter pays principle



COUNTRY	YEAR	LEGAL PROVISION	TEXT
COSTA RICA	1991	Decreto Ejecutivo 10.531	Tax benefits
	1992	Ley de Conservación de Vida Silvestre.	Wild life Fund
MÉXICO	1986	Ley Federal de Derechos.	Duties for residual water emissions
	1992	Ley de Aguas Nacionales.	
	1995	NOM-ECOL-085/94.	Marketable permits for emissions
	1996	Ley Ambiental del Distrito Federal.	Duties for residual water emissions
COLOMBIA	1993	Ley 99 por la cual se crea el Ministerio del Medio Ambiente, se reordena el sector público encargado de la gestión y conservación del medio ambiente y los recursos naturales renovables, se organiza el sistema nacional ambiental, SINA y se dictan otras disposiciones.	National Fund of Environment.
			Amanonian Environmental Fund.
CHILE	1994	Ley sobre Bases Generales del Medio Ambiente.	Fund for Environmental. Emission taxes Marketable permits for emissions

Polluter pays:ecosystem services

COUNTRY	YEAR	LEGAL PROVISION
COSTA RICA	1996	FOREST ACT
	1998	BIODIVERSITY ACT
COLOMBIA	1994	LAW 139 THAT CREATES THE CERTIFICATE OF FOREST INCENTIVE
BARZIL	2012	FOREST CODE
MEXICO		FOREST ACT

Implementation of Rio Principles

Principles	Right to a healthy Environment	Access to information and public participation	Sustainable development	Principle of prevention (EIA)	Principle of restoration	Polluter pays principle	Precautionary principle
ARGENTINA	✓	✓	✓	✓(X)	✓(X)		
BRASIL	(X)	(X)	(X)	(X)	(X)		
CHILE	✓(X)		✓	(X)	✓	✓	
COLOMBIA	(X)	✓(X)	✓	✓(X)	✓(X)	✓	✓
COSTA RICA	✓	✓	✓	✓(X)	✓	(X)	
MÉXICO	✓(X)	(X)	✓	✓(X)	✓	✓(X)	

(X) Countries adopted the principle before the Rio conference.

✓ Countries adopted the principle after the Rio Conference.

✓(X) Countries that had already incorporated this principle, but they made a change subsequently.

Conclusions

- Even when almost all Rio Principles Has been adopted by Latin American Legislation, their implementation has been slow and not homogeneous.
- Whereas implementing few Operational Principles has been relatively easy through traditional techniques of administrative law Incorporation of Foundational Principles into Constitution or legislation as well as the precautionary principle does not mean nothing by itself if institutions such as “property” or “liability” are not seriously transformed.
- After 20 years it is possible to say that Latin American countries have done to much but not enough and .process of adoption of Rio Principles has to continue.

Thanks for your attention

Dr. José Juan González Márquez]

jjgonzalez@gonzalezsociados.com

