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I. LEGISLATIVE BACKGROUND

Cuban environmental legislation was not born with the revolutionary process, at least in some of its aspects. Precursors exist from the nineteenth century, provisions related to natural resources, with a clear anthropocentric focus. The Hunting Act [*Ley de Caza*] of 1884 and the Hunting and Fishing Act [*Ley de Caza y Pesca*] of January 1909, classified species as useful or harmful, in accordance with a short-term and economic view, to such a point that those species changed place in the space of about 30 years.

In the 1930s, as a consequence of an international trend, the creation of areas under a system of special administration was begun, with different management categories. In this way, by Presidential Decree of April 24, 1930, the Sierra Cristal National Park was created, followed by the Zapata Swamp National Fishing and Hunting Refuge (1936), and the Topes de Collantes National Park and Forest Reserve (1939), among others.[1]

Despite these legislative efforts, which could be called limited and unidirectional, the de facto situation did not change substantially. The

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1. CARBALLO MAQUEIRA, Leonel, *El derecho ambiental. Realidades y esperanzas*, Publicaciones Acuario Centro Félix Varela, La Habana, 2014, pp. 77-82.

effectiveness of the legal provisions that were enacted was very diminished, as the political will necessary for their implementation was lacking, as was the allocation of economic recourses for that purpose. It is for that reason that in 1958 it was affirmed that "little or nothing has been done in each case for the park or refuge to meet the proper conditions for these reservations and to carry out their proper function, "they have not been duly created in order to prevent free access," no signs or announcements have been put in place indicating any limits or prohibitions, nor have even the most elementary practices of conservation been realized (. . .), often large quantities of wood are removed in secret or with special permits, in addition to the plagues of insects and fire . . . ."[2]

This situation made necessary the series of institutional and legal changes that ensued after 1959, which will be described below briefly, with emphasis on those made after the approval of the Constitution of 1976. The process of institutionalization begun from that moment onward involved a continuous path of legislative and institutional development until the present day.

II. CONSTITUTIONAL BASIS

The Cuban Constitution of 1975, which has been reformed in 1978, 1992, and 2002, consecrates in Chapter VII fundamental rights, duties, and guarantees. Although environmental protection was present in the original versión, it did not explicitly recognize the objective of sustainable development, which appears in the text of the Río Declaration of 1992. As established by the third principle of the Declaration, "The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations."[3] In its literal sense, the constitutional text declares that in order to ensure the welfare of the citizens, the State and society must protect nature, and it is incumbent upon "corresponding institutions as well as each citizen" ["*a los órganos competentes y además a cada ciudadano* . . ."] to ensure that the water and atmosphere are kept clean, and that the soil, flora, and fauna are protected.

As part of this process, on the occasion of the constitutional reform of 1992, which brought about a series of transformations in the economic, political, and social order, a new revisión was made to Article 27 of the fundamental rule: "The State protects the environment and the natural

2. ÁLVAREZ CONDE, José, *Historia de la Botánica en Cuba,* Junta Nacional de Arqueología y Etnología, La Habana, 1958, p. 179.

3. Puede consultarse su texto http://www.un.org/spanish/esa/sustdev/agenda21/rio declaration.htm, consultado el 24 de junio de 2016.

resources of the country. It recognizes their close link with sustainable economic and social development to make human life more rational and to ensure the survival, well-being, and security of present and future generations. It corresponds to the competent authorities to apply this policy. It is the duty of the citizens to contribute to the protection of the water, atmosphere, conservation of the soil, flora, fauna, and all the rich potential of nature."

Beginning with the aforementioned Article 27 of the Constitution of the Republic, it may be affirmed that, because that text establishes the obligation of the State and citizens to protect the environment, it also consecrates it as a constitutionally protected right, raising it to the status of a principle of political and legal order.[4] If this right is not formulated explicitly in the constitutional text, which only reflects a general duty, its existence can be affirmed on the basis that each duty must correspond to a correlative right. Effectively, if we conceive of subjective rights generally as a set of capacities that enable their holder to demand certain behaviors of other subjects, they would then have a duty by means of which a certain behavior may be demanded of them. As Pascual Expósito states, "in reality, this right could be viewed as an implicit counterpart to the recognition of the duty of the state and of every citizen to protect the environment."[5]

This interpretation corresponds to the Environmental Law [*Ley de Medio Ambiente*], whose Article 4, which contains the principles of Cuban environmental policy, recognizes in subsection (a) that the right to a healthy environment is a fundamental right of all citizens. We believe that it is necessary to examine these particulars in detail, with the goal of making some reflections on what may be considered a fundamental right, in the framework of the national legal order.

The term "human rights" has been conceived as "the group of ethical, cultural, social, economic, and legal values that, by the consensus of the community of nations, constitute the ideals corresponding to a given stage of historical development, and with that goal, have been consecrated in legal documents . . ."[6] The legal nature of these rights is

4. PASCUAL EXPÓSITO, Lídice y LiliberthRODRÍGUEZ GUTIÉRREZ, "La protección del ambiente como un derecho humano" ponencia presentada en el II Simposium Pensamiento Jurídico Contemporáneo, 2004, *Universidad Central Martha Abreu de Las Villas* (http://derecho.sociales.uclv.edu.cu/PONENCIAS2.htm, 11 de julio de 2006).

5. PASCUAL EXPÓSITO, Lídice, "El derecho a un medio ambiente sano," ponencia presentada al II Simposio Pensamiento Jurídico Contemporáneo, 2004, Universidad Central de Las Villas Martha Abreu (http://derecho.sociales.uclv.edu.cu/PONNECIAS.htm, 11 de julio de 2006).

6. VILLABELLA ARMENGOL, Carlos, "Los derechos humanos consideraciones teóricas de su legitimación en la Constitución cubana" en, PÉREZ HERNÁNDEZ, Lisset y Martha PRIETO VALDÉS (Compiladoras), *Temas de Derecho Constitucional Cubano*, 2ª edición, Editorial Félix Varela, La Habana, 2002, p. 310.

not peaceful in the doctrine. While some observers argue that these derive from the Universal Declaration of Human Rights (1948), as an international legal instrument, others postúlate that they are meta-legal realities, positive moral rights, but not legal rights, as that text has no binding force and no sanctions for noncompliance. This is the opinión of Carlos NINO, according to whom "if the supposed lack of coercive content of the moral norms is not an obstacle for generating duties, it is not clear why it should prevent them from generating rights, nor does it seem that the fact that moral norms are not backed by sanctions should prevent them from generating subjective rights."[7]

The category of constitutional rights belongs to the legal field, as it groups the rights assigned by the constitution, as rights assigned to every citizen, which fundamentally coincide with those internationally considered human rights. These constitutional rights ought not to be limited to those enumerated in Chapter VII, but rather can be recognized in other places in the constitutional text. This is not an isolated opinión, as they have been designated as constitutionally protected rights outside Chapter VII, the right to citizenship (Art. 32), to marriage (Art. 36), to the equality of children (Art. 37), freedom of artistic creativity (Art. 39), to investigative activity in science (Art. 39 e), and to equality (Art. 41 & 42).[8]

Fundamental rights are considered a subcategory within constitutional rights, including those that have a special protection or guarantee in the law. While there is a traditional distinction between formal and material guarantees, the title of fundamental rights is reserved for those that are protected by a special legal guarantee. These guarantees range from the creation of special bodies for the protection of recognized rights, like the constitutional courts, to protection through ordinary jurisdiction, as in the system of Common Law. If these features are taken into account, the right to a healthy environment cannot be classified as a fundamental right, since in Cuba it has no special defense mechanism, although there are material conditions for the real exercise of the right,[9] because of a national policy directed to resolving the country's environmental problems, and an adequate institutional support, through the Ministry of Science, Technology and Environment, created in 1994.

However, the constitutional recognition of this right is not sufficient for its adequate protection, nor the existence of adequate factual conditions for its exercise, if adequate legal mechanisms are not

7. NINO, Carlos, "Sobre los derechos morales" en, *RevistaDoxa*, número 7, 1990, p.314.

8. VILLABELLA ARMENGOL, Carlos, *op. cit.*, p. 317.

9. PÉREZ HERNÁNDEZ, Lisset y Martha PRIETO VALDÉS, "Los derechos fundamentales. Algunas consideraciones doctrinales necesarias para su análisis," en PÉREZ HERNÁNDEZ, Lisset y Martha PRIETO VALDÉS (Compiladoras), *op. cit*., p. 304.

instrumented to bring an act before the jurisdictional aparatus when this right is infringed. The existence of a right to a healthy environment, which every citizen would possess, does not correspond to a system of legitimation as restrictive as that established in the Law of the Environment. As the Río Declaration maintains, in its principle number 10, "States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided."

Before a third-generation right, such as the right to a healthy environment, as it deals with rights pertaining to collectives or human groups, such as the right to development or the right to peace, ordinary legislation recognizes two possible forms of jurisdictional exercise. A first variant is that recognized in Article 71 in the Law of the Environment, that in its first subsections, includes public actions, whose owners are the organs and agencies of the State whose role is the protection of the environment or of general legality, as is the case of the Attorney General of the Republic. In both cases the representation of the society and State is given, as the holder of the interests that have been injured. The other form is that which makes possible the action in favor of the person that has been affected in his or her health, physical integrity, or patrimony by environmental damage so that he or she may be considered a subject directly affected, which indicates a lack of correspondence betwen the ownership of the right to a healthy environment, and a similarly narrow system of legitimation.

In any case, the presence of the environmental question is not a guarantee of adequate protection. This has led to the promulgation of regulatory provisions that intend to integrate transverse environmental standards, applicable to any resources and ecosystems that warrant special regulation.

III. ENVIRONMENTAL FRAMEWORK LAWS

The first Cuban environmental framework law, although not known by that name, was Law 33/1981, "of the protection of the environment and the rational use of natural resources." Unlike the Constitution, which as has been seen enumerates the elements deserving protection, Law 33 utilizes a broader concept of the environment, affirming that it is the system of biotic, abiotic, and socioeconomic elements with which man interacts, and to which he adapts, transforming it and using it to satisfy his needs, which may be economic, social, or cultural. The relevance of this legal body is pointed out in Article 5, which recognizes that the environment is the "common patrimony of humanity" [*patrimonio común*

de la humanidad].[10]

Decree Law 67/1983, which was enacted under the aegis of this Law, assigns to the Cuban Academy of Sciences the role of directing the National System for Environmental Protection and rational use of natural resources, although the function of directing and controlling that system initially corresponded to the State Committee on Science and Technology.

On July 11, 1997, building upon the constitutional reform of 1992 and the creation of the Ministry of Science, Technology and Environment in 1994, Law 81 was enacted. Its titles cover the designation, principles, basic concepts, objectives, and framework. It also develops the instruments of policy and environmental management, specific spheres of environmental protection, energy resources, rules related to sustainable agriculture, sustainable development of tourism, and the preservation of the cultural patrimony associated with the natural environment, among others.

The Law of the Environment was conceived in the midst of the continental process that followed the celebration of the Earth Summit in Río de Janeiro in 1992. Thereafter, various legal accords regarding environmental protection gradually appeared, by means of framework laws containing foundational precepts that would be developed later in accords of equal or lower hierarchy. This process was assisted by the Office for Latin America and the Caribbean of the United Nations Environment Programme (UNEP), which collaborated in training the human resources necessary for this labor, holding workshops, compiling bibliographic and legislative information on the countries of the región, as well as structuring a platform for teaching Environmental Law in the región.[11]

As part of this effort we find the Proposed Basic Law of Environmental Protection and promotion of sustainable development, which appeared in 1993.[12] The current Law of the Environment took various elements of this proposal, above all the instruments of environmental management, although it departs from that model in regards to the institutional framework, given that the Basic Law calls for the coordination of the different state organizations with environmental

10. REY SANTOS, Orlando, *Fundamentos del Derecho Ambiental*, Ediciones ONBC Organización Nacional de Bufetes Colectivos, La Habana, 2012, p. 152.

11. CÁNOVAS GONZÁLEZ, Daimar *et al.*, *Bases jurídicas para el ordenamiento ambiental – Informe final del Proyecto No Asociado a Programa (PNAP) Propuesta de implementación jurídica del ordenamiento ambiental en Cuba*, Instituto de Geografía Tropical, La Habana, 2014, pp. 40-41.

12. *Propuesta de Ley Básica de Protección Ambiental y promoción del desarrollo sostenible*, Oficina Regional para América Latina y el Caribe - Programa de Naciones Unidas para el Medio Ambiente, Serie Documentos de Derecho Ambiental No. 1, México, 1993.

responsibility.

One of the most important precepts of the Law of the Environment is Article 4, setting forth the principles of environmental policy and management in the country. These are developed in the law itself and in supplemental legislation. We shall examine them in the following Part.

IV. PRINCIPLES OF ENVIRONMENTAL POLICY AND MANAGEMENT

The enumeration of the principles of Environmental Law varies from author to author, as does their systematization. This study does not attempt to offer a minute account of these. It is sufficient to highlight those that are reiterated in scientific doctrine, and that have been approved in different pieces of legislation, especially the aforementioned Law 81/1997, the Law of the Environment. However, a brief overview of the ways in which they have been grouped is necessary before referring to their content, as well as their reflection in our legal system.

In Spanish scientific doctrine, Silvia Jaquenod includes among the features of Environmental Law the principle of *reality*, as the environmental legal standard must keep in mind certain limits from a technical perspective, beyond which their task is ineffective; the principle of *solidarity*, implying the perponderance of collaborative interests over individual ones; the principle of *comprehensive legal regulation*, which places emphasis on processes and resources for conservation, restoration, and improvement; the principle of *shared responsibility*, the introduction of the *environmental variable* in decision making; the *simultaneous treatment* of the causes and symptoms of environmental problems; as well as the selection of the *most appropriate level* at which a space is to be protected, which may be local, regional, national, or international.[13]

Among Cuban authors we must highlight the contribution of Caraballo Maquiera, who summarized Environmental Law into three "governing principles," so called because other previously identified principles are derived from them.[14] He aptly assigns first place to the conservation of biological diversity for its intrinsic value, which is the foundation for all the rest, and which supposes that the anthropocentric perspective will be superceded by another ecocentric or biocentric one. The right of every man and woman to enjoy a healthy environment is derived from this principle, as are the precautionary principle and that of sustainable development. He next places systemic analysis when

13. JAQUENOD, Silvia, *El Derecho Ambiental y sus principios rectores*, Ediciones MOPU, Madrid, 1989, pp. 250-253.

14. CARABALLO MAQUEIRA, Leonel, "El pensamiento ambiental cubano" en, VIAMONTES GUILBEAUX, Eulalia (coordinadora), *Derecho Ambiental Cubano*, 2da edición, Editorial Félix Varela, La Habana, 2007, pp. 61-66.

addressing the conservation of biological diversity, in line with the comprehensive legal protection mentioned above, as well as the responsibility of every natural or legal person for the prevention and/or repair of environmental harm.

In our case we prefer, however, the enumeration of those principles of greatest international recognition, without making a hierarchy within them. Because of its location on a more general plane, we will begin with the principle of sustainable development. In its classic definition, it implicates the articulation of economic growth, environmental protection, and social equity. Apart from the already-mentioned Article 27 of the Cuban Constitution, other regulatory bodies have expanded upon the definition contained in the report *Nuestro futuro común* or the Brundtland Report, of 1987, according to which it is "that which satisfies the needs of the present generations without underminity the ability of future generations to satisfy their needs."[15]

In second place, we must address the principle of prevention. As its name indicates, this principle favors the utilization of instruments that avoid the production of environmental harm, rather than those that are employed only after harm has been produced. Negative impacts on the environment must be avoided, keeping in mind that on many occasions the repair of environment harm is impossible, given that the médium cannot be returned to its original state before the injurious act. Principle 18 of the Stockholm Declaration (1972) already indicated the need to use all scientific resources to avoid causing harm and to combat the risk of their being caused. For its part, subsection d) of Article 4 of the legal framework declares "The priority of prevention through the adoption of measures with a scientific basis and with corresponding technical and socioeconomic studies . . . ."

The precautionary principle is closely related to the preceding. Perhaps sharing a similar semantic origin, their content may be distinguished neatly. The Law itself establishes in the previously-cited section that "*in case of danger of severe or irreversible harm to the environment, the lack of an absolute scientific certainty may not be alleged as a reason for failing to adopt preventive measures*." Previous international instruments made similar recognitions: Principle 15 of the Río Declaration (1992) establishes that, in order to protect the environment, the States should widely apply a precautionary focus according to their capacities. "*Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental*

15. *Cit. pos*., GARCÍA FERNÁNDEZ, Jorge Mario y Orlando REY SANTOS, *Foros de negociación e instrumentos jurídicos internacionales en materia de medio ambiente y desarrollo sostenible*, Centro Félix Varela, La Habana, 2005, p. 25.

degradation."

The principle of *in dubio pro reo* is almost universally known in matters of criminal justice, which is to say: when in doubt, given an inconclusive proof, one must rule in favor of the accused, preferring to acquit rather than convict. The precautionary principle is nothing more than the application of the rule *in dubio pro natura*: if the judicial or administrative authority does not have complete certainty of the causation of harm, it must by all means take measures to prevent it, as it would always be a worse option not to take them and to allow the harm to result.[16]

Sometimes treated as manifestations of the right to a healthy environment, which everyone possesses according to Article 4, subsection (a) of Law 81/1997, the rights to information and to public participation in environmental decision-making may be included under this rubric. Citizen participation and information are required for the legitimacy of administrative actions in this sphere. The essential premise is that the environment is a legal good that we all possess, and therefore we are all interested in knowing about its status, for which there must be adequate publicity, and all decisions about the environment should be made in a sufficiently consensual way through participatory mechanisms. We believe that the country possesses participatory mechanisms that can be used with this objective.

To individual and collective right to information is guaranteed in section (e) of Article 4, which declares that "*every person must have adequate access, in accordance with what is legally established in this respect, to information about the environment possessed by state bodies and agencies*." Access to this information must be provided not only when it is generated by public entities, but also when such functions are carried out through state funding, with specific exceptions under the law.

The right of participation is expressly recognized in favor of the communities. Subsection (k) of the cited precept establishes that "*public knowledge of environmental actions and decisions and the consultation of the opinión of the citizenry will be assured in the best way possible; but in all cases with an unavoidable character*." What is hereby sought is the formalization of a prior, free, and informed consultation within a reasonable period of time about plans, programs, and projects of prospecting, exploitation, and commercialization of natural resources that can have environmental or cultural effects. In any case, it is a pending aspect of regulatory development, although participatory processes have taken place in the country, utilizing various mechanisms.

16. MAGRAW JR., Daniel B. & Bárbara RUIS, "Principles and concepts of International Environmental Law" in, *Training Manual on International Environmental Law*, United Nations Environment Programme, Nairobi, 2006, pp. 30-32.

To this we must add access to environmental justice as the necessary culmination of information and participation. This access implies the possibility of having sufficient means to bring an action through administrative of judicial means, as may be appropriate, in order to demand compliance with the law or to demand the repair of the environmental harm caused. It includes both procedural law, which allows one to come before these various types of bodies, as well as substantive law, which allows one to establish a claim arising from actual or potential environmental harm. The Río Declaration mandates in its Principle 10 that "[e]ffective access to judicial and administrative proceedings, including redress and remedy, shall be provided." In a similar way section (l) of Article 4 of the principal substantive environmental law recognizes that "every natural or legal person, according to the powers granted by the Law, must have sufficent means to bring an administrative or judicial action, as may be appropriate, in order to demand compliance with the present Law and its supplemental provisions."

We must not forget another principle, one that is sometimes overlooked in legal instruments on environmental matters: environmental education. Environmental education can be defined, as it is in Article 8 of the Cuban Law of the Environment, as the continuous and permanent process that constitutes one dimension of the comprehensive education of all citizens, organized so that in the acquisition of knowledge, in the development of habits, abilities, capacities, and attitudes, and in the formation of values, a harmony is achieved in the relationships between human beings, the rest of society, and nature, in order to promote the orientation of economic, social, and cultural processes towards sustainable development.

For its part, subsection (h) of Article 4 mandates that environmental education be organized and developed through an interdisciplinary approach that fosters analytical thought in social groups and individuals, enabling the formation of a systematic and comprehensive visión of the environment, in particular directing their actions to children, adolescents, and youths and to the family in general.

The principle of transectorialization is an important aspect of the institutional framework necessary to make environmental policies effective at different levels. While in Cuba, like in the majority of countries in the hemisphere, there is an agency whose specific mission is environmental protection and the direction of the country's environmental policy, such a task cannot belong to it exclusively, but rather all the agencies and institutions of the State must engage in a coordinated labor, incorporating the environmental dimension into each development plan and within each of the respective competencies of each body.

This principle is reflected in the Cuban legal system, beginning with subsection (i) of the oft-cited precept, according to which environmental management is comprehensive and cross-sectorial, involving the coordinated participation of state bodies and agencies, other entities and institutions, society and the general public, according to their respective capacities and abilities.

So far these brief commentaries have identified some of the informing principles of Cuban Environmental Law. A detailed study of these goes beyond the objectives of the present introductory study, so we will next address other elements that characterize Cuban environmental legislation, which is unquestionably where those principles are settled.

V. SUPPLEMENTAL LEGISLATION

Cuban Environmental Law cannot be reduced to the Law of the Environment. Additional legislation is necessary due to the level of detail involved in the regulation of natural resources and processes, which makes codification of this subject extremely difficult.

Supplemental legislation acquires special characteristics, given that several of these rulings predate the framework law itself, and consequently have not incorporated their primary inspirations. Such is the case with Decree Law 164 of May 28, 1996, "Fishing Regulations," and Decree 179 of February 2, 1993, "Protection, Use, and Conservation of Soils."

In our case, we follow another classification criterion, based on the range of these complementary rules. In the first place, the Forestry Law must be cited, Law 85/1998, which holds the same Rank as the environmental framework law. In the institutional order, the law distinguishes between the governing role of the Ministry of Agriculture, the functions of the Ministry of Science, Technology and Environment, and the Ministry of the Interior, which directs the Ranger Corps, as well as firefighting activity. The tripartite classification of forests distinguishes between production, protection, and conservation forests (Art. 15). It also regulates forest management and the procedures for the approval of management plans, recognizing a series of rights and duties related to the forest. Finally, the law contains a Chapter VIII dedicated to administrative sanctions, civil and criminal responsibility for harm to the forest patrimony.

We find several regulatory standards of transcendental importance, products of the legislative activity of the Council of State, that hold the rank of Decree Law. Enacted on December 22, 1999, Decree Law 200 groups violations in matters of the environment according to each sphere of protection, such as those related to the process of environmental impact

assessment, conservation areas, natural disasters, noises and vibrations, atmosphere, and hazardous waste. The law merely develops Article 67 of the Law of the Environment, which establishes: "*The system of administrative sanctions in matters of environmental protection includes natural and legal persons that commit violations established in the supplemental legislation to the present Law*."

The applicable sanctions are found in Article 4 of the Decree Law, including fines, warnings, community service involving activity related to the environment; the obligatory cessation of the infringing activity; the prohibition of carrying out certain activities; confiscation of the effects used to commit the violation; temporary suspensión of the activity or of the corresponding licenses and permits, as well as the definitive closure of the establishment. One obvious value of the legal text is that it states that sanctions are not to be reduced to a fine, and affirms the administrative responsibility to seek to reestablish the situation prior to the production of the harm.

The National System of Protected Areas (Decree Law 201/199) considers different categories of management, regulates the proposal and declaration of protected áreas, and their management plans, establishing the public use of the protected áreas, as a general rule, independently of their internal zoning. This law must be read today in the light of Decree Law 331/2015, regarding zones with special regulations, including those with high environmental, historical, and cultural importance, those necessary for economic development, and those of interest for defense and security. The National System of Protected Areas is located within the general framework of areas with special regulations, whatever the purpose for which they were created.

In this vein, Decree Law 212/2000 addresses the management of the coastal zone. It defines the coastal zone and its zone of protection, establishes its limits according to the type of coast, regulates its use, the permitted installations and corresponding prohibitions, among other aspects.

Among the most important ministerial resolutions are Resolution 132/2009 of the Ministry of Science, Technology and Environment (CITMA), which establishes the process of environmental impact assessment; Resolution 103/2008 of the same body, establishing the State Environmental Inspection system, and Resolution 160/2011, regulating the control and protection of species of special significance for the biological diversity of the country.

VI. CUBAN ENVIRONMENTAL INSTITUTIONAL FRAMEWORK

Some elements of the Cuban institutional framework in environment

matters have already been addressed.[17] This account of events cannot omit the National Commission for the Protection of the Environment and the Conservation of Natural Resources (COMARNA), created on November 30, 1976, by the Agreement of the Executive Committee of the Council of Ministers. Three years later another Agreement of that body established its functions, the principal of which was the implementation of the National System of Environmental Protection and the Rational Use of Natural Resources. This System is structured and organized by Decree Law 118, of January 18, 1990, that at once regulates its operations and assigns it a superior Rank, subordinating the Commission to the Executive Committee of the Council of Ministers.[18]

When the Ministry of Science, Technology and Environment was created in 1994, it assumed the functions of the former COMARNA, which may be summarized as the direction and control of the execution of policy designed to guarantee the protection of the environment and the rational use of national resources, intended for achieving the sustainable development of the country.

Finally, a brief reference must be made to the institutions within the Ministry of Science, Technology and Environment, fulfill specific missions. The Environmental Agency, for example, groups the institutions of investigation, environmental education, and scientific technical services, that advise the Administration about the decision-making process, whose experts are used by the different economic actors, for audits, consultations, and specialized studies. Among the most distinguished may be cited the Institute of Meteorology, the Institute of Ecology and Systematics, and the Institute of Tropical Geography.

The Office of Environmental Regulation and Nuclear Safety, for its part, includes the National Center for Biological Safety, the National Center for Chemical Safety, the National Center for Nuclear Safety, and the Center for Environmental Inspection and Control. Each functions as an environmental regulatory authority within its own area of competence in the country, carrying out processes of authorization, inspection, and control therein, as well as hearing appeals of decisions of the environmental authority.

Finally, and not least important, the Department of the Environment of the Ministry of Science, Technology and Environment has the function of "*directing the application of environmental policy and proposing the basis for its better introduction in the context of the sustainable development of the country*" (Art. 31.9), in accordance with the Organic Regulation of that Ministry. The National Environmental Strategy is under its responsibility, establishing the fundamental lines that have to

17. *Vid*., epígrafe 3 del presente artículo.
18. REY SANTOS, Orlando, *op. cit.,* pp. 148-150.

guide the environmental management of governmental institutions and the primary economic actors of the country.