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INTRODUCTION: ENVIRONMENTAL LAW IN TAIWAN

William H. Rodgers, Jr.[†]

The articles in this volume were originally developed for a Conference on Environmental Law and Policy held at the National Sun Yat-sen University, Kaohsiung, Taiwan, Republic of China, in March of 1993. It was attended by experts from the U.S., the Republic of China, and elsewhere.

The whirlwind tour, the quick study, and the short conference is not always a reliable way to acquire or communicate information. But it is tempting to draw a few conclusions when you think you have seen it all before. The experience in Taiwan has taught me that the diversity of the world's pollution problems is greatly overrated. Deforestation is deforestation whether it occurs in Oregon, Taiwan, Brazil, or Indonesia. The patterns of ecological and social effects are similar from one context to the next. As elsewhere, Taiwan's rivers are starved for oxygen, its air is choked with ozone, and its waste disposal systems are swamped by the products of one of the most dense concentrations of human population on the globe.

Taiwan is not the first to discover the adverse effects of technologies that are used widely around the globe—pulp mills, power plants, incinerators, sewage treatment plants, and dumps. Taiwan burns its fair share of fossil fuels—the streets of Taipei are clogged with automobiles, not to mention the ubiquitous motorbikes. And concentrated animal feeding operations that create point and nonpoint source water pollution are not unlike those in other parts of the world.

Beyond this, the human behavior that the law and policy makers seek to influence is not noticeably variable in different parts of the world. Taiwanese authorities are fully familiar with the phenomenon of citizen protest that now attends every major facility siting decision in the United States. They weigh the same mix of legal incentives, threats, encouragements, and mind-changing exercises as do their policy counterparts in other countries.

Even the laws, notorious for variation, sound familiar themes. In his statement presented in this volume, Lung-sheng Chang, Administrator,

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Environmental Protection of Taiwan, uses terms such as *prevention*, *cooperation*, *polluter-pays*, *permitting*—all of them familiar to U.S. environmental lawyers. The articles by Chao-chan Cheng and Dennis Te-chung Tang present detailed discussions of the histories of natural resources and environmental law in Taiwan that can be understood by those not familiar with the legal culture. And the article by Ming-shen Wang and Gow-liang Huang, dealing with environmental impact assessment in Taiwan, will suggest the same law to every U.S. environmental lawyer—the National Environmental Policy Act.

There are advantages and dangers in the similarity of environmental problems around the globe. An advantage is that rapid change of social direction is possible. Taiwan now has a young and vigorous EPA (the average age of the employees is under 30), and they are in a position to encourage a quick transition to a strong environmentalism. Much of the science on the subject already has been done. Policy makers need not repeat what is already known, for example, about the epidemiology of lead, asbestos, or polychlorinated biphenyls.

Another advantage of the similarities in the scientific and technical aspects of pollution problems is that experimental responses are strongly encouraged. In the United States, the “little laboratories” that the states are supposed to be often turn out to be bland copycats. In the extended framework of the globe, social and legal experimentation with solutions is inescapable. To mention but one example, Taiwan is wholeheartedly committed to a multiple-incinerator strategy to address its problems of solid and hazardous waste. This experiment should be closely monitored to see whether it may be the right way to go.

The borrowing of laws and cleanup strategies, like the borrowing of science, is tempting in the environment of “sameness” that has enveloped global environmental problems. My own belief is that law-borrowing must be done with great care. The reason is that law is one part text and nine parts context. Imported law can work in the same unpredictable and destructive fashion as imported species. That is why, on the legal side, a well trained and savvy cadre of experts is necessary to screen, trim, veto and refashion legal ideas imported from abroad. That Taiwan is fortunate to have this expertise is apparent from the contributions to this volume.