

The environment needs a good lawyer

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On Earth Day, environmental issues and the need for environmental conservation are pushed to the forefront. An important aspect of improving and protecting the environment is environmental law.

The term environmental law may conjure up scenes from films such as "Erin Brockovich", with a mouthy, idealistic lawyer, or in Brockovich's case a legal assistant, taking on a large corporation that is polluting the environment.

According to The Center for International Environmental Law, a public interest, not-for-profit environmental law firm based in Washington D.C., there are close links between environmental justice and sustainable development. There are three areas of environmental law that highlight this relationship, namely the right to life, including the right to a healthy environment; the traditional and customary property rights of indigenous and other local communities; and participatory and procedural rights. Thus, environmental law can cover a number of areas such as climate change, biodiversity and wildlife, trade, international financial institutions, pollutants, human rights and land rights.

Victoria Hsu, a lawyer at Winkler Partners in Taipei, says that environmental law covers such a wide range of areas because almost all human activities affect the environment. She explains her personal reasons for practicing environmental law. "Since the earth cannot talk, I want to ask environmental questions for it. Generally, if a person suffers property damage or personal injury, he/she can find a lawyer to speak for him/her. But, the earth cannot do so. In addition, the society in which we live is ruled by cash logic. The importance placed on statistics such as GNP and GDP excludes the ability to see the value of natural resources and environmental protection. Everything has to be convertible to cash to be considered worthy by this society. The task for everyone is to learn how to regard environmental protection itself as valuable. My goal and the goal of Winkler Partners is to cancel out the effects of this cash logic so that we will have a better environment and a better

society." Robin Winkler, co-founder of Winkler Partners, adds that it is also the mission of Winkler Partners to actively participate in the changing of the thinking and the "business paradigm" that have led to the destruction of the earth and that are taking us down the path of our extinction and the extinction of many other species as well.

Hsu notes that while the importance of economic development cannot be denied, industry should look at how it operates from multiple perspectives to find some alternatives to replace pollution. "We've got to create alternatives or else we will not be able to have sustainable development."

Working behind the scenes

In general, environmental law cases do not receive media attention in Taiwan. Hsu explains that this is because much environmental law work in Taiwan is done "behind the scenes." For example, there are only limited circumstances under which a citizen or citizens may file a public interest suit against the government. Thus, not many environmental cases make it to Taiwan's courtrooms. Of those cases that do have a legal basis many are settled out of court. Even for large issues such as the construction of incinerators and the fourth nuclear power plant there is no legal basis for citizens to challenge government policy.

With a rise in consciousness among Taiwan's people regarding the importance of sustainable development and environmental conservation what can the average person do if he/she sees activity that is potentially harmful to the environment? Hsu recommends reporting the activity to local



Victoria Hsu, a lawyer at Winkler Partners in Taipei, practices environmental law.

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Robin Winkler, co-founder of Winkler Partners

asked to represent residents or citizens may be pro bono, such as those concerning aboriginal land rights. Such cases may be referred from environmental activists or organizations.

Winkler points out that in many cases, there simply isn't the funding for fighting for environmental causes. Even if lawyers volunteer their time to work on environmental issues, there has to be money to pay for computers, transportation, places for them to work and subsidies for them to live on. Due to the current reality of an industrial development-oriented society and system, very few people are able to do real restorative or preventative environmental work for a living.

While Taiwan does have basic environmental protection laws in place such as air pollution control, drinking water management, environmental impact assessment, toxic chemical substances control, soil and groundwater pollution remediation, waste disposal, water pollution control and environmental agents control acts, many of them do not go far enough in protecting the public interest or providing ways for the public to object if it sees potential interference with local ecology.

Taiwan is part of the world and every area of the world affects other areas due to environmental interdependence. Thus, Taiwan along with every country around the globe has the responsibility to take care of its environment, including the development of workable, socially responsible environmental laws.

environmental protection authorities. If no action is taken, an environmental lawyer should be contacted to see if there is a legal basis for filing a suit. However, Hsu notes that not only the public and the government are responsible for making sure there is compliance with environmental laws and regulations, but also enterprises need to raise their consciousness, adhere to business ethics and take social responsibility for their actions.

The many dimensions of environmental law

Hsu says that environmental law has many dimensions. "For example, I have dealt with a number of labor disputes that in the beginning appear like straightforward cases of unfair layoff. However, insiders involved in the case may present information about the enterprise's polluting production processes or mishandling of industrial waste. So, in the end the case may be handled under environmental law." In such an example, environmental lawyers may be hired by the government to help prosecute the enterprise for breaking environmental laws or provide legal advice. Or, environmental lawyers may be hired by the private enterprise to provide defense or legal opinions. She says that cases where lawyers are