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## **UCLA Pacific Basin Law Journal**

### **Title**

Foreword

### **Permalink**

<https://escholarship.org/uc/item/4bd285kn>

### **Journal**

UCLA Pacific Basin Law Journal, 10(1)

### **Author**

PBLJ, Editors

### **Publication Date**

1991

### **DOI**

10.5070/P8101021982

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## FOREWORD

The *UCLA Pacific Basin Law Journal* is pleased to offer in this issue two intriguing themes, one regarding the Chinese justice system and the other a range of environmental issues of import to Pacific Rim nations.

Our first group of writings addresses the continuing legal and social unrest in the People's Republic of China and examines in particular government attempts to reconcile the Chinese legal regime with the overriding political and economic goals of the Communist party.

Clarke examines the use of law and legal institutions to effect industrial reform in China, arguing that the content of reform policy is inseparable from the body of law in which it is expressed. Clarke notes that while law is often in principle the most appropriate vehicle for reform policies, the effectiveness of particular statutes and regulations is compromised by the institutional environment in which they must operate. Through three case studies he explores the effectiveness of rules tied to the reforms, and gauges the strengths and weaknesses of the judicial and administrative systems. Clarke concludes that only fundamental reform of the legal system can achieve thorough industrial reform.

In "Rough Justice in Beijing," Munro documents the fate of the "black hands," prominent leaders of the pro-democracy movement, and provides an in-depth account of their origins and activities leading up to June 4, 1989. Particular detail is given to the Beijing Social and Economic Sciences Research Institute (SERI), a private research group which played a central role throughout the Beijing Spring.

In "The Beijing Trials: Secret Judicial Procedures and the Exclusion of Foreign Observers," Munro reveals the existence of highly confidential court regulations which specifically bar foreign observers from nearly all political and some criminal trials in the PRC. Munro also notes the existence of a body of secret regulations at odds with official rules concerning consular access to foreign nationals detained in China. According to Munro, these regulations authorize Chinese police and officials to violate international diplomatic conventions and bilateral consular agreements.

"The Case of Wang Juntao" presents translated records

from one of the most important political trials in the wake of the Tiananmen Massacre. Labelled a "black hand" and "mastermind" of the pro-democracy movement, Wang Juntao received 13 years after a closed trial. The transcripts of the defense argument and verdict show that, in contrast to the standard practice of conceding guilt and asking for leniency, the defendant instead denied any culpability and challenged the assertions of the state.

Our second group of writings focuses on the difficulty of responding to environmental priorities in an era of explosive industrial growth throughout the Pacific Basin.

McKeith notes the rapid industrial development along the US-Mexico border and ponders the environmental effects of the even greater growth anticipated in the wake of a probable Mexico-U.S.-Canada Free Trade Agreement. McKeith then offers a critical analysis of current Mexican and U.S. laws governing environmental compliance at the border. Finally, the author evaluates a variety of proposals for strengthening environmental compliance both within the current regulatory structure and within the context of a free trade agreement.

The next three pieces were originally presented as papers at the American Bar Association/University of Hong Kong Conference on Environmental Regulation in Pacific Rim Nations, held in Hong Kong on February 26-28, 1991.

Knight addresses the tension between domestic environmental and health regulations and international trade and investment. Initially, he explores the recent increase in the use of domestic environmental and health regulations as protectionist measures in support of domestic industry. Knight then turns to the international effects of such domestic regulations, specifically addressing the role which strict national environmental standards play in the relocation of domestic industry to nations with less stringent standards, as well as the means of dealing effectively with hazardous wastes disposal and toxic product exports. Finally, Knight touches on the implications of international trade on "sustainable development" and the potential for promoting such development through the extension of multilateral trade rules.

Preston examines the process by which environmental goals, policies and priorities are currently established and enforced in the Commonwealth of Australia. He describes the roles played within the environmental policy arena by the three branches of the national government, the governments of the States of the Commonwealth, various non-governmen-

tal organizations, and the public. Finally, Preston notes the continuing evolution of Australian policy processes and emphasizes the importance of citizens' roles therein.

Futrell argues that good environmental policy is possible only when policymakers can assess accurately both the current state of the environment and the political hurdles faced by would-be regulators. It is not enough, he states, that assessments analyze the environmental impacts of a planned development project; good environmental assessments analyze also just what government can or cannot do within the broader socio-political setting. Futrell surveys five legal arrangements that promote good environmental assessment in the U.S. and discusses the various ways in which the private sector, the government, and the general public can work together to produce an accurate and useful picture of global environmental conditions.

Van Drimmelen examines the management record of the International Whaling Commission and finds flaws in IWC supervision of the international whale harvest. Many of the problems can be traced to reliance on insufficient scientific data and the limitations of diplomacy. Van Drimmelen argues that these shortcomings have also been incorporated into the Convention on the Law of the Sea, which currently controls the whale harvest.

Wilson addresses the role of the U.S. Agency for International Development (AID) in promoting the Debt-for-Nature (DFN) swap, an arrangement designed to bolster environmental protection in developing countries while reducing the foreign debt burdens carried by these countries. Wilson explains how the DFN concept evolved from a tool for debt reduction to an instrument for environmental preservation, and demonstrates how this predominantly environmental rationale for the DFN was reflected in AID's congressional mandate to encourage developing country conservation. Wilson concludes his comment by discussing specific legislation empowering AID to promote the DFN, and by describing the internal organization established by AID to implement DFN transactions.

We trust that you will find this issue of the *UCLA Pacific Basin Law Journal* both provocative and useful.

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