

WINTER  
2014

# CHINA

# PARTNERSHIP

NEWSLETTER

# VLS

## VERMONT LAW SCHOOL



## FROM THE DIRECTOR

The U.S.-China Partnership recently expanded our footprint into Southeast Asia by launching a new initiative to provide environmental governance training in Myanmar. VLS Professor John Echeverria

visited Myanmar in September and spoke with government and non-government partners about the importance of integrating environmental controls in development plans. Martin Cosier, our former LLM fellow, leads our Myanmar Environmental Governance Program.

In China, we supported a Train the Teachers program for environmental law professors, and a judges training for 150 judges from all across China. We hosted four scholars and three students from China at VLS. We helped establish an environmental law clinic at Southwest Forestry University, where students are gaining hands-on experience in handling environmental cases.

Our program team experienced some changes this year. Professor Jason Czarnetzki, faculty director since April 2011, accepted a professorship at Pace Law School. Jingjing Liu, former associate director and the longest-serving member of the team, left to pursue an SJD degree at Columbia Law School. Both remain interested in environmental law developments in China, and we look forward to collaborating with them on future projects.

The program maintains a strong team, including associate director Yanmei Lin, assistant director Adam Moser, and Martin Cosier. LLM fellow William Schulte, Myanmar project specialist May Thazin Aung, and program coordinator Nicholas Bihun are the newest additions to our team.

Sincerely,

**Siu Tip Lam**, Director

## PREPARING CHINESE PROFESSORS TO TEACH ENVIRONMENTAL LAW

China's renewed focus on environmental compliance and enforcement necessitates more environmental law experts and professionals. However, each year only about 60 students graduate from Chinese institutions with a doctorate in environmental law. To improve knowledge of environmental law within Chinese institutions of higher education, the Partnership and the IUCN Academy of Environmental Law hosted a four-day intensive Train the Teachers program and a one-day symposium on international environmental law in Chongqing, China, in July 2013. The program brought together senior international and Chinese law professors, including VLS Professor

**Tracy Bach**, with over 30 professors and PhD students. The participants came from 20 different educational institutions to learn about climate change science and international standards for protecting environmental rights. Along with technical subjects, the participants joined in role-play scenarios designed to improve teaching efficacy. This workshop was timely in light of a recent requirement by China's Ministry of Education that made environmental law a core course that must be taught in over 600 Bachelor of Laws (LLB) programs. These professors and PhD students will play an important role in training the next generation of environmental law experts and professionals.



Train the Teachers Program in Chongqing

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FROM THE AMERICAN PEOPLE

## CHOKE POINT: CHINA

In August 2013, in collaboration with the China Environment Forum (CEF) at the Woodrow Wilson International Center for Scholars and the Circle of Blue, the Partnership supported a series of policy dialogues. The series brought a team of senior experts from U.S. government laboratories, commissions, and civil society leaders together with their Chinese counterparts to discuss the shortage of water resources and energy demands that continue to worsen the water crisis in China. This exchange was a follow-up to a series of dialogues held in China in April 2011. Both sets of dialogues build on extensive research and reporting done by the CEF and Circle of Blue, which produced twelve *Choke Point: China* multi-media reports. The reports can be found at <http://www.circleofblue.org/waternews/featured-water-stories/choke-point-china/>.

Dialogue team members on the Yellow River in Wuhai City, a coal base in Inner Mongolia



Environmental Justice Roundtable in Beijing

## BEIJING ROUNDTABLE ON LARGE INDUSTRIAL PROJECTS AND ENVIRONMENTAL JUSTICE

The Partnership sponsored a day-long roundtable discussion in August with prominent environmental lawyers, scholars, and NGO leaders from China, Myanmar, and the U.S. Discussion focused on public participation and environmental justice issues related to large industrial projects. The roundtable grew out of a need to address increasingly violent protests relating to construction of industrial projects, in particular paraxylene chemical factories, in China. U.S. EPA Associate General Counsel

**Carol Ann Siciliano** and **William Schulte** from the China Partnership shared their expertise in the public participation process in the U.S. At the end of the discussion, the participants drafted and signed an “Environmental Justice Statement” that proposed basic principles for improved public participation in decision-making, and planned to distribute the statement to regulators, legislators, and the media to advocate for greater cooperation between the government, NGOs, and civil society.

## TRAINING CHINESE JUDGES ON ENVIRONMENTAL ADJUDICATION

In response to increasingly severe environmental problems, China recently amended its Civil Procedure Law, effective January 1, 2013, allowing environmental NGOs to bring environmental cases on behalf of the public interest. Grassroots NGOs are beginning to use this law to pursue public interest environmental cases to help remediate pollution problems. However, many judges, even judges in specialized environmental courts, lack the knowledge of environmental law and the tools to render effective remedies. To build their capacity, the China Partnership led a five-day training in September for judges at the National Judges College focused on environmental law and adjudication of environmental cases. Vermont Law School Professor **Doug Ruley** led a course on citizen enforcement suits brought

under U.S. environmental laws—an instrument courts can use to protect the environment, remediate pollution, and deter future violations—and the use of expert witnesses in such cases. Chinese environmental enforcement officials and judges also presented on the challenges of implementing and enforcing environmental laws and bringing environmental tort cases in China, including proving causation and determining environmental tort damages. Participants were particularly interested in how U.S. citizen suits help to enforce environmental laws and the effectiveness of injunctive orders in remedying environmental harm and preventing future harm. The program trained 150 judges from all across China, including Inner Mongolia and Gansu and Xinjiang Provinces.

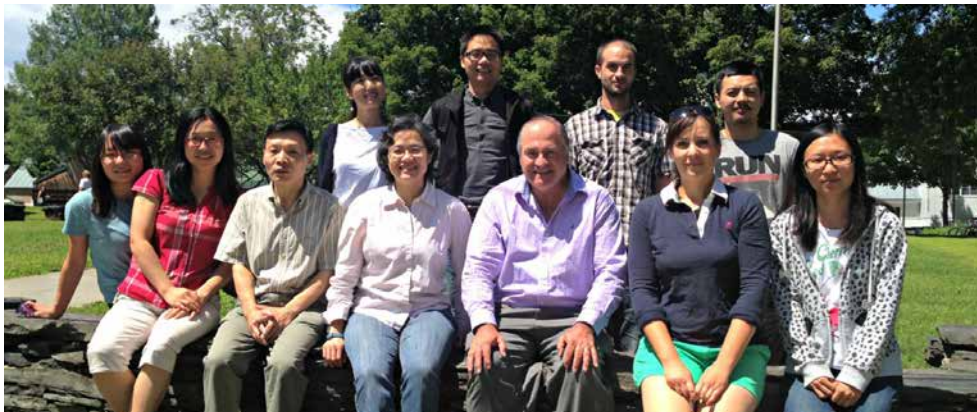


Doug Ruley lectures on environmental law to Chinese judges

## VISITING SUMMER STUDENTS AND SCHOLARS

This summer, the Partnership hosted four scholars and three visiting students from China. Professor **Zhang Hui**, an environment and mining law professor from Southwest China University of Political Science and Law has been in residency at VLS since January. Professor **Cao Mingde**, a senior environmental law professor from China University of Political Science and Law (CUPL) who is currently advising the Chinese government on a draft climate change law, was at VLS from May to August. Professor **Chen Yue**, the founder of the Environment and Biodiversity

Law Clinic at Southwest Forestry University spent the summer at VLS. Ms. **Zhang Xueli**, an environmental lawyer in the All-China Environment Federation volunteer lawyers' network, also had an academic residency at VLS this summer. In addition, two environmental law master's candidates and one PhD candidate from CUPL, Sun Yat-sen University (SYSU), and Renmin University School of Law joined the four scholars during the Summer Session. The students also participated in the student joint research projects during the 2012–13 academic year.



Professor Robert Percival with visiting Chinese students and scholars and China Partnership staff

## MYANMAR ENVIRONMENTAL GOVERNANCE PROGRAM

Environmental law development and legal activism are both at nascent stages in Myanmar. The strong interest in both fields, though, was evident in a forum co-hosted by VLS's Myanmar Environmental Governance Program and the Myanmar Legal Aid Network in early November 2013. Professor **John Echeverria** gave a lecture that linked climate change, domestic environmental law, and international investment regimes to about 40 lawyers, advocates, development professionals, and NGO workers. Four solid hours of talking (lecturing, Q&A, and one-on-one chats over fried rice) gave Professor Echeverria a taste of both the challenges of integrating environmental and social controls into Myanmar's development trajectory and the hunger for knowledge that pervades the country's leaders. "The country faces obstacles on all fronts, but the enthusiasm of Myanmar's leaders for developing new environmental protections is impressive and inspiring," he said.

The Myanmar Environmental Governance Program is the newest aspect of VLS's U.S.-China Partnership for Environmental Law. Drawing on relationships and experiences from China, the Partnership is working with government and non-government partners to strengthen Myanmar's environmental

governance. The primary focus is on developing mechanisms that facilitate the burgeoning interest from foreign investors while also protecting the country's rich environmental and cultural assets. This involves working to support the development and implementation of new domestic laws and policies, as well as encouraging the preparation of international investment agreements that effectively allow for this ongoing reform process.

**"THE COUNTRY FACES OBSTACLES ON ALL FRONTS, BUT THE ENTHUSIASM OF MYANMAR'S LEADERS FOR DEVELOPING NEW ENVIRONMENTAL PROTECTIONS IS IMPRESSIVE AND INSPIRING."**

**—PROFESSOR JOHN ECHEVERRIA**

Professor Echeverria was in Myanmar to talk with the Natural Resources and Environmental Conservation Committee of the Pyithu Hluttaw (Myanmar's Parliament) and the Ministry of Foreign Affairs about the potential implications of investor-protection provisions in international investment agreements and of the investor-state arbitration process for domestic



Jack Tuholske at the clinic launch event

## ENVIRONMENTAL AND BIODIVERSITY LAW CLINIC IN YUNNAN, CHINA

The Partnership, in cooperation with Southwest Forestry University in Kunming, Yunnan Province, officially launched an Environmental and Biodiversity Law Clinic on January 16th, 2013. At the launch event, VLS Professor **Jack Tuholske** led a discussion on environmental clinical education and legal advocacy. The clinic aims to provide direct legal and technical services to NGOs, communities, and underserved and vulnerable citizens in southwest China to protect the environment and public health. Yunnan province is part of the Mekong River Basin. The province has vast reserves of biological, mineral, and hydro-energy resources and is home to the largest number of ethnic minority groups in China. Over the past eleven months, the clinic has opened seventeen new cases to provide legal representation and consultation to NGOs and communities seeking to protect the environment and natural resources and successfully resolved four cases. The first cohort of fifteen student clinicians completed their training at the end of the 2013 spring semester. In collaboration with local environmental NGOs, the clinic conducted its first citizen education workshop in August about forest land tenure reform and biodiversity laws.



John Echeverria at Shwedagon Pagoda in Yangon, Myanmar.

environmental laws. While these agreements are a major source of debate and controversy globally, Myanmar is in a unique position to build environmental considerations into its investment-driven development strategies. VLS will continue supporting partners in Myanmar to understand that, as Professor Echeverria said, the country "is already an attractive investment destination—it doesn't need to offer special protections to foreign investors at the expense of the environment."

## JOINT RESEARCH PROJECTS BRING TOGETHER CHINESE AND VLS STUDENTS

Every year, VLS students partner with students from SYSU and CUPL to develop comparative joint research projects on current issues in Chinese and American environmental, energy, and climate change law and policy. The students start to work on their projects in the fall semester. In December, the VLS students travel to China meet with their partners to further develop the projects and present the projects to CUPL and SYSU faculty as well as students. In the spring semester, the students continue to work on polishing the projects. This year's VLS students are Emma Hempstead, Andrew Homan, Nancy Lin, and Thomas Sheltra. Their Chinese student partners are Zhu Jingyi and Yang Qiyin from SYSU, and Ding Tingting and Zhu Bingcheng from CUPL. The four projects focused on comparative analysis of laws, regulations, and policies relating to regulating the use of plastic bags, international oil and gas pipelines, sustainable agriculture, and regulating aquaculture for improved food safety. The final papers will be posted at [www.vermontlaw.edu/china](http://www.vermontlaw.edu/china).

## LLM OPPORTUNITIES FOR CHINESE LAW STUDENTS

Vermont Law School offers several opportunities for Chinese law students to earn an LLM degree. The LLM in Environmental Law degree program is designed for students who have already earned a law degree and wish to pursue intensive study and practical training in environmental law. VLS offers LLM candidates over 50 courses in environmental law and policy, giving students the opportunity to design a curriculum that matches their personal objectives. In addition, students can specialize in such areas as climate change, land use, natural resources, or water resources. The LLM in Energy Law provides a pathway for lawyers seeking to pursue work in the expanding energy field. The program prepares students to practice energy law in the public or private spheres or pursue careers in teaching, research, or public policy. The LLM in American Legal Studies curriculum is designed to help candidates achieve bar passage and meets all the curricular requirements to sit for the bar in New York. The program focuses on essential skills, knowledge, and perspectives to help students succeed. American Legal Studies students may focus their elective coursework on environmental law while still fitting all the requirements for bar exam eligibility.



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## NEW MEMBERS OF THE CHINA PARTNERSHIP TEAM

**William (BJ) Schulte** joined the Partnership as an LLM Fellow in July. BJ brings both environmental and international experience. Previously, he spent five years practicing law in Newark, New Jersey. During that time, he represented environmental and community groups on matters related to environmental permit reviews, environmental justice, air pollution reduction, watershed protection, and energy infrastructure proposals, among others. Additionally, he spent two years serving on the Jersey City Environmental Commission, where he worked with his fellow commissioners and local citizen groups to push environmental initiatives on the municipal level. While in law school, BJ worked as a student clinician in the Rutgers Environmental Law Clinic in addition to spending a summer researching evidentiary issues related to the Khmer Rouge Tribunals as an intern for the Documentation Center of Cambodia in Phnom Penh. He studied Mandarin at Yunnan University in Kunming before attending law school, and appreciates the opportunity to combine his environmental law and China experience to support the Partnership's programs.



BJ Schulte

**May Aung** joined the Partnership this fall as a Myanmar Project Specialist. May graduated from Franklin and Marshall College with a BA degree in Environmental Studies. She is originally from Yangon, Myanmar, but has lived in Hong Kong, South Africa, Singapore, and Madagascar. Her previous work experience includes advocating for victims of environmental justice in New Orleans and researching avian influenza virus transmission for a global public health organization in New York City. May is excited at the opportunity to join the Partnership in its efforts to build capacity and strengthen environmental efforts in Myanmar.



May Aung

**Nicholas Bihun** joined the Partnership as Program Coordinator in December. Nicholas combines his knowledge of China's language, culture, and energy policy with a passion for the environment and renewable energy. He studied Mandarin and International Affairs as an undergraduate before moving to China in 2007. While in China he worked for a number of international organizations and think-tanks including the United Nations Development Program. He studied Mandarin at East China Normal University in Shanghai before receiving a Master's degree from the Department of International Relations at Tsinghua University in Beijing. At this time his research focused on U.S.-China joint energy policy and cooperation on renewable energy policies and projects. He hopes to bring this knowledge and experience in China to assist the Partnership's programs.



Nicholas Bihun